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Essay

What Does the Declaration of Independence Declare?

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What does the Declaration of Independence declare? The simplest answer is that it constituted the United States as an independent sovereign nation. This brief Essay will take a different approach, focusing less on establishing sovereignty and more on its fashioning the bonds of association that stand independent of legal governance.

One goal of this Essay, on the eve of its 250th anniversary, is to reinvigorate the meaning of the Declaration of Independence. If the Declaration was less significant as a legal instrument declaring sovereignty, then we must be even more determined in understanding its meaning. How does one read a document in a fresh fashion when it has been scrutinized for so many years? Over time, documents become dusty, overly familiar, and, perhaps worst of all, sacrosanct. No doubt this is true of the Declaration of Independence—which is often paired with the Federalist Papers as canonized handmaids to the Constitution. This ever-so-brief Essay aims to constitute ourselves as a new, unexpected audience for the text.

This Essay sees the Declaration as an untidy pastiche, a bricolage that is directed to any number of contemporary listeners; with its multiple audiences, shifting rhetorical styles, and different genres, the Declaration of Independence must be seen as a multivocal text. It also argues that the Declaration's crescendo lies at the end, not the famous lines at the beginning, of the document. All the seemingly unrelated grievances are wrapped around a fundamental shift where it is not a new state that is founded, but rather it is an assumption of mutual duties among Americans that leads to a new social order—if not a new regime—and that this has binding force, as does any legal promise.

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What Does the Declaration of Independence Declare?

STEVEN WILF^{*†}

INTRODUCTION

It is hard to imagine a more obvious question. What does the Declaration of Independence declare? The simplest answer is to say that the Declaration constituted the United States as an independent sovereign nation. This brief Essay will take a different approach. It will focus less on establishing sovereignty and more on the meaning behind the rhetorical forms used by the Declaration—each of which contains its own sort of declaration.

One goal of this Essay, on the eve of its 250th anniversary, is to reinvigorate the meaning of the Declaration of Independence. The Declaration is not a straightforward legal instrument which announces an historical moment in the opening act and then takes a bow, quickly stepping off stage to let the real drama begin. It should not be considered merely a precursor to the Constitution, or as a herald announcing that, someday in the future, there will be a new republic with its own version of parliament and its own magistrates, who ultimately will render judicial decisions drawing upon its own independent legal code. It is not even, as the Declaration has often been seen, an aspirational text, whose soaring rhetoric about human rights might serve as a North Star for future generations.

The simple meaning of the Declaration of Independence is that it is declaratory. The word originates from the Latin term *declaratio*—to make evident, to disclose. But what does this mean? One can declare amorous feelings, on bended knee; war, with a weapon in hand; or a legal judgment, rendered from a judge's bench. The question, of course, is how is this expressed? And to whom?

As always, we must begin with a close reading of the text. Emanuel Levinas urged readers to *frottage le texte*¹—to rub the text in much the same fashion as one would rub an inscription on a gravestone to uncover its concealed meaning, or as one would rub cold skin to return its natural warmth. Such an approach requires engagement with issues of intention, audience, and rhetorical style.

The Declaration of Independence was circulated well after aspects of sovereignty were demonstrated in a variety of ways. By the time it was

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[†] All direct quotes herein which are not otherwise attributed to a source are direct quotes from THE DECLARATION OF INDEPENDENCE (U.S. 1776).

¹ EMMANUEL LEVINAS, *The Temptation of Temptation*, in NINE TALMUDIC READINGS 42, 66 (Annette Aronowicz trans., 2019).

written, the Second Continental Congress already served as a framework of governance. This legislative body's newly recruited and provisioned army fought battles against the British at Lexington and Concord. The Continental Congress printed its own currency to fund the war. In the streets, protesters deployed vernacular legal culture by engaging in the mock execution of effigies and judging those unwilling to support the revolutionary cause. The power to punish is the power of sovereignty. A sign posted to an effigy bluntly asserted "we have a hereditary, indefeasible right to the halter."² As a legal instrument, the Declaration had little impact. When colonists toppled King George III's statue in Bowling Green just a few days after the Declaration of Independence was read aloud in New York City, they did not change the existing legal order but simply cemented their status as disloyal subjects. Indeed, one could argue that George III's August 23, 1775, Proclamation of Rebellion—which cast colonial resistance as an "open and avowed rebellion"³ with legal consequences for those engaging in acts of resistance—might be considered the turning point in law where Britain identified Americans as acting independently of the Crown.

