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The Spirit of Independence and the Rhythm of Democratic Politics

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It is only natural to wonder, after 250 years, how long the American republic will last. While we may sometimes imagine the possibility of a "perpetual republic,"[1] the most reliable prediction about any country—or about any state of affairs—is the one Abraham Lincoln grappled with at the end of a speech in Wisconsin in 1859: "This, too, shall pass away."[2] It is doubtful that our country has finally discovered an escape from that ultimate fate.

Still, even if we begin with the fatalistic insight that our nation is mortal, there is room for us to wonder where in its life cycle we find ourselves today. Were the United States to last as long as ancient Sparta, for example, the 250th anniversary of its independence would mark less than half its lifespan. It is possible that future historians will regard our time, with all its political struggles and disappointments, as merely one crisis among many, perhaps as the last part of the first working out of the principles of the founding.

"There is consolation in the thought that America is young," said Frederick Douglass at a July Fourth celebration in 1852.[3] At that point the country was just 76 years old, but it must have seemed to many observers that the American experiment was already nearing its end. The republic had failed to realize its founding ideals and was foundering on a deep sectional divide. Despite that, Douglass, a former slave who had experienced the country's most profound failure firsthand, asked his audience to imagine a longer future for the country. Can we ask the same of ourselves today?

Imagining a longer future for a democratic United States seems more plausible if we rediscover a feature of democracies that was at one time familiar but is now less often noted—the tendency to fall into cycles of institutional dysfunction and popular discontent, followed by reform. There is a certain *rhythm* to democratic politics.[4] There are fits and starts, falls into corruption followed by recoveries. There is no guarantee of recovery, of course—the rhythm offers us no justification for complacency. But there is, still, the possibility of an upswing, if we can find our way toward it.

What drives these cycles? In this chapter, I would like to draw attention to the *spirit of independence*. Theorists of democracy, focused on the importance of equality, solidarity, and mutual interdependence, sometimes imagine they can live without this potentially dangerous sentiment. They forget that the democratic world they live in would never have been established without it, and they too often ignore the ways that both elites and democratic majorities can spark new bursts of that spirit as a reaction to their overzealous rule.

Libertarians, on the other hand, tend to forget that the spirit of independence is and ought to be an *episodic* passion, at least as a dominant force in our national life. It rouses us periodically to protect ourselves and keep our rulers decent, but it does not suffice for stable rule or fair politics. Neither solidarists nor libertarians situate the spirit of independence within the rhythm of democratic politics. They evaluate the passion for independence, either positively or negatively, as if it were a steady demand rather than a periodic rising up.

The Declaration of Independence is the exemplary American articulation of this spirit. Both Thomas Jefferson, its principal author, and Lincoln, its most important interpreter, assumed that republics tend to decay but can also be renewed. The tendency toward corruption, which spurs declarations of independence in response, produces the rhythm I mean to highlight. In looking for a way to *manage* this rhythm, we find ourselves rediscovering an important purpose for a constitution.

The Spirit of Independence and Its Sources

Perhaps some people have a natural desire to rule, but many of us tend to find the actual experience of having authority to be more trouble than it is worth. If there were an effortless way to have the world conform to our wishes, few of us would be able to resist the temptation. The actual work of ruling over others, however, embroils us in all the messiness of managing other human beings, defending ourselves against rivals, compensating for the jealousies that our power necessarily excites, and maintaining loyalty among our advisers. Ruling over others is work, and most of us will find, especially as we age, that laziness or exhaustion saps our political ambition. A political system designed on the assumption that we all want to rule overestimates our vigor.

The opposite inclination—the wish to relax into a carefree and secure state of being protected and cared for—is more attractive than many of us like to admit. Provided that we are ruled by a wise and benevolent ruler, someone attuned to our interests and experienced enough to know how to properly watch over us, the thought of being cared for is not unattractive. Democratic instincts may not allow us to concede ultimate authority to any particular person or class of persons, but as long as we imagine a set of officials or an intelligent algorithm merely executing the judgments of an abstract "public opinion," we may find we can easily reconcile ourselves to a happy passivity. Public opinion is our own opinion, after all, even if we do not bear much responsibility for its content. The vague sense that we somehow participate in public opinion compensates us for the extent to which we let ourselves be ruled by it.

Those two different inclinations, to rule and to let ourselves be ruled, might seem to exhaust the set of possible orientations toward rule, but the spirit of independence is distinct from both. The spirit of independence can be fierce when it erupts but is not often sustained for long. It does not initiate action but is, instead, fundamentally reactive. We feel this spirit when we bristle at rule imposed unfairly, carelessly, or clumsily. This is the indignation that propels us to take to the streets

to demonstrate against the latest outrage, though if we then retire home happy at having expressed ourselves, we reveal how quickly it can fade.

A stronger version of the independent spirit propels the people who fight in revolutionary wars and, in a different way, those who flee oppressive regimes. Revolutionaries and refugees both crave independence, often in bursts of determination. If they are successful in breaking free, they soon find themselves in a new political situation wondering how to replace the institutions and practices that had structured their old lives. The spirit of independence is not especially helpful in this next task. It has played its part, fueling the takeoff from the planet's surface, but the rest of the journey must rely on other power sources.

