

Is There a Political Philosophy in the Declaration of Independence?

Is there a political philosophy in the Declaration of Independence? One step toward answering this question—not the only step, but from the philosopher’s point of view the most fundamental—is to ask whether the “self-evident truths” of the Declaration are really true after all. Another way of putting it, which I once saw in a conference title, is to ask whether the “self-evident truths” are fact or fiction.

I have to admit that “fact or fiction” struck me at first as an odd way of questioning the authenticity of truths, but on reflection I decided it was a particularly felicitous turn of phrase. Living in a pragmatic age, we tend to equate fact with truth, and fiction with falsehood. There is something characteristically American about such a way of thinking. Still, it is important at the outset to recognize that this frame of mind is not universal. No less an authority than Aristotle writes that fiction (poetry) is “more philosophic and more serious” than fact (history), because it speaks of universals rather than particulars; there is more truth in understanding the soul of a man like Homer’s Odysseus than in knowing, to quote Aristotle, what “Alcibiades did or had done to him”¹—or even, did *not* do or have done to him, as students of Plato’s *Symposium* will understand. I will return to the question of fact and its relation to truth,

but my point at the outset is that part of the question of whether there is a political philosophy in the Declaration is whether what the Declaration proclaims as self-evident truths really are true.

But that is not the whole of the question. As others have pointed out, the Declaration does not say, “These truths are self-evident....” It says, instead, that “we hold” them to be so. If we understand “philosophy” as it is often understood, in the sense of a doctrine, and if we understand “political philosophy” as political science departments often do, as a synonym for political theory, then the question of whether there is a political philosophy in the Declaration is the question of whether the Declaration binds us to a particular political creed.

I say “binds” because the Declaration is treated, even today, as authoritative law in one sense: It is printed at the head of the *United States Code*, where it is considered the first of our organic laws. More to the point, politically today the Declaration of Independence has no open enemies; it is the touchstone of our political arguments rather than an object of advocacy any more. Even

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those who dismiss the American founders as racist or sexist want to keep the Declaration. They accuse the founders of hypocrisy rather than mistaken principle. It is not only that no one wants to be on the wrong side of the Declaration, but that even the charges made against the Declaration's authors seem to be anchored in the Declaration's own principle of equality. Whether or not that principle and the other purported truths that accompany it are true, they would seem in fact to be the first principles of our regime.

And this leads to my third concern. If the "self-evident truths" of the Declaration are either true or fundamentally ours, how should they affect our political life? While loyalty to the original Constitution is often dismissed as hopelessly anachronistic or conservative, loyalty to the Declaration might seem to have the opposite consequence: to mandate support of those movements that seek to extend the reach of equality in America. Abraham Lincoln seems to have thought so. He wrote that the assertion of human equality in the Declaration provides "a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere."² At the very least, Lincoln's use of the Declaration's principle of equality in the controversy over slavery set a precedent for its use to reform the regime from within.

Still, however important Lincoln's achievement or however appropriate the use of the Declaration in its support—Jefferson himself understood the implications of his principles for the question of slavery, as evidenced by the clause condemning the slave trade that he would have

included but that Congress cut out—it still ought to be legitimate to ask whether the Declaration today commits Americans to a particular program of development.

These then are my questions. I want to ask whether the self-evident truths are true, whether we believe they are, and how we ought to act on them. First, however, I want to ask what they *mean* and to answer by paying attention to the document as a whole.

The Short Version and the Long

Suppose the Declaration had been written as it is usually read today. It would be only about a page in length, edited down to the first two paragraphs and then the last, where the actual declaration of independence is made. No one would deny that these paragraphs—especially the famous second one, with its elegantly simple account of the first principles of natural rights and just government—contain the most memorable phrases in the document, indeed precisely the phrases that have fired the imagination of generations of Americans and of reformers and revolutionaries around the globe. Nor is it only frequent repetition that gives these phrases their ring of self-evidence, even several centuries after they were penned. Jefferson crafted them with care, and he drew upon a rich tradition of political theory that had developed in the previous century or so in England, most especially as conveyed in the *Two Treatises of Government* by John Locke.