If the Declaration of Independence was less significant as a legal instrument declaring sovereignty, then we must be even more determined in understanding its meaning. How does one read a document in a fresh fashion when it has been scrutinized for so many years? This, of course, is the challenge of returning to the Declaration of Independence on its 250th anniversary. Over time, documents become dusty, overly familiar, and, perhaps worst of all, sacrosanct. No doubt this is true of the Declaration of Independence—which is often paired with the Federalist Papers as canonized handmaids to the Constitution. But if texts remain unaltered with their ebony ink frozen in place, readers change over time. The goal of this ever-so-brief Essay is to constitute ourselves as a new, unexpected audience for the text.

It is important to begin by recognizing the existing conversation launched by a talented coterie of contemporary historians. Pauline Maier underscores how the Declaration has become for our generation a totemic artifact set in a glass case at the National Archives. Contrasting the now lifeless Declaration with debates over the living Constitution, she asks whether the Declaration was ever invested with more meaning—and how we might return to that understanding. David Armitage sees the text as the progenitor of an assemblage of declarations issued by newly independent republics created with the crumbling of Spain's New World empire in the early nineteenth century. Steve Pincus argues that the Declaration must be

² Edmund S. Morgan, *Preface to The Colonial Scene-1602-1800*, 60 PROCS. AM. ANTIQUARIAN SOC'Y 54, 71 (1950).

³ King George III, *No. 79 Proclamation of Rebellion*, in SELECT CHARTERS AND OTHER DOCUMENTS ILLUSTRATIVE OF AMERICAN HISTORY 1600-1775 at 389, 390-91 (William MacDonald ed., 3d rep. 1906) (1775).

read within its imperial context. Independence was declared, he argues, because American colonists sought a different kind of polity—one pursuing political equality and economic prosperity.

It is not surprising that these historians focus on different aspects of text, as they come from different historical fields. Maier, who spent most of her career at Massachusetts Institute of Technology, was a preeminent historian of the American Revolution. Her broader scholarship traces colonial disaffection as an extended process, and she shows how the Declaration emerged within the context of domestic demands.⁴ According to Maier, Thomas Jefferson's role has been overstated. The Declaration was not the product of one man, Maier claims, as it was the coalescing of sentiment over time. She argues that the Continental Congress had a larger role in drafting, and that the text reflects the ideas, arguments, and opinions of local colonial presentments and declarations which percolated upward to legislators over time. What is most striking to Maier is that the Declaration became less significant in subsequent years, until Abraham Lincoln identified it as establishing the foundational principle that all men are created equal.

Harvard Professor Armitage is a renowned global intellectual historian. Instead of Maier's domestic approach to the afterlife of the document, Armitage addresses the *nachleben*, the afterlife, of the Declaration from an international perspective.⁵ For Armitage, the Declaration initiated a contagion of independence movements that extend from the Bolivar revolutions in South America in the beginning of the nineteenth century through post-colonial rebellions in our own times. He takes us on a tour across a startling array of countries, casting off the restraints of colonialism and pronouncing their own aspirations for independence. Ironically, even Ho Chi Minh used the Declaration as the basis of his own 1946 declaration as he sought to establish a post-colonial Vietnam, whose revolutionary struggle ultimately became aimed at the United States.