We might think, therefore, that the spirit of independence should be firmly limited to moments of liberation. Perhaps it was necessary at the nation's founding to free us from the British or even, more grandly, from the vestiges of the premodern European world, with its inherited rights to rule, claims of divine right, and priestly domination. Having done its work, should this spirit not then be safely confined to the past, where it cannot disturb the fragile peace of our now established constitutional regime? Decent as it eventually aimed to be, however, this regime could not help but accumulate grievances as it gathered power for itself and drifted into corruption. And in its founding period, the American regime never allowed the spirit of independence of the enslaved portion of the population to do its work in the first place. There was work for the spirit of independence to do even after the founding.

Even before the Declaration of Independence, international observers had noticed a distinctively independent spirit in the American character. Edmund Burke, the British statesman who argued for reconciliation with the American colonies during the immediate prerevolutionary period, analyzed this attitude in a 1775 speech. He pointed to six historical sources that came together to produce an unusually strong passion for independence in Americans, including their descent from Englishmen with a tradition of resistance to taxation by centralized

authorities and, importantly, the strength of Protestant separatism in the northern colonies.[5]

In the past half century, scholars have drawn our attention to republican or "neo-Roman" writings against dependence on the arbitrary will of another.[6] Burke reminds us that the connotations around the word "independence" had also been shaped, more strongly than we sometimes remember, by its use in discussions of church authority. The word had become common only during the 17th century in England, when it referred to Protestant churches that refused to subordinate themselves to any central ecclesiastical authority such as Rome, the Anglican Church, or even Presbyterian governing bodies.

The Independents thought each congregation should stand on its own feet and govern itself, often in a more or less democratic fashion. In England, the Independents gained control during the civil war of the mid-1600s, with Oliver Cromwell's New Model Army, and they expelled their enemies to gain control of Parliament. Eventually, they put King Charles I to death and declared a commonwealth. With the restoration of the Stuart monarchy in 1660, however, the Independents were forced out, and some fled to America. In New England, the Independents were also known as Congregationalists, since they insisted that each congregation choose its own pastors and govern its own affairs.

For a sense of American Independent political thought, we could turn to figures such as John Wise, a prominent prerevolution minister from Ipswich, Massachusetts. Wise gained fame early in the century for his pamphlets opposing Increase Mather, an elite Boston minister who had tried to impose a Presbyterian sort of institutional oversight on the churches of the region. Wise bristled at efforts to impose centralized ecclesiastical authority, and he wrote forcefully against measures by the British colonial administration to impose taxes. In his day, there was no clear line between church matters and political affairs, and some scholars have found in Wise a lost "father" of the American Revolution. While I would not want to overstate his prescience or suggest, anachronistically, that he endorsed political democracy, he did articulate key

ideas that would later appear in the Declaration of Independence.[7] We can hear, in his writing, the sort of prickly independence that observers like Burke identified as a distinctly American spirit.

Among the sources of the American spirit of independence that Burke left out was the example that Native American societies offered to the colonists during more than a century of uneasy coexistence, shifting alliances, and wars before the Revolution. When Burke noticed, with surprise, that the former colonists of Massachusetts had been able to govern themselves even in the absence of English authorities, he remarked that "anarchy is found tolerable."[8] One impetus to explore the possibility of "anarchic" self-government had come from seeing how the Indigenous tribes engaged in self-rule. Even as Independent ministers such as John Eliot and Roger Williams worked to convert those tribes to Christianity, they also learned the Native languages and sought to understand their point of view.

Impressed by the contempt the Natives had for the hierarchies and submissions of European society and admiring the happiness the tribes seemed to produce in everyday life, some colonists found themselves wondering whether a greater degree of independence, what had seemed in Europe a dangerous anarchism, might in fact be an antidote to the vices of European culture and politics. Interestingly, Williams and some of the other Independents most interested in the Native societies returned to England during the English Civil War and were influential in the circles close to Cromwell before returning to the colonies.[9] When we speak about the influence of the Separatists and Puritans of the English Civil War on the New England mind, we should allow that those sects may themselves have already been influenced by the Native American mind. What later European or British observers described as a distinctly American spirit of independence may have represented a conjunction of Indigenous American and English Independent spirits.