Though echoes of Locke's phraseology can be heard in Jefferson's language, Jefferson claimed that the Declaration did not reflect any single man's ideas but rather "the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or in the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, etc."³ Insisting that political

reflection must begin with equal natural rights, that government is itself not naturally given but rather is formed through the consent of those who acknowledge it, that government has the limited purpose of securing rights, and that abusive government can be cashiered, the theoretical paragraph of the Declaration sketches a political doctrine that today we recognize as classically liberal—in contradistinction, I might add, despite Jefferson's claim, to Aristotle's teaching that the polis exists by nature and has the promotion of virtue as its highest end. Whether out of personal conviction or because liberty cannot be secure unless the people believe—remember his famous remark a decade later, "can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God?"⁴—Jefferson states more clearly than Locke that what I have called equal natural rights are an endowment of the Creator, presumably the same "Nature's God" mentioned in the Declaration's first sentence. But that government itself has a human rather than a divine origin is clear. Indeed, in a sense, that is the whole point—for the Declaration is written to justify political change.

Still, the famous paragraphs of the Declaration are but a part of the whole. Looked at by an age enamored of political theory and ideology, they appear to be its most important passages; but at the center of the document is a list of grievances against the king and Parliament that make the case for independence there and then. These are, the Declaration says, "Facts...submitted to a candid World" to "prove" that the British are intent upon "the Establishment of an absolute Tyranny over these States."

These central passages of the Declaration's bill of indictment are conveniently grouped in three divisions. The first is concerned with constitutional violations

and abuses of constitutional powers by the king. Here, twelve different complaints are lodged, accusing the king of threatening the public good by the use of his veto, dissolving colonial assemblies, obstructing justice, keeping standing armies among them in peacetime, and the like. The thirteenth grievance introduces the second division, the "Acts of pretended legislation" that the king has passed by "combin[ing] with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws." Referred to here are nine acts of Parliament, described not by name but by their effects—imposing taxes without consent, suspending trial by jury, abolishing colonial charters, and so forth. Finally, there are five statements introduced by an implicit reference to the King's Proclamation of Rebellion of August 23, 1775, under which "He has abdicated Government here, by declaring us out of his Protection and waging War against us." Here, his acts of war are summarized and denounced.

From the point of view of the theoretical paragraphs with their "self-evident truths," these many statements in the middle of the Declaration are the "facts" which prove that the king has in mind a despotism over America and that the colonists had better act now. As a reading of the middle section, this is sound, but not sufficient. To be sure, if revolution has to be made for a reason, then there has to be a way of proving that the king is becoming tyrannical; this is precisely what the various facts are meant to show. But unlike the first principles of politics, the tyranny in these rather general facts—which never name names or dates or places—is not immediately self-evident. The outrage comes from a hidden premise: the English constitutional tradition, or at least the common law rights and liberties of that tradition, which the Americans claim as their rightful heritage.

Here is the source of the principle of no taxation without representation, the independence of the judiciary, trial by jury, the priority of civil to military authority, and much else. That scholars today no longer tend to read these parts of the Declaration is some measure of how far we have lost touch with that tradition, but that does not mean the complaints were not taken seriously by our founding generation. To speak only of the federal level, nearly every grievance detailed in the Declaration is addressed and prevented by a specific provision of the Constitution and the Bill of Rights. The bill of grievances, in other words, adds gravity and substance to

the abstract principles formulated in the “self-evident truths,” and thus guards against arbitrary recourse to rebellion.