Pincus teaches at the University of Chicago, where his scholarship focuses on early modern British history with particular emphasis on the Glorious Revolution. For Pincus, the Declaration of Independence reflected an emerging political economy which eschewed the hierarchical structures of Britain and Continental Europe.⁶ While English elites promoted social stability, colonials demanded trading rights, a robust consumer culture, unfettered immigration to the colonies, and an expanding economy.

These historians identified the significance of reading the Declaration as a vehicle for a powerful cluster of ideas—Maier, with equality, emerging at

⁴ See, e.g., PAULINE MAIER, *AMERICAN SCRIPTURE: MAKING THE DECLARATION OF INDEPENDENCE* xvii–xviii, xx (1997) (explaining how the Declaration of Independence evolved to fit the needs of American society).

⁵ DAVID ARMITAGE, *THE DECLARATION OF INDEPENDENCE: A GLOBAL HISTORY* 3 (2007).

⁶ STEVE PINCUS, *THE HEART OF THE DECLARATION: THE FOUNDERS' CASE FOR AN ACTIVIST GOVERNMENT* 18–19, 22 (2016).

the cusp of the Civil War; Armitage, with the call for colonial autonomy, which echoes across the generations; and Pincus, with the search for an active political economy that reflects a more egalitarian society. Yet, in all such instances, the Declaration is understood as a singular cluster of ideas projected forward in time.

This Essay takes a different approach. It sees the Declaration as an untidy pastiche, a bricolage that is directed to any number of contemporary listeners. While the text has become totemic, it is important to recall that the work embodied an oral rhetorical tradition. Jay Fliegelman identified the markings for dramatic pauses which Jefferson incorporated into the original draft.⁷ The Declaration was meant to be read aloud—and, as Fliegelman convincingly argues, to create a cascade of emotion. Such an oratorical work is less ordered. Its various sections constitute a loose alliance of arguments, rather than a tightly reasoned statement. With its multiple audiences, shifting rhetorical styles, and different genres, the Declaration of Independence must be seen as a multivocal text.

Armitage called the Declaration of Independence the first of its kind, a new genre that proclaimed Independence. Yet, for contemporaries, it was an assemblage of genres: a pamphlet identifying the public sphere, a legal brief, and an oath of mutual assistance. In the remaining Sections, this Essay will identify the significance of these three genres for making the subject of the Declaration—the colonists—an identifiable association. It argues that the outward expression summoned a collective actor to enunciate claims. In a single word, the Declaration was *constitutive*.

How might the Declaration of Independence be transformed from a literary work to a legal work? The focus has often been on the rousing words of the Declaration's prologue: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed." The prologue is both deeply inspiring and—given America's history of chattel slavery and repression of Native Americans—discordant. Its soaring rhetoric demands enduring attention, while other parts of the Declaration are seen as reflecting transitory political arguments that simply fade away over time. In Lincoln's words, these phrases "set up a standard maxim . . ."⁸

This Essay argues that the Declaration's crescendo lies at the end, not the beginning, of the document. All the seemingly unrelated grievances are wrapped around a fundamental shift where it is not a new state that is founded, but rather it is an assumption of mutual duties among Americans that leads to a new social order—if not a new regime—and that this has

⁷ JAY FLIEGELMAN, *DECLARING INDEPENDENCE: JEFFERSON, NATURAL LANGUAGE, AND THE CULTURE OF PERFORMANCE* 5–7, 10–12 (1993).

⁸ Abraham Lincoln, *Speech on the Dred Scott Decision* (Jun. 26, 1857).

binding force, as does any legal promise. The Essay's argument begins by analyzing how the Declaration creates a public sphere. It proceeds with outlining some of the major grievances discussed in the Declaration. Finally, it concludes with the powerful ending clauses.

