

## The Colonists' Rationale for Independence: Declaration: Para. 2: Influenced by the Laws of Nature: Cicero, Blackstone, & Locke; Kohl on Deconstruction; "Consent of the Governed"

### The Colonists' Rationale for Independence

The colonists' rationale for seeking independence was a touchy issue. Other nations, especially France, were being courted to assist them in their cause. Justification had to be convincing both to the Crown and to hoped-for allies.

**Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.<sup>1</sup>**

The rationale that is presented is that the colonies are not being irrational. American petitions for redress of grievances had gone unanswered, a circumstance brilliantly reviewed by Patrick Henry in his famous debate before the Convention of the Virginia House of Burgesses on March 23, 1775:

**We have done everything that could be done to avert the storm which is now coming on. We have petitioned—we have remonstrated—we have supplicated—we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne. In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained—we must fight! I repeat it, sir, we must fight!! An appeal to arms and to the God of Hosts is all that is left us!<sup>2</sup>**

If appeals to the Crown have gone unnoticed then to whom are they to turn? The Continental Congress made it clear that its appeal was to "the laws of nature and to nature's God," i.e., the natural law. Thomas Jefferson wrote these words in the introductory paragraph of the Declaration, but they were classic Blackstone.

In English law, the king is considered to be under the law. If the king breaks the law, what? According to Blackstone, the king can do no wrong. The rationale is that since the king is the indispensable pivot upon which the whole realm revolves, he cannot be punished for the actions of his government. So to what law were the colonists left for redress? The laws of nature and of nature's God. On this subject Charles De Montesquieu wrote:

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<sup>1</sup> The Declaration of Independence, para. 2.

<sup>2</sup> Robert Lecky, Jr., *The Proceedings of the Virginia Convention: In the Town of Richmond on the 23d of March 1775* (Richmond: St. John's Church, 1727), 12.

To say that there is nothing just or unjust but what is commanded or forbidden by positive laws, is the same as saying that before the describing of a circle all the radii were not equal.<sup>3</sup>

Thomas Jefferson, who wrote the Declaration, and Benjamin Franklin, who made a few minor changes, were Deists. But the majority of the members of the Continental Congress were Protestant. They got their say in at the end of the document with the phrase, “the protection of divine Providence,” an orthodox Christian concept of the day.

Criticism has been leveled at the wording of the Declaration by modern-day conservatives and in some cases rightly so. But in many cases the criticism is due to misconceptions of vocabulary terms presented in the document.

As in Scripture, historical papers must be interpreted in the time in which they were written. Hermeneutics is a discipline and a system that seeks to interpret an historical document by recognizing the use of words and terms as they were understood by those who wrote and those who read their works.

This system of text analysis is under cosmic assault by Progressives who deconstruct a document so that it is claimed to mean something entirely different that its original intent. Herbert Kohl explains:

**DECONSTRUCTION.** The literal meaning of *deconstruction* is the undoing, piece by piece, of a building or other construction such as a bridge or monument, until there is nothing left. However, the word is not often used in ordinary language but refers to a theory in the field of criticism (art, music, film, philosophy, and so forth). According to Jacques Derrida, who is one of the developers of deconstructionist criticism, all texts and works of art say something other than what they are appearing to say, regardless of the artist's intention. There is no single meaning to be extracted from a text. Every text, through interpretation, can be shown to contain a multiplicity of meanings, and the job of the critic is to deconstruct the artist's intended meaning and expose the multiple meanings contained within the work.

The techniques deconstructionist critics use to expose the inconsistencies within a work are:

- comparing that work to other works by the same artist;
- analyzing internal contradictions in the work;
- using the artist's life history and social, political, and class background to contradict claims of the work;
- using statements made by the artist in interviews, reviews, and so on to expose inconsistencies between the artist's claims and statements in the work;
- analyzing the actual language used and its relationship to the attitudes, emotions, ideas, and so forth that the artist is communicating in the work. (p. 29)

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<sup>3</sup> Russell Kirk, *The Roots of American Order* (La Salle: Open Court, 1974), 352.