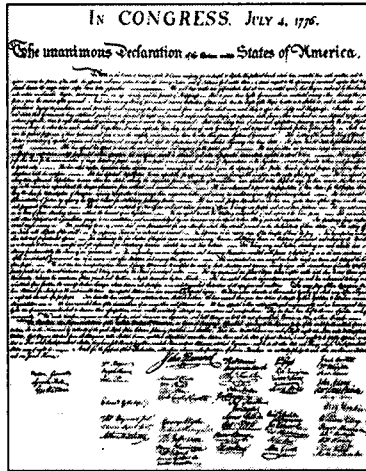
The Declaration justifies a political revolution, to be sure, but the constitutional dispute with England gave our revolution its distinctive form and contributed to its success. That revolution was not without its lawless moments, but on the whole its spirit was to reinvigorate old forms of self-governance and to reinforce protection for property and social order. Its self-evident first principles were soon to challenge some of these forms—restrictions on the suffrage, for example, and in some of the states, slavery, itself unknown at common law—but it is no more an accident that these challenges were approached in a spirit of constitutional compromise than that the revolution culminated in a Constitution. There, after all, in the middle division of the middle part of the Declaration, is mention of an unwritten “Constitution” which the Americans *already* assert to be their own.

What is Not Self-Evident about the Self-Evident Truths

The self-evident truths of the Declaration, then, garner much of their specific political significance for the American Revolution from the evidence offered by the facts of Anglo-American constitutionalism; these measure the violations (and later the remedies) as well as moderate the radical potential in the revolutionary language taken by itself. Stripped of this context, the first principles enunciated by Jefferson are not self-evident at all—at least, not to anyone raised in the tradition of Western virtue or in a world formed

by Judeo-Christian belief.

Let me give an example. The “self-evident truths,” it seems to me, do not give an adequate account of the family, the fundamental institution of social life. First, whatever might be said of the relation of husband and wife, the family is built not around equality, but around the inequality of parent and child. Precisely the most basic meaning of Jefferson’s statement of equality—that no man is the natural ruler or the natural subject of another—is *not* true of this relation, for the parents are surely the natural rulers of their dependent children. Second, the family is first and foremost not about rights, but about duties; even the right of children to care and education is abstract and vague compared to the duty of parents to provide and instruct and the duty of children to obey and learn. Third, the origin of the family is not exactly consent. In some cultures, including our own, spouses choose for themselves whom to marry, but even then the roles they assume



are largely socially defined. Except in cases of adoption, and very rarely then, children do not choose their parents, and (leaving aside brave, new technologies and, again, adoption) parents do not choose their children. Fourth, the end of the family is only incidentally the security of rights; it is principally provision and nurture in an environment formed by love. And fifth, when family becomes destructive of its ends, it cannot be altered and abolished without in most instances inflicting further wounds that never heal.

Now about this counter-example to the self-evident truths of the Declaration, allow me to make two points. First, Jefferson and his fellows were altogether aware that families were not formed upon their principles. Precisely what they objected to in Tory political theory was *political* patriarchalism, the effort to form *the state* on analogy to the family. Natural equality meant that the king was not to act as father in relation to his people—not that fathers were not kings in their own homes. Government by consent meant that the commandment to honor one's father and mother could not be invoked by a political nobility demanding homage. That abusive government can be changed was not seen to undermine the indissolubility of marriage nor the lifelong attachment between parent and child.

But secondly, there is no denying that, since as long ago as John Locke's *Two Treatises* and even Thomas Hobbes's *Leviathan*, liberal philosophers have sought to reconceive the family on liberal terms, and of course in our own day a vast social experiment has been undertaken to remodel the family on egalitarian principles and to reorient authority within it on the basis of consent. Though opinions about the success of this effort are bound to differ, allow me to say for my own part that I am more impressed by the resilience of old patterns

against all the force of dominant opinion than I am by evidence that abuses have been diminished and familial happiness more commonly achieved. The fundamental equality of the sexes may be self-evident, but their equality in the sense of their having no relevant differences even from the point of view of the family is not. And unless one is driven by a personal or ideological commitment to non-traditional family forms, I do not see how one can argue that the current regime with regard to the family in Western society is self-evidently the best, at least with respect to children. One might note that almost nowhere in the West today are native populations even reproducing their numbers, and in some countries those populations are on the verge of precipitous decline. It is a matter in which we certainly need, and all have difficulty sorting through, the facts.

What, Then, Is Self-Evidently True?

My point in raising the counter-example of the family is not to deny that what the Declaration calls self-evident truths are true, but to show, first, the grounds that might be raised in objection to them (and so, I concede, to call into question their self-evidence), and second, to suggest how they need to be understood so as not to place their authors under the charge of hopeless contradiction.