Jefferson, first author of the Declaration—and no consistent friend to the Native population—nevertheless indicated how deeply the example of their independence had impressed him and how important he thought

it was to preserve a similar spirit in the population of the new United States. Consider a letter he wrote in 1787 to Col. Edward Carrington:

> I am convinced that the societies (as they Indians) which live without government, enjoy in their general mass an infinitely greater degree of happiness than those who live under the European governments. Among the former, public opinion is in the place of law, and restrains morals as powerfully as laws ever did anywhere. Among the latter, under pretense of governing, they have divided their nations into two classes, wolves and sheep. I do not exaggerate. This is a true picture of Europe. Cherish, therefore, that spirit of our people, and keep alive their attention. Do not be too severe upon their errors, but reclaim them by enlightening them. If once they become inattentive to the public affairs, you and I, and Congress and assemblies, Judges and Governors, shall all become wolves. It seems to be the law of our general nature, in spite of individual exceptions; and experience declares that man is the only animal which devours his own kind; for I can apply no milder term to the governments of Europe, and to the general prey of the rich on the poor.[10]

Of course, Jefferson never suggested that the United States should truly emulate Native societies in going "without government." He did not know those societies well, and in the end, his presidency contributed mightily to their conquest, but he did see the proud independence of Indigenous societies as a reminder of the spirit that could fuel resistance to the corruptions of European politics.

Fifty years after the Declaration, Jefferson wrote in a now-famous letter that the document had served as "the signal of arousing men to burst the chains under which monkish ignorance and superstition had persuaded them to bind themselves, and to assume the blessings and security of self-government."[11] His argument was for an episodic rather than

a constant eruption of this spirit. To make that possible, it was necessary to preserve the spirit in reserve, as a weapon against lethargy and servitude. The spirit of independence, always under the surface, would burst forth on occasion to protect against the otherwise inevitable tendency for rulers to become, in his language, wolves. Slides into decadence and tyranny, and reactions against these slides, follow one another with a certain regularity, according to Jefferson's understanding of history. This helps explain his famous statements suggesting that no generation should bind the next and that occasional revolutions should be welcomed.[12] In these remarks, we begin to sense the rhythm of politics that the spirit of independence helps produce.

Independence, Equality, and Peoplehood

Today, the Declaration of Independence is most often cited for its statement that all men are created equal. What is the relation between natural equality and the spirit of independence?

Some scholars adopt a deflationary reading of the Declaration, in which the ideas of national independence and separation eclipse that of equality among individuals. Against the rhetorical efforts of Lincoln, Elizabeth Cady Stanton, Martin Luther King Jr., and other reformers to find in the Declaration an inspiration for contemporary civil rights, these scholars emphasize that the document was meant only to justify the separation from Great Britain. The Stanford historian Jack Rakove has argued, for instance, that the famous statement that "all men are created equal" was meant to show only that the American people were naturally equal to the British people in their right to establish a government for themselves.[13] Kermit Roosevelt III, a law professor, has gone further, suggesting that later efforts to enlist the Declaration into movements for civil equality require a forced reading of the Declaration. He suggests giving up on viewing the document as any sort of inspiration for us today.[14] On the deflationary view, to acknowledge the importance

of national independence is to de-emphasize the importance of individual equality.

It is striking to notice how faithfully this interpretation echoes the readings of the Declaration advanced by some 19th-century apologists for slavery. Stephen Douglas, for example, whose campaign debates with Lincoln over an Illinois Senate seat raised fundamental matters of principle, argued as well that the Declaration had aimed merely to assert the equal status of American colonists to the British people:

> That [the Declaration's authors] were speaking of British subjects on this continent being equal to British subjects born and residing in Great Britain—that they were entitled to the same inalienable rights, and among them were enumerated life, liberty, and the pursuit of happiness. The declaration was adopted for the purpose of justifying the colonists, in the eyes of the civilized world, in withdrawing their allegiance from the British crown, and dissolving their connection with the mother country.[15]

For Douglas, as for some recent writers, the fact that the document aimed at national independence should cure us of our misguided effort to find in it a basis for the equality of individuals.

Even theorists who admire the Declaration are sometimes uncertain how to understand the apparent gap between its assertion of national independence and the equality of individuals that later activists tried to find in it: "The conceptual tie between the independent person and the independent group, if any, is hardly obvious," writes political theorist George Kateb.[16]

But we can find this conceptual tie if we follow the logical flow of the Declaration's argument closely and notice how both independence and equality are invoked to explain the possibility of creating an entirely new *people*. In speaking of the Americans and the British as two peoples rather than one, the Declaration was insisting to the world that

the conflict was not merely a civil war among the British. The question arises, however, of how the colonists had become a separate people. What made it possible, conceivable, for one people to split in this way? What is "a people," anyway?

The traditional view of "a people" is that its members are tied by blood, territory, or long-shared history and culture. On this view, our ancestors, our habits and traditions, our way of life—all constitute us at such a deep level that our very identities cannot be understood or explained without reference to our membership and shared inheritances. Membership and inheritance, in turn, take the form of finding our place in the structure of the people we are born into—for instance, within the family structures, ecclesiastical orders, or ways of dividing up work into guilds. These structures are hierarchies of various kinds. If we accept this definition, no one can simply *decide* not to be a member of a people. My very identity is bound up with my role in the social structure of the people I am born into. I am what I am, whether I am happy about it or not. There would be something willful and blind, a kind of self-deception, in simply *asserting* that I am no longer what I, by any reasonable analysis, have always been. If peoplehood is part of who I am, I can no more leave it behind than I can remove my skin.