I. MAKING THE PUBLIC SPHERE

Who is the audience for this remarkable document? Perhaps the most significant audience at the time of its writing was another republic—the Republic of Letters—which emerged in the second half of the eighteenth century. The Republic of Letters (*Res Publica Litterarum*) functioned as a communication network, sustained by a burgeoning print culture. Writers, philosophers, and those captivated by debates over ideas and politics were unofficial members of this remarkably freewheeling circulation of opinion. Through the Declaration, Patriots sought to justify independence to the broader international public. Certainly, the Declaration rather grandiosely declared that it was addressed to a “candid world” and “the Opinions of Mankind.” The border-crossing Republic of Letters was held together by the bonds of correspondence. The Declaration of Independence was essentially a letter, with the added ballast of a manifesto.⁹

But if the Declaration was an epistolary salvo, who was the intended recipient? “Mankind” and “the world” presupposes a rather far-reaching circulation. But the Declaration was not directed to Asia or even Central and Eastern Europe. Its intended readership was as much exclusive as it was inclusive. We are speaking of white, able, propertied men located largely in entrepôt cities circumscribing the North Atlantic world. This was largely an Anglophone—and to some extent Francophone—population. While England and France jostled for supremacy from the Seven Years' War (1756–1763) until the end of the Napoleonic Wars (1803–1815), these countries engaged in a common cultural discourse.

Historians have long recognized the salience of the public sphere for the democratic revolutions of the late eighteenth century. Much of the ferment took place in coffee houses, salons, and in pamphlets or broadsides that were hawked on the streets. These spaces were critical for challenging traditional political authority, such as the Crown, the aristocracy, and clerics. While it is important that such a space already existed for debates to take place, it is also true that the Declaration of Independence served a *constitutive* function. It established the colonies as an entity in this discourse, a single voice in the Republic of Letters.

⁹ On the revolutionary context for the fashioning of United States legal discourse, see Richard Ross and Steven Wilf, Legal Orders in *THE CAMBRIDGE HISTORY OF THE AMERICAN REVOLUTION* (Marjoleine Kars, Michael A. McDonnell, & Andrew M. Schocket eds. 2026). Steven Wilf, *LAW'S IMAGINED REPUBLIC: POPULAR POLITICS AND CRIMINAL JUSTICE IN REVOLUTIONARY AMERICA* (2010).

The Declaration of Independence is a narrative of betrayal. According to the colonials, Parliament passed “pretended Legislation.” In 1774, it passed the Boston Port Act, the Massachusetts Government Act, and the Administration of Justice Act. Yet, when these bills crossed the Atlantic, they, along with others, were quickly and collectively designated the Coercive or Intolerable Acts. While Parliament might claim the right to promulgate bills, Patriot writers assumed the rhetorical power to name them. If a legislative body in London imposed punitive measures without representation, then surely the monarchy might provide redress, since the colonies, even when challenging Parliament’s power on constitutional grounds, asserted their rights as proper subjects of the Crown. By the time of the Declaration, however, the monarchy had also betrayed the colonies. The language of betrayal regarding the monarch is more powerful, more acerbic than for Parliament’s violation of fundamental norms: the King “has abdicated Government here, by declaring us out of his Protection and waging War against us.” Historians have noted the elements of a psychoanalytic family romance in the unravelling of the relationship between Crown and subject. George III has abdicated his responsibilities. He has removed his protection. And, worst of all, he has enlisted mercenaries, incited domestic insurrections, and engaged “merciless Indian savages” in ways that are “unworthy [of] the Head of a civilized nation.”

The Declaration’s rhetoric suggests that this is not a rebellion against Britain as much as a response to an absence of legitimate political power. In international legal terms, Americans sought to shift from the status of rebels to those of belligerents. Absent a Parliament with rightful constitutional authority or a caring monarch, the North American people would need to seek legitimacy from a republic of letters. Such a public sphere, that takes us from Edinburgh to London, and from Bordeaux to Paris, suggests that the Declaration is a global document. Although it is commonplace to see the text as the New World casting off from the moorings of Europe, the work clearly situates itself with the context of European political discourse.