Of course a contradiction between our founders' words and practices was much noted and commented on in the country's first four-score years and seven in regard to the institution of slavery. Justice can hardly be done to this topic in a brief mention, but I would say that on the whole the founders recognized the contradiction and hoped, in Lincoln's terms, that they had placed slavery on a course of ultimate extinction—even though they excised the condemnation of slavery from Jefferson's draft. When

a generation came along that defended slavery as a positive good, that generation either denounced the Declaration or interpreted its universal language in narrow ways.

With regard to the family, however, I see no contradiction within the Declaration's theory, though perhaps there is a certain ambiguity. It is easy enough to understand the pressure of analogy that would make the hierarchical family entail an authoritarian state, or make an egalitarian state demand an egalitarian family. But it also makes sense to see the relation as, I would argue, our founding fathers did: The patriarchal state had to go because it makes children of real fathers, refusing to allow them the manly responsibility of governing themselves and those with whose care they are charged. In this way, the issue resembles the related theological question of God's kingship. On the one hand, divine kingship might seem to entail by analogy a divine right to rule in a human, hereditary king. On the other hand, if God is king, then every human king is a usurper. Would not the true believer say: "We have no other king but God"?

What the Declaration and the revolution it articulated did establish was *political* liberty. So wrote John Marshall to a correspondent in his later years; in fact, his letter was to the redoubtable Edward Everett, Unitarian minister, Harvard Professor of Greek literature, then a U.S. Representative, later President of Harvard, Governor of Massachusetts, U.S. Senator from the same, and the man who shared the platform with Lincoln at Gettysburg in 1863. Wrote Marshall to Everett: "Our resistance was not made to actual oppression. Americans were not pressed down to the earth by the weight of their chains nor goaded to resistance by actual suffering.... The war was a war of principle against a system hostile to political liberty, from which op-

pression was to be dreaded, not against actual oppression."⁵

In other words, Americans already knew political liberty, or at least had tasted some part of self-government, through their experience with the practices and rights, the privileges and immunities, of England's common law constitution. And they could see that Parliament and the king were committed to a colonial policy that would henceforth keep them subordinate. The relation of mother country to dependent colonies, however appropriate in the early years, was fast becoming a fiction as a rising generation of Americans learned they had the wisdom, the skills, the confidence, and the solidarity to govern themselves.

The British ministry understood this development, too, and when they moved to foreclose it, the colonists struck back. Because the Americans soon realized that the conflict was irreversible, they could not merely invoke traditional liberties. Besides, they had learned over the course of a decade of constitutional dispute that their ability to resist Britain depended on their concert of action, and there was no established continent-spanning government to whose traditional authority they could make appeal. Thus it is not quite true, as Lincoln later said, that "the assertion that 'all men are created equal' was of no practical use in effecting our separation from Great Britain"; it was necessary to make intellectually coherent the appeal to *traditional* liberties that would now have to be embodied in *innovative* forms—a federal government that spanned the length of the Atlantic coast and reconstituted governments in "free and independent states."

In asserting a right of self-government, the Americans in the Declaration appealed to a universal principle, political liberty, which against the fictions of the time had a radical meaning, but which they themselves knew from actual experience, as Marshall's

letter makes plain. Even when Lincoln suggests its radical potential, in the passage I quoted above, he implicitly clings to its specifically political connotation. The founders, he adds, “knew the propensity of prosperity to breed tyrants, and they meant that when such should reappear in this fair land and commence their vocation, they should have at least one hard nut to crack.”⁶ At least in the nineteenth and early twentieth centuries, every extension of the principle of equality in American constitutionalism—from the extension of the franchise coupled with an attack on politically entrenched economic privilege in Jacksonian times, to the extension of basic economic and then political rights to blacks and to women—involved an expansion of the class who could claim political liberty, not its replacement with a contrary ideal.