An example of the third technique can be found in some recent critiques of the works of Shakespeare. Attempts have been made to discredit and challenge the claims made for Shakespeare's works and his literary authority. This is done through an examination of Shakespeare's political and social status during the time he was writing. In the opinion of some critics, Shakespeare was committed to the Elizabethan political hierarchy and held a privileged position within that social structure that is reflected in the attitudes toward royalty expressed in his plays. The commonly held opinion that Shakespeare speaks with a "universal voice" is deconstructed, and he is shown to write with the bias of his class and historical time. (pp. 29–30)

When taken to extremes, deconstructionist positions border on the absurd, claiming as they do that no meaning can be found in a text, that authors' intentions can never govern the work, and that at bottom all and no truth can be found in every work of art.<sup>4</sup> (pp. 30–31)

Vocabulary terms have been distorted over the years to agree with the ideological beliefs of liberals and Progressives seeking power through socialism. Conservatives have fallen into the trap of accepting the liberals' definitions for the vocabulary of the Declaration. In reality, the terms that cause conservatives the most chagrin are actually legal phrases right out of classical Ciceronian natural law and Blackstone's *Commentaries*.

So what were the laws of nature and nature's God to which the colonists made their appeal?

**We hold these truths (Blackstone's "certain immutable laws") to be self-evident, that all men are created equal, and they are endowed by the Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.<sup>5</sup>**

Both John Locke and William Blackstone had worded this phrase, "life, liberty, and property."

It must be understood that the population of the thirteen colonies was split into three factions in 1776: one third supported independence (called patriots), one third supported the Crown (called loyalists), and one third didn't care either way.

In order to galvanize public opinion so that a maximum number might support the effort for independence, attempts were made not to offend anyone including those without ownership of property.

James Wilson, a signer of the Declaration from Pennsylvania, had often stated that "the happiness of the society is the first law of every government." To use Blackstone's concept of happiness seemed appropriate for the occasion.

The term *self-evident* referred to the fact that the truths stated flowed from the nature of things in that they were in accord with right reason. These principles were taken for granted. All political orders must be founded upon some unquestioned premises.

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<sup>4</sup> Herbert Kohl, "deconstruction," in *From Archetype to Zeitgeist: Powerful Ideas for Powerful Thinking* (Boston: Little, Brown and Co., 1992), 29–31.

<sup>5</sup> The Declaration, para. 2.

All men desire life, liberty, and happiness, therefore, they are a part of the natural laws. Those who deprive men of them are in contempt of nature's laws. These rights are said to be *unalienable*. They are man's birthright. Whoever deprives a man of these things has taken from him what is rightfully his. In justice, such a man may seek to reclaim what has been wrongfully taken from him.

And what about the term, "all men are created equal"? Does this phrase mean what present-day liberals claim it means: a plea for total socialistic equality?

Jefferson was the owner of slaves at the moment he penned the words. He was not what you would call a humble man with regard to his own enormous talents. He certainly did not equate himself with his less-talented fellow colonists.

There are two explanations for his use of the phrase:

- (1) Jefferson was familiar with the writings of John Locke who taught of a baby's "blank tablet of the mind," i.e., *tabula rasa*. Knowing nothing of genetics and inherited traits, it was believed that all came into the world equal to the degree that no baby starts out with any knowledge of any kind.
- (2) None of the signers of the Declaration could possibly be said to have supported the concept of literal equality of body and mind. They did subscribe to equality before the law and in the judgment of God.

In English law, no person was privileged when appearing before the bar of justice, law being no respecter of persons meant that equality before the law was a principle of the laws of nature.

Remember, there was no official class structure in the colonies. One could be upper class, middle class, or lower class, but all were free to assume a higher or lower rank based on their own motivations and abilities.

In England, the class structure was much more formal and transition of class boundaries, no matter what one's motivations or talents, was very difficult.

3. The signers of the Declaration felt that man should be born into this world outside any predetermined class assignment. He should be born equal with all others so that he might determine from his own motivations and abilities the class status suitable to him and him alone.

Life, liberty, and the pursuit of happiness was a principle held in both Britain and America and few men of that time would deny that it was government's duty to secure those natural rights.

The third sentence of the Declaration reads:

**That to secure these rights, Governments are instituted among Men, deriving their just power from the consent of the governed.**

Does the phrase, "consent of the governed" mean that the Founding Fathers were promoting a democratic form of government in which the people ruled by majority opinion?

Note what is said here has reference to power of government. The only power government has is from the consent of those it governs. Consent refers to delegated power to representatives chosen by the people.

In England, this principle was practiced through Parliament and in the colonies through its legislatures.

Thus, “consent of the governed” did not imply democracy. What this phrase meant to the colonial mind was representative government based on existing models. In fact, representative government was a part of the laws of nature as developed in the Roman Republic.

The Declaration’s second paragraph continues:

**That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.**