Into this vacuum of political power, the Declaration of Independence conjures up, in Aladdin-like fashion, the constitutive notion of the people. If the imperial image of empire focused on the orderly imposition of Parliamentary supremacy and the vetoing of repugnant laws by local legislators, then colonial Whigs countered with the idea of a federated empire where the colony constituted its own polity, rooted in custom, common law, and an assembly tradition. Americans were well aware of competing imperial models. Britain’s conquest of Ireland was predicated upon centralized power backed by military force. Queen Elizabeth I and the Stuart monarchs both imposed land confiscation (the Plantations), oaths of supremacy, and martial law. Harsh penal laws drove Catholicism underground and promoted the Protestant Ascendancy. Spain’s corporatist model in its New World colonies also denied autonomy to colonials as

independent actors. It split power among cities and their municipal councils, bishops and cathedral chapters, universities, the military, merchant mining organizations, and craft guilds. The Declaration of Independence was declaring to the Republic of Letters, and to the colonials themselves, that these people who possessed a certain unity with underlying rights—which American Revolutionaries believed emerged over time—truly existed.

II. A LEGAL BRIEF

As legal historians have noted, the Declaration of Independence is a legal brief. The grievances listed constitute a “long train of Abuses and Usurpations” By including a rather exhausting list, the Declaration seeks to show a pattern of wrongful acts. The Declaration is not issued for “light and transient Causes” Instead, such a pattern constitutes “a design [for] Despotism.” At first glance, the list of grievances seems both scattered and ad hoc. Historians have provided a textual reason for this genre by recognizing the similarities between the Declaration and the preamble to the Virginia Constitution of 1776.¹⁰

Yet what is most notable is that there are grievances which identify the undermining of an emerging independence in the North American British colonies. The Declaration of Independence decries the calling of colonial legislatures “at Places unusual, uncomfortable, and distant from the Depository of their public Records, for the sole Purpose of fatiguing them into Compliance with his Measures.” Why are public records significant? It suggests the severing of deliberative bodies from their own remembered past. This particular grievance, of course, was a reference to Governor Thomas Hutchinson, who, in 1770, moved the Massachusetts Assembly to Cambridge, in order to reduce the influence of the Sons of Liberty in Boston, and his successor, General Thomas Gage, who, in 1774, ordered an even further relocation to Salem, as punishment for the Boston Tea Party. Both of these acts were seen as violations of the colony’s charter. The British, as a response to resistance, also dissolved legislatures. In 1767, for example, the New York Assembly was disbanded for its refusal to board and supply British soldiers under the Quartering Act. The decision to dissolve the New York legislature as an example to other colonies, rather than prorogue the Assembly for a limited amount of time, showed a willingness on the part of Britain to escalate beyond usual sanctions to those which would abolish the rights of colonists to an independent polity.

The judicial system was equally said to be abused by the British. The Crown had “refused his Assent to Laws, the most wholesome and necessary for the public Good.” These included the failure to allow laws “for establishing Judiciary powers.” As part of the concern with Britain’s

¹⁰ See, e.g., MAIER, *supra* note 4, at 105–07 (1997) (noting that many grievances in the Declaration, including those “perplex[ing]” and “obscure,” are derived from the Virginia Constitution’s preamble).

centralizing control, the Declaration accuses the monarch of making “Judges dependent on his Will alone, for the Tenure of their Offices, and the Amount and Payment of their Salaries.” Britain had abrogated charters and transported citizens across the seas “to be tried for pretended Offences.” At the core of these grievances is the idea that legislatures and judiciaries must be tied closely to the immediate needs of a constituted people. There are bonds of consanguinity, of common law norms, and of shared necessity in a far-off place which demand a responsive government for a federated settlement—not a subjugated imperial colony. The Crown is accused of “usurpation” precisely because these constitutive bonds are tangible and existing. To undo them at the level of colonial assemblies or courts is to take away power for a people that already exists.

If the Declaration of Independence is a legal brief, then what are its underlying principles? According to John Phillip Reid, the basis for the grievances—which he considers the heartland of the text—is its appeal to English customary and constitutional law, as defined by basic common law principles.¹¹ Peter Charles Hoffer insightfully points out that the grievances follow the form of a bill in equity: a breach of the trust for which equity provided the remedy of independence.¹² Equity played an important role in the circumstances where the monarch stood within a trustee-beneficiary relationship and the King possessed a fiduciary duty to protect the colonies.