Read in the light of the document as a whole, then, the self-evident truths of the Declaration of Independence constitute an understanding of political liberty that is the basis of our constitutional order. Precisely because they commit us to liberty on political questions, they swear us to no allegiance to a political creed beyond a willingness to support the Constitution. Because the political things are not the whole of things, or even the noblest things, the truths about the political things cannot pretend to capture the whole of truth: political liberty can be a good, even a noble good, without being the comprehensive good.

But the whole truth is more complex than these Aristotelian propositions alone would indicate. Under the theory of the Declaration, politics is instrumental in its origin and limited in its ends, but this is precisely what makes it possible for us to act freely in political life, to bring truth as we understand it and goods and interests as we experience them into the public square. In other words, political liberty is good *because* it is not the comprehensive good.

Since human beings are limited beings, we can only be just if we are also moderate.

Liberalism and Republicanism

It was fashionable a couple decades ago to debate the revolution and the founding in terms of a dichotomy between liberalism and republicanism. Since my foregoing remarks might seem to align me with the republican camp, let me clarify the dispute as I understand it and explain where I mean to be.

On this dichotomy, liberalism describes a political philosophy, traceable to Hobbes and Locke, that makes individual rights fundamental and government derivative and instrumental to their security. Despite their differences, both Hobbes and Locke thought men equal in a pre-political state of nature, and both thought that equality was necessarily compromised when society was formed. Men are equally subject to government, according to Hobbes, or to “settled, standing rules,” according to Locke, but substantial inequalities in property and in all the other rewards of civil society are allowed—indeed, through commerce they would be encouraged to develop. Hobbes made the sovereign the judge of what religion would be publicly taught in the commonwealth, while Locke famously argued that all tolerant sects ought themselves to be tolerated, but both agreed that religion could raise no claim to political authority. In almost no other respect could Hobbes be thought a champion of political liberty. Locke could, but political life was narrowly circumscribed by making its end the preservation of property; there is a place for great politics in Locke, but only at the moment of an “appeal to heaven,” when the people need to call their government to account for having changed its form illegitimately or for having transgressed its end.

The republican alternative to liberalism sketched by historians is variously attributed to Aristotle, Machiavelli, and Harrington, and ought perhaps to refer as well to the early books of Montesquieu's *Spirit of the Laws* or even to the *Social Contract* of Rousseau. Here, the emphasis is on selfless devotion to the common good, military service, education in citizenship, and the active exercise of virtue in the public realm. Property is not ignored, but it is the precondition of citizenship: one needs to own to have the independence to act freely, and perhaps one needs to own much to know how to command. The republican tradition is less philosophical than the liberal, for the latter was theoretical in nature—it was, after all, imagining something new—while the former generally had its eyes on Rome. While liberalism made its peace with human vices, such as avarice and ambition, republicanism stressed the danger of corruption and the need for vigilance and renewal. As for religion, republicanism prudently retired it to a subordinate theater or boldly made it civic, consecrating the republic. If the proof texts of this civic republicanism are elusive, its monuments are unmistakable. Most obviously, they define the architecture of Washington, D.C., and the capitols of many of the states.

In recent years, the liberal-republican dichotomy has been challenged in several ways. First, scholars such as Paul Rahe, Thomas Pangle, and others have argued that there is a distinctively modern republicanism that bridges the gap between the two schools of thought.⁷ In Michael Zuckert's formulation, liberalism dictates that the end of the polity is the security of rights, while republicanism designs the political science by which a government might be constructed to keep rights secure.⁸ Second, historian Gordon Wood has argued that the true alternative to republicanism is not liberalism but democracy;

republicanism was simply an ideology that facilitated the transition between two relatively stable, if not natural, social and political regimes, monarchy and democracy.⁹ The republican founders meant to reject monarchy, in which they had been raised, but they did not intend to establish democracy; despite their intention, the changes they initiated in their revolution necessarily entailed democracy, once men bred under monarchy passed from the scene.