If, however, peoplehood is not an intrinsic part of me but instead a choice—if peoplehood can come about through a political act of institution or the practice of governing together—then it would make sense to assert that a new people can be created in the way the Declaration suggests. But peoplehood can come about through choice only if individuals are not existentially constituted by the social structures they were born into. We can declare independence from one people only if each of us is not naturally subject to that people or any part of it. To insist on this fact is to insist that we are naturally equals.

Jefferson's original rough draft of the Declaration apparently asserted that all men are born "equal and independent."[17] These two attributes, equality and independence, must have been linked together in his mind, understood as related descriptors of human beings who are, *by nature*,

at liberty to engage in the work of creating a new people together. The Declaration's famous assertion that "all men are created equal" appears in its second paragraph as a crucial premise in an argument about how a new people might come into existence. The new independence of a nation presumes the creation of a people, which in turn assumes the equality and independence of its members.

Americans had gradually created a new people by living together and developing habits of self-government in the colonies during the decades between settlement and the revolution. Since the relationship of peoplehood had developed among them, they could now act together, even without the government, to create a new one. The Declaration announced the culmination of that process and put forward a view of political thought that explained how such a thing as a new people could come about—a new people who could not have developed unless the individuals living in the colonies had been naturally equal and independent, existentially free to develop new ties of peoplehood.

Here again, we can find implicit in the Declaration's political thought a set of assumptions about the rhythm of politics: Peoples begin to form slowly, as they experience a shared political situation over time, but they can then coalesce and become conscious of themselves in a rush, as they come up against outside efforts to rule them. At those moments, a new consciousness of independence emerges, and a spirited self-assertion is required. It was "necessary," the Declaration insisted, for the colonists to make this declaration. The situation had ripened; the "course of events" had brought them to this moment and "impelled" them to take a stand. The necessity had not always existed; the Americans were not late to a tea party. There was a pace to the growth of peoplehood, and there was a right moment, a kairos, for the colonists to declare the existence of this new people to the world and, indeed, to themselves.

The "Future Use" of the Declaration

If the conceptual tie between the spirit of independence and equality is forgotten—if the Declaration is read as merely a justification for a separation from the British government—the relevance of the document for future generations is unclear. Lincoln therefore resisted Douglass's deflationary reading of the Declaration. Instead, he revived and deepened a Jeffersonian view of the document and its potential role in the life cycle of the republic.

Lincoln preferred that swings toward anarchy or tyranny could be contained in a constitutional framework. He did not succumb to Jefferson's occasional enthusiasm for bloody revolutions, but he did imagine the need for periodic renewals, moments when he thought the Declaration could play an important role. Within that framework, Lincoln did more to make the Declaration central to American unity than anyone else, turning what had been a partisan rallying cry for the Jeffersonian Republican Party against the Federalists into a touchstone for the whole union.[18]

If separation from England was the Declaration's only purpose, Lincoln argued, then the document was of merely historical interest and "of no practical use now—mere rubbish—old wadding left to rot on the battle-field after the victory is won." The yearly celebrations of the Fourth of July would be meaningless if Douglas was correct about how to read the Declaration. Lincoln responded to Douglas's interpretation with sarcasm:

> I understand you are preparing to celebrate the "Fourth," tomorrow week. What for? The doings of that day had no reference to the present; and quite half of you are not even descendants of those who were referred to at that day. But I suppose you will celebrate; and will even go so far as to read the Declaration. Suppose after you read it once in the old fashioned way, you read it once more with Judge Douglas' version. It will then

> run thus: "We hold these truths to be self-evident that all British subjects who were on this continent eighty-one years ago, were created equal to all British subjects born and *then* residing in Great Britain."
>
> And now I appeal to all—to Democrats as well as others—are you really willing that the Declaration shall be thus frittered away?—thus left no more at most, than an interesting memorial of the dead past? thus shorn of vitality, and practical value; and left without the *germ* or even the *suggestion* of the individual rights of man in it?[19] (Emphasis in original.)

Lincoln proposed a different reading of the Declaration that would make it more than a yearly occasion for fireworks. He hoped the inspiration of the Declaration would be useful at key moments in the nation's future, when rulers succumbed to tyrannical temptations or when a corruption of public sentiments crept into the political culture. The Declaration's authors had looked ahead, Lincoln suggested, and had seen that as the country aged away from its revolutionary founding era, it would tend, as all republics did, to decay. They had put the statement of equality into the Declaration as an obstacle to future tyrants:

> Its authors meant it to be, thank God, it is now proving itself, a stumbling block to those who in after times might seek to turn a free people back into the hateful paths of despotism. They knew the proneness of prosperity to breed tyrants, and they meant when such should re-appear in this fair land and commence their vocation they should find left for them at least one hard nut to crack.[20]

Lincoln is sometimes read as though he believed in the gradual realization of the principles of equality. That formulation, however, leaves out an important component of his views about slavery's place in the national

story. Lincoln did not think of slavery as a problem that the founders had merely left unresolved. He thought it was a problem that had *worsened* since the founding.