When the Declaration of Independence declares “Governments . . . deriv[e] their just Powers from the Consent of the Governed,” it expresses two fundamental principles. First, that the laws must be grounded in the public good. And, second, that this sense of good is particular to a given people. These principles come to the fore with the grievance which states that Britain “has endeavored to prevent the Population of these States; for that Purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither and raising the Conditions of new Appropriations of Lands.” In brief, the Declaration declares the needs of a settler state at the margins of empire as opposed to a metropole positioned at the center of a vast web of trading networks.

Settler-colonialism has become a political, pejorative term where two notions are linked by a relentless hyphen. In fact, settler ideology is often posed in opposition to colonialism. The Declaration of Independence is an unabashed settler document. As conceived, a settler state is expansive, less based upon inherited, ascribed hierarchies. Settler societies seek to expand, not divide, existing resources. By focusing on settler ideology, of course, the

¹¹ See JOHN PHILLIP REID, *CONSTITUTIONAL HISTORY OF THE AMERICAN REVOLUTION: THE AUTHORITY OF RIGHTS* 169–74 (1986) (discussing the “tradition of grievances” in eighteenth-century Britain, and its adaptation in Revolution-era documents, including the Declaration).

¹² See PETER CHARLES HOFFER, *THE LAW’S CONSCIENCE: EQUITABLE CONSTITUTIONALISM IN AMERICA* 71–75 (1990) (enumerating the structural elements of eighteenth-century bills of equity adapted by Jefferson for the Declaration).

Declaration elides the many differences between North and South. Instead, there is a shared settler ideology providing for constant, western expansion in states as varied as North Carolina and Pennsylvania, or Virginia and Massachusetts. The new republic must be an extensive republic.

Undoubtedly, as a settler society, colonial North America availed itself of cheap indentured labor, human bondage, and the seizing of land from Native Americans. It is important nevertheless to imagine how a settler society sees the center of Empire. Late-eighteenth-century Americans often constructed counterpoints, contrasting hierarchical social stratification in London with fluidity in Philadelphia. Patronage was a particular characteristic of oligarchical societies. In the words of the Declaration, Britain “erected a multitude of New Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance.” The image was one of a Biblical plague of locusts. But there were other commonplaces. The Old World was filled with corruption and sanguinary punishments for criminals, and an inability to ensure public safety for those who faced attacks at the empire’s frontier.

Cultural differences between the London metropole and its colonies were in the past managed and mediated through common law and jurisdiction. By asserting direct control through legislation, Parliament upended this old unspoken accord. The grievances, in this sense, were a memorial to what the colonies once considered as aspects of their existence which they once controlled. But the twin columns of common law and jurisdiction also allowed for diversity between the North American colonies themselves. Their social and economic fabric were disparate: Northern seaport cities crammed with workshops and plantations dedicated to the production of a limited array of crops; those regions with primarily free labor and those dependent upon chattel slavery; and the entirety of the colonies were a patchwork of religious creeds. During the period of the New Republic federalism would provide the space that would allow for difference. As the colonies headed towards independence, however, the problem was how to unite these incongruent fragments of empire into a coherent entity. The grievances expressed a shared resentment of Britain. Yet the Declaration went one step further. It fashioned the compelling notion of shared bonds.

III. AN OATH OF ASSOCIATION

Armitage called the Declaration of Independence “a document of state-making.”¹³ It is true that the Declaration states that the colonials have “the full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which independent states may of right do.” But, as pointed out earlier, the Continental Congress was already engaged in these sovereign actions. What, then, was the essential

¹³ ARMITAGE, *supra* note 5, at 17.

legal significance of the Declaration? It may be less to “dissolve . . . Political Bands” than to construct new ones.