While I find some cogency to both of the critiques just outlined, I do not think that they show the Declaration to be either staunchly liberal or increasingly democratic in its implications. Instead, it seems to me that the common law constitutionalism sketched at the center of the Declaration defines the form and the limits of political liberty as it was understood by those who made the revolution and preserves an influence in the American regime that should be called Aristotelian. The form of government it supposes has a mixed character; the goods it secures are multiple and not readily commensurable; its adversarial process invites rhetorical dispute; its attitude toward change is wary, but not dismissive; it makes room for equity, without surrendering government by law to rule of the wise.

Common law is unwritten law—like that unwritten “Constitution” mentioned in the middle of the Declaration—and the friends of common law would hold with Aristotle that “[l]aws based on unwritten customs are more sovereign, and deal with more sovereign matters, than written laws.”¹⁰ Moreover, it is the unwrittenness of common law and its consequent openness to truth that made possible its concurrence or coexistence with the Christian religion, and later with different varieties of that religion and with Judaism and even with other faiths—and this, without the dogmatism of liberalism's separation of church and state.

My point is not to deny classical republican influences in the American founding or in the subsequent history of the regime or especially in its military traditions; nor to deny that liberalism laid the basis for our dynamic economy and its engine of technological development and change, nor that liberalism has influenced the course of our political development, especially in overcoming racial slavery. But I think that our constitutionalism and the spirited political liberty that gives it shape depend, if they are to be fully understood historically and analytically, on other things.

Conclusion

In looking at the Declaration of Independence, then, I am saying that we can accept a few basic political principles that undergird our constitutional order without having to insist on an orthodoxy of first principles. We can hold the self-evident truths to be self-evidently true precisely because the principles they articulate do not offer a comprehensive account of human life. Perhaps no one would disagree if the issue is put in this way, but it entails, to my mind, an agreement not to press the argument of the Declaration beyond its proper bounds. When the Declaration is stretched, it becomes a partisan tool, not an anchor of consensus. As there is room in the American polity for one who believes in rights but not in the Creator who endows us with them, so there ought to be room for one who thinks that rights derive from duties to just such a Creator, or even to a nature that distinguishes better from worse.

To be true to the spirit of the Declaration means, from my perspective, not that we are bound to the most radical reading of its most abstract truth, but that we ought to recover the spirited aspiration to self-government that gave the American Revolution its force and its justification. Rather

than look to an unelected judiciary for the formulation of our ideals—or to the liberal philosophers who want to rule through them—we should neither shy away from free debate on important social questions nor demand that every consensus work out its derivation from first things in order to count. Let us hold, then, to the principles of the Declaration as constitutive of our fundamental law, but let us not mistake them as adequate to every exigency in our personal, our religious, or even our political lives. Political philosophy of different sorts influenced the Declaration, but the Declaration itself is not, nor was it meant to be, a philosophical text. That by its terms it points us beyond itself, to political philosophy and to other things, is no small measure of its greatness and no little element of its success.

1. *Poetics*, 1451b1 ff.
2. Speech at Springfield, Illinois, June 26, 1857, in Abraham Lincoln, *Selected Speeches, Messages, and Letters*, ed. T. Harry Williams (New York: Holt, Rinehart, and Winston, Inc., 1957), 72-73.
3. "Letter to Henry Lee," in *Jefferson: Writings*, ed. Merrill Peterson (New York: Library of America, 1984), 1501.
4. Jefferson, "Notes on the State of Virginia," Query XVIII, in *Writings*, 289. The passage continues: "That they are not to be violated but with his wrath?"
5. Letter to Edward Everett, August 2, 1826, quoted in R. Kent Newmyer, *John Marshall and the Heroic Age of the Supreme Court* (Baton Rouge: Louisiana State University Press, 2001), 1.
6. *Op. cit.*, 73.
7. Paul Rahe, *Republics Ancient and Modern* (Chapel Hill: University of North Carolina Press, 1992), and Thomas Pangle, *The Spirit of Modern Republicanism* (Chicago: University of Chicago Press, 1989).
8. Michael Zuckert, *The Natural Rights Republic* (Notre Dame: Notre Dame University Press, 1997).
9. Gordon Wood, *The Radicalism of the American Revolution* (New York: Knopf, 1993).
10. Aristotle, *Politics* III, 1287b1.

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