The deepening entrenchment of slavery into the country's economic and social structures seemed to him an example of a more general tendency for the republic to fall away from its original commitment to freedom. In 1855, he wrote a telling short letter to George Robertson, an older Kentucky lawyer who had shared his hopes of gradual emancipation for enslaved Americans. Lincoln indicated that his own hopes for gradual emancipation had faded; the tsar of Russia would be more likely to step down and create a republic there, Lincoln remarked, than American slave owners would be ready to free their slaves. He understood this to be a new development. In the days of the revolution, he noted, many states had freed their slaves in a burst of revolutionary spirit. With the passage of time, that spirit had diminished:

> On the question of liberty, as a principle, we are not what we have been. When we were the political slaves of King George, and wanted to be free, we called the maxim that "all men are created equal" a self evident truth; but now when we have grown fat, and have lost all dread of being slaves ourselves, we have become so greedy to be *masters* that we call the same maxim "a self evident lie." The fourth of July has not quite dwindled away; it is still a great day—*for burning fire-crackers!!!*[21] (Emphasis in original.)

With this danger in mind—that after a time "we are not what we have been"—Lincoln expressed hope that the Declaration might serve as a standard and a spur. He would later repeat and elaborate his claim that the prejudice against the black population was worse in his time than it had been during the founding period. He was also aware of the tendency to naturalize existing inequalities—and even of the developing science of racism that Confederate Vice President Alexander Stephens would

invoke in the famous "Cornerstone" speech of 1861. Against Chief Justice Roger B. Taney, Douglas, and others who denied that the Declaration's statement of equality was intended to include enslaved people, Lincoln argued that the founders had intended the basic rights of life, liberty, and the pursuit of happiness to apply to all as a standard for the future:

> [The founders] meant simply to declare the *right*, so that the *enforcement* of it might follow as fast [as] circumstances should permit. They meant to set up 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. The assertion that "all men are created equal" was of no practical use in effecting our separation from Great Britain; and it was placed in the Declaration, not for that, but *for future use.*[22] (Emphasis added.)

To imagine a future use for the principle of natural equality was to imagine a politics that required the periodic reassertion of the principle against tendencies leading in the opposite direction. The "unfinished work" that Lincoln emphasized in his most famous speeches included responding to the periodic drift into corruption—the fact that "we have grown fat" and are tempted by the attractions of mastery, "the proneness of prosperity to breed tyrants" not just among elected leaders but among the people themselves. Against those dangers, the Declaration could serve as "a stumbling block" and "one hard nut to crack."[23]

Lincoln used the phrase "the individual rights of man" to describe what Douglas's deflationary reading of the Declaration would sacrifice. That he understood the Declaration's assertion of natural equality in the language of *rights* shows another link between equality and the spirit of independence. A right is a domain of action that we feel to be ours and so will be

more likely to defend, the borders of which we will patrol vigilantly. To think of equality in terms of rights is to harness the spirit of independence: We rise up in indignation when someone trespasses on our rights. Of course, we may also rise up to defend the rights of others, but the core appeal of rights is the spirited self-defense that they arouse. Even when we stand up for others, we do so in part because we are somehow offended on their behalf by the violation's implied insult.

Lincoln's consequential effort to find in the Declaration a resource "for future use" updated Jefferson's notion that "the spirit of '76" would be needed at key moments in the life of the republic as part of the pattern of its politics. John Stuart Mill, observing the American Civil War from England, wrote that while war is always lamentable, this war, waged on a matter of principle and against an institution so obviously tyrannical, was the sort that could be "a means to [the Americans'] regeneration."[24] Republics need such regeneration from time to time; that is their rhythm.

The Natural Conservatism of the People

Jefferson and Lincoln sought to maintain the spirit of independence in reserve and encouraged it to swell up periodically to renew the project of republican self-government. Others, however, have seen in this spirit a dangerous enticement to dissatisfaction and rebellion. Jonathan Boucher, a Tory writing in the years leading up to the revolution, saw the disruptive potential of John Locke's political principles even before Jefferson had applied them:

> Any attempt, therefore, to introduce this fantastic system into practice, would reduce the whole business of social life to the wearisome, confused, and useless talk of mankind's first expressing, and then withdrawing, their consent to an endless succession of schemes of government. Governments, though always forming, would never be completely formed:

> for, the majority to-day, might be the minority to-morrow; and, of course, that which is now fixed might and would be soon unfixed.[25]

Unleashing the spirit of independence, therefore, "can produce only perpetual dissensions and contests, and bring back mankind to a supposed state of nature; arming every man's hand, like Ishmael's, against every man, and rendering the world an *aceldama*, or field of blood."[26] (Emphasis in original.)