This Essay has urged the Declaration’s readers to shift their attention from the prologue of the text to the ending. One can no more understand the Iliad or the Aeneid from its proem than one can view the Declaration’s introductory language as a summation. Reading the text from our vantage, we know that it has inspired such remarkable works as Robert Owen’s Declaration of Mental Independence (1826), calling for freedom from enslaving institutions, such as private property, organized religion, and marriage, in favor of a new harmony among individuals, or the Seneca Declaration (1848), articulating a vision of gender equality. Even if it might be overstated to call the Declaration, as Jefferson did shortly before his death, a document “pregnant with . . . the fate of the world,” its aspirations retain their lure.”¹⁴

Yet aspirations are most meaningful within the context of a polity whose members conceive of themselves as a shared association. This Essay suggests reading the Declaration of Independence as an instrument to summon into existence an array of societal bonds—a kind of soft notion of society distinct from statehood. The last line of the Declaration states, “we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.” By soft, one should not interpret this sense of mutual dependence as insignificant. After all, what more could be placed at risk for its fulfillment than one’s existence, property, and reputation?

It is important to read the Declaration beginning with its last clause. This backwards reading itself has deep roots in a covenantal conception of politics. The bonds are not transactional. Nor are they transient. They constitute more than a mere contract for immediate benefit, more than a transaction. A covenant speaks to shared identity and destiny, loyalty, and mutual responsibility. The idea of a covenant might be traced to its Biblical origins. Nevertheless, the idea of a covenantal polity had its more immediate lineage in the revolutionary politics of seventeenth-century England. When English Protestant refugees from Europe landed at Provincetown Harbor in 1620, they fashioned a binding, sacred agreement pledging mutual assistance to each other in the form of the Mayflower Compact.

The covenantal pledge “to each other our Lives, our Fortunes and our sacred Honor” permits the colonies to speak with one voice to Britain and, at the same time, it tempers the differences among the colonies themselves. The lengthy grievances shift the relationship of colonists from their role as subjects to the monarch to those bound to each other as citizens through the bonds of sacred honor. Covenants embody jeopardy and promise. The purpose of a signed document outlining the grievances might be an

¹⁴ Letter from Thomas Jefferson to Mr. Weightman (June 24, 1826), in 4 MEMOIRS, CORRESPONDENCE, AND PRIVATE PAPERS OF THOMAS JEFFERSON, LATE PRESIDENT OF THE UNITED STATES 451, 451 (Thomas Jefferson Randolph ed., 1829).

intentional placing at risk “the lives and fortunes” of its signatories. But covenants are not just about shared menace. They are at their core about a common history that emerges “in the course of human events.” And, of course, as the lofty rhetoric at the beginning of the Declaration suggests, shared aspirations mean a Janus-faced history where the future matters as well.

What, then, does the Declaration of Independence declare? An aspirational North Star for the generations; a functional legal instrument that establishes sovereignty; a petition to a monarch—even though it appears the time for petitions is well over; an international attempt at public relations in order to find allies for a protracted military conflict; a domestic rallying point; a bricolage of complaints in the form of an indictment; a blueprint for post-colonial leaders in more recent times as they draft a manifesto while hiding deep in a jungle? Perhaps it is a bit of all of these.

However, it must be emphasized that the primary significance of the Declaration of Independence may not reside in its devising a new state. Instead, the focus in its conclusion remains fixed on the social and political making of an association. It urges interdependence among North American settlers as much as it points towards independence from England. The idea that this is a document of oath-making, declaring a kind of associational compact, or, in one word, a covenant, is intriguing. Colonies as distinct political entities fade into the background, and we instead uncover a covenantal promise between citizens pledging their very lives and honor. Perhaps this is the most telling feature of the Declaration of Independence, that which resonates across “the Course of human Events . . .” A polity is constructed first upon the foundation of mutual bonds—a vertiginous promise of trust. Sovereignty, constitutions, and the dense legal apparatus we ultimately erect will only come later.