In the middle of the 20th century, some conservative intellectuals blamed Lincoln for having made such a dangerous principle central to the nation's self-understanding by emphasizing the importance of the Declaration. According to M. E. Bradford, for instance,

> Lincoln's "second founding" is fraught with peril and carries with it the prospect of an endless series of turmoils and revolutions, all dedicated to freshly discovered meanings of equality as a "proposition." . . . And its full potential for mischief is yet to be determined.[27]

Bradford and others thought the seeds of rebellion could be found especially in a single word in the Declaration: The natural rights to life, liberty, and the pursuit of happiness were said to be "unalienable." They could not be given away. This meant that the people would always remain watchful, surveilling, and jealous of their rights. The Declaration's theory of consent seemed to encourage a politics of disorder.

We should not dismiss this concern too quickly, because it helps us read the Declaration from a fresh perspective. We have read the opening words so many times that we have become numb to their disruptive and violent implications. The right to make war against our government when we are dissatisfied with it, with the hope of setting up something entirely new in its place—how could this possibility not disturb our sleep if we took it seriously? After all, who is really satisfied with the government we

have? Governing is difficult work, and even modest success by government tends to produce dissatisfaction.

We believe we deserve justice, so we are not especially grateful when the government treats us as it should. But we are exquisitely sensitive to every failure, and when the inevitable mistakes pile up over time, so do our resentments. Governments have much of the power in society, and so they attract much of the blame for social ills. In the 1790s, early in the American experiment, it was common for disaffected leaders, frustrated with political developments, to threaten to leave the union altogether. "When reading the history of these years," writes one political theorist, "it sometimes seems as if every major political event . . . caused one group or another to threaten the breakup of the union."[28]

Political leaders have historically tried to balance against this danger by instilling patience, loyalty, obedience, and patriotism in their peoples. Even Locke had articulated a notion of "tacit" consent that diminished the unsettling implications of his theory, arguing that even if we have not explicitly agreed to our government, we implicitly consent to it simply by living under its laws and accepting the benefits it provides; even someone merely passing through a country agrees to its laws by virtue of using the public roads. When Jefferson drafted the Declaration, he did not mention tacit consent and declined to moderate the implications of the consent principle with Locke's caveat. The unrestricted principle of consent adopted by the Declaration thus upset what a long tradition of political thought had regarded as a delicate balance. It seemed to recklessly encourage our tendency toward righteous indignation.

Jefferson did include, however, a different line of argument by which Locke had mitigated the anarchic effect of his thought. Locke had disputed a foundational assumption about human nature that the monarchists seemed to endorse—the assumption that people would tend to dissolve governments if given a chance to act on their frustrations. Boucher, the Tory writer, articulated this assumption clearly in explaining his opposition to Lockean principles:

> *As the people, in all circumstances, but more especially when trained to make and unmake governments, are at least as well disposed to do the latter as the former*, it is morally impossible that there should be any thing like permanency or stability in a government so formed.[29] (Emphasis added.)

Boucher's assumption was that people would naturally tend in the direction of "unmaking" governments. Against that premise, Jefferson asserted in the Declaration that "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."

Jefferson drew this idea directly from Locke's *Second Treatise of Civil Government*, which assured its readers that "the People . . . are more disposed to suffer, than right themselves by Resistance" and that "People are not so easily got out of their old forms as some are apt to suggest."[30] What Locke and Jefferson insist on is that the people—the primary agent in republican politics and the drivers of any revolution—are a habitually *conservative* force in politics. They tend to want to continue living as they have been, even in the face of ordinary dissatisfactions. Only when abuses have piled up for a long time can they be aroused to resistance. Even then, it will take a coordinated effort by leaders willing to risk their "Lives, [their] Fortunes and [their] sacred Honor" to stir them to action.

It is always a fundamental question in politics how to navigate between the dangers of anarchy and tyranny. If the natural human tendency is to suffer abuse rather than rebel at every imposition, then the danger of tyranny seems, in general, to be greater than that of anarchy, and the spirit of independence, even with the instability it threatens, will seem less a poison and more an antidote. Critics of the Declaration's principles, such as Boucher and Bradford, imagined that the spirit of independence would be unleashed more or less continually, leading us to constantly unsettle our inheritances in pursuit of an elusive, abstract, and ultimately unreachable vision of perfection. The theory of politics in the Declaration, however, rests on the idea that these critics overestimate our restlessness and

underestimate our attachment to the way things are. There is a spirit of independence, but it makes its appearance in politics episodically rather than constantly undermining authority and stability.

The Declaration's assumptions about the ordinary conservatism of the people can be traced back to the complicated republicanism of Niccolò Machiavelli, who thought most people's fundamental political impulse was not the desire to rule but the demand not to *be* ruled. The corresponding rhythm of political life that Machiavelli described in his account of ancient Rome—a rhythm composed of falls into corruption punctuated by refoundings—is closely related to the one implicit in the Declaration. But the ancient renewals Machiavelli described had been spectacular, violent affairs. Could the leaders of a republic tame this rhythm, harnessing its energy to public purposes and releasing its excesses in ways that would minimize the damage done? That question remains a live one for Americans celebrating the Declaration of Independence today.[31]

Constitutionalizing the Spirit of Independence

If the Declaration assumes that people are generally willing to suffer "a long train of abuses" until it is time to act, it also assumes that it is, in fact, possible for us to create new political forms together. Our creative political power is presumed in the assertion of our right to institute new governments:

> It is the Right of the People to alter or to abolish [the government], 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.

If a long record of suffering is the rule but casting off governments and creating new ones a possibility, then the full cycle of politics implicit in the Declaration comes to light. The document seems to suppose at least three

different phases of politics: Ordinarily, we live under a government and perhaps suffer under it, drifting into almost inevitable periods of corruption. The possibility of escape from these periods leads us to pay attention and perhaps, during bad periods, to imagine something better. The mere possibility of escape opens the door for leaders to spur us into reform or revolution, but our tendency to stay in existing forms also makes their task a difficult one. If the leaders succeed in rousing us, however, they move us into the second mode of politics: the work of abolishing the old forms. If they are successful at that, as well, a third phase of politics remains—building the new institutions that will hopefully serve us well for a time, until they, too, inevitably drift astray.

If this rhythm is implicit in the Declaration, and if Lincoln understood that, then his famous effort to place the Declaration at the heart of an American political religion emphasizing obedience to the laws should be understood as an effort to integrate the spirit of independence into a constitutional regime, to turn the potentially disruptive Jeffersonian "spirit of '76" into a strength of the system.[32] At the moment of greatest danger to the republic, when the Declaration's spirit had been deployed to justify a deep new rupture, when secession was a looming fact rather than a merely theoretical possibility—at that moment, surely it would have seemed more natural to emphasize less disruptive civic principles. Instead, Lincoln doubled down on the Declaration, insisting on its centrality to the country's identity. As historian Mark E. Neely relates, Lincoln consulted Daniel Webster's second "Reply to Hayne," a famous speech in favor of national union, when writing his first inaugural address. Webster, though, had not given pride of place to the Declaration in his argument. That was Lincoln's distinctive contribution.[33]

Kateb notes that Lincoln regarded the Declaration as one of "his holiest scriptures."[34] The other scripture for Lincoln was the Constitution, which he famously described as a frame of silver around the Declaration's apple of gold.[35] The Declaration spoke for the spirit of independence and implied a rhythm of politics, but it did not establish a means for containing and modulating that rhythm. Though not often viewed from this

perspective, the Constitution has, as one of its primary purposes, the channeling of these political dynamics. Understanding the regular pattern that republics tend to fall into, anticipating and managing it, is a crucial part of the work of governing ourselves.

The Constitution aims to establish a tamed version of the political rhythm implicit in the Declaration. Instead of allowing for episodic bloody revolutions, it establishes regular ways of guiding spirited discontent into changing rulers, giving us a chance to vent our frustrations at our leaders by removing them from politics.[36] The messy, tumultuous campaigns for office, filled with accusations, recriminations, and all forms of verbal abuse, do not merely siphon off discontent; they arouse us into periods of surveillance, encouraging us to rise up in punishment of our leaders while also limiting that punishment to purely political consequences, and then they allow us to settle into longer periods of more quiescent citizenship. Though not originally a part of the constitutional plan, political parties were introduced and legitimized, by Martin Van Buren especially, to provide additional help in managing these rhythms by institutionalizing them.

Over the past few decades, with the weakening of parties and the expansion of campaigns throughout the calendar, the cadence of our politics has changed. Still, if we step back from the tumults of the moment, we can certainly sense an oscillation between periods of quiet and declarations of independence. The recent populist backlash against the growth of elite power is a part of this rhythm. To make this observation is not to diminish the danger that this populism could pose to our republican form of government if not well managed. It is merely to put the challenge into perspective. Some observers will wish we had less quiescence while others would want more stability, but the ebb and flow of political energies associated with the spirit of independence continue in a recognizable pattern. Whether these political tides will continue to be contained within the dams and dikes the Constitution and the parties have established, or whether they will burst out and swamp the whole landscape, is the question that looms over our celebration of this anniversary.

Notes

1. Niccolò Machiavelli, *Discourses on Livy*, trans. Harvey Mansfield and Nathan Tarcov (Chicago: University of Chicago Press, 1998), D 3.1, 3.17, 3.22.

2. Abraham Lincoln, "Address Before the Wisconsin State Agricultural Society" (speech, Wisconsin Agricultural Society, Milwaukee, WI, September 30, 1859), https://www.abrahamlincolnonline.org/lincoln/speeches/fair.htm.

3. Frederick Douglass, "What to the Slave Is the Fourth of July?" (speech, Corinthian Hall, Rochester, NY, July 5, 1852).

4. Stephen Skowronek, *Presidential Leadership in Political Time: Reprise and Reappraisal*, 2nd ed. (Lawrence, KS: University Press of Kansas, 2011). See also the historical patterns outlined in Samuel P. Huntington, *American Politics: The Promise of Disharmony* (Cambridge, MA: Belknap Press, 1983).

5. Edmund Burke, "Speech on Conciliation with the Colonies" (speech, Parliament, London, March 22, 1775), http://press-pubs.uchicago.edu/founders/documents/v1ch1s2.html.

6. Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford, UK: Oxford University Press, 1997); Quentin Skinner, *Liberty Before Liberalism* (Cambridge, UK: Cambridge University Press, 1998); and Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (New York: Norton, 1993).

7. John Wise, *The Churches Quarrel Espoused* (Boston, MA: J. Allen, 1717); and John Wise, *Vindication of the Government of New-England Churches* (Boston, MA: J. Allen, 1717).

8. Burke, "Speech on Conciliation with the Colonies."

9. John M. Barry, *Roger Williams and the Creation of the American Soul: Church, State, and the Birth of Liberty* (New York: Viking, 2012), 278, 283ff, 341n13.

10. Thomas Jefferson, letter to Edward Carrington, 1787, in *American Political Thought: A Norton Anthology*, ed. Isaac Kramnick and Theodore J. Lowi (New York: W. W. Norton, 2009), 359–60.

11. Thomas Jefferson, letter to R. C. Weightman, June 24, 1826, https://www.loc.gov/resource/rbpe.15300100/?st=text.

12. "What country can preserve it's [*sic*] liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance?" Thomas Jefferson, letter to William Smith, November 13, 1787, https://www.loc.gov/exhibits/jefferson/105.html. "No society can make a perpetual constitution, or even a perpetual law. The earth belongs always to the living generation." Thomas Jefferson, letter to James Madison, September 6, 1789, https://founders.archives.gov/documents/Madison/01-12-02-0248.

13. Jack N. Rakove, ed., *The Annotated U.S. Constitution and Declaration of Independence* (Cambridge, MA: Belknap Press, 2009), 22–23.

14. Kermit Roosevelt III, *The Nation That Never Was: Reconstructing America's Story* (Chicago: University of Chicago Press, 2022), 38–52.

15. Stephen A. Douglas, "Remarks of the Hon. Stephen A. Douglas, on Kansas, Utah, and the Dred Scott Decision" (speech, State House, Springfield, IL, June 12, 1857), https://www.gilderlehrman.org/collection/glc00358.

16. George Kateb, *Lincoln's Political Thought* (Cambridge, MA: Harvard University Press, 2015), 81.

17. Julian P. Boyd, ed., *The Papers of Thomas Jefferson: January 1760 to December 1776* (Princeton, NJ: Princeton University Press, 1950), 1:243–47.

18. On the Jeffersonian Republicans' use of the Declaration, see Gordon S. Wood, *Empire of Liberty: A History of the Early Republic, 1789–1815* (Oxford, UK: Oxford University Press, 2011), 641.

19. Abraham Lincoln, "Speech of Hon. Abram Lincoln, in Reply to Judge Douglas" (speech, State House, Springfield, IL, June 26, 1857), https://www.gilderlehrman.org/collection/glc02813.

20. Lincoln, "Speech of Hon. Abram Lincoln, in Reply to Judge Douglas."

21. Abraham Lincoln, letter to George Robertson, August 15, 1855, https://www.abrahamlincolnonline.org/lincoln/speeches/robert.htm.

22. Lincoln, "Speech of Hon. Abram Lincoln, in Reply to Judge Douglas."

23. Lincoln, "Speech of Hon. Abram Lincoln, in Reply to Judge Douglas."

24. John Stuart Mill, "The Contest in America," in *The Collected Works of John Stuart Mill*, ed. John M. Robson (Toronto, Canada: University of Toronto Press, 1984), 21:142.

25. Jonathan Boucher, "On Civil Liberty, Passive Obedience, and Non-Resistance," in *American Political Thought*, ed. Keith E. Whittington (New York: Oxford University Press, 2017), 115–16.

26. Boucher, "On Civil Liberty, Passive Obedience, and Non-Resistance."

27. Kenneth L. Deutsch and Joseph R. Fornieri, eds., *Lincoln's American Dream: Clashing Political Perspectives* (Washington, DC: Potomac Books, 2005), 107–8.

28. Dennis C. Rasmussen, *Fears of a Setting Sun: The Disillusionment of America's Founders* (Princeton, NJ: Princeton University Press, 2021), 12–13.

29. Boucher, "On Civil Liberty, Passive Obedience, and Non-Resistance."

30. John Locke, *Second Treatise of Government* (London: Black Swan, 1689), §§ 230, 243.

31. Machiavelli, *Discourses on Livy*, 1.5–8, 3.1.

32. Abraham Lincoln's statement of the need for a "political religion" of obedience to the laws can be found in his early speech "On the Perpetuation of Our Political Institutions," known as the "Lyceum Address."

33. Mark E. Neely Jr., *Lincoln and the Triumph of the Nation: Constitutional Conflict in the American Civil War* (Chapel Hill, NC: University of North Carolina Press, 2015), 48.

34. Kateb, *Lincoln's Political Thought,* 56, cf. 86.

35. Abraham Lincoln, "Fragment on the Constitution and Union," January 1861, https://teachingamericanhistory.org/document/fragment-on-the-constitution-and-union-2.

36. Machiavelli, *Discourses on Livy,* 1.5–8.