

Legally Speaking



We Mutually Pledge...

By Karen L. MacNutt,
Contributing Editor

On a long flight home, I found the person sitting next to me good company. Our discussions ranged from the weather, to philosophy, to history. He was surprised at my interest in the American Revolution. That war, he said, was about wealthy white men who separated from England so they could make more money. Hancock was a wealthy businessman who did not want to pay taxes. Washington and Jefferson were slave holders. True statements, but not accurate.

At one time the reading of the Declaration of Independence was the highlight of our 4th of July celebrations. Our Revolution, however, has become an inconvenient war. During the Revolution, En-

gland was our enemy. It plundered and burned homes. It slaughtered surrendering soldiers. It hung captured soldiers. Hundreds of prisoners of war died from mistreatment. Before World War I, American leaders were blunt about England's behavior during our Revolution. With our entry into World War I, we became England's ally. Today, Great Britain is one of our best friends. Remembering their abuses during our Revolution is inconvenient.

The American Declaration of Independence should be read. It is one of the most important documents in world history. To understand how important the Declaration is, and how great the men who embraced it were, the Declaration needs to be placed in the context of its own time.

In 1775 a group of Lexington, Massachusetts, farmers stood up to the most powerful army in the world. Predictably, they were trounced. What happened next stunned Europe. Swarms of armed farmers from across New England drove that same powerful army from Concord to Boston and then out of Boston into the sea.

In 1775, the world was ruled by kings and those of noble birth. Everyone else existed to serve the needs of the ruling class. Common people, it was thought, could not stand up to the government or army. Common people did not need much education. They would never enter the governing classes because it was assumed that they could not govern themselves. Common people needed to be

ruled by their betters. Kings ruled by the divine right given to them by God. Common people were too stupid and untrustworthy to know their own good. In many areas, the common people were little better than slaves.

Slavery was accepted throughout the world. Enslaving conquered peoples was more humane than the alternative—that is to kill them all. White men had slaves. American Indians had slaves. Negro freemen owned slaves. Poor people would sell themselves into a form of temporary slavery known as “indentured servitude.” Much of Europe practiced serfdom. The serf was generally an agricultural worker on a large landed estate. The serf pledged loyalty to the lord of the manor in exchange for the lord's protection. Generally serfs were only allowed arms when the lord needed men for his army. The serf belonged to the land. The lord could not sell the serf without selling the land and the serf could not leave the land if he wanted to do so. Once someone was bound to the land as a serf, all of his or her descendants were also bound. Slaves had more value because they could be sold away from the land. If a serf was no longer useful due to changes in agriculture, there was no economic incentive for the lord to see to the serf's welfare. In the 1840s, when Irish tenant farmers were starving due to the failure of the potato crop, large land owners were exporting food. Officially serfdom ended in France in 1789, in Scotland in 1799, in Austria-Hungary in 1848, and in Russia in 1861.

Before Americans are too hard on themselves about slavery in North

America, we should remember that we ended slavery almost 150 years ago but there are places in the world today where slavery still exists. There are places where its alternative, now called "ethnic cleansing," is still practiced. Generally, slaves were not armed. Likewise, ethnic cleansing is more difficult when the party to be "cleansed" can shoot back.

Eighteenth century philosophers wrote about the nobility of all mankind. They wrote of a "natural," or God given, law to which all mankind, even kings, were subject. Natural law held that all people, even the common man, had certain rights which were generally stated as being life, liberty and property. That is, the right of self defense, the right not to be held in prison without cause, and the right to own the fruits of your own labor. A government might have the power to take such rights away, but because such rights were given by God, the government's actions would be a violation of law. People had the right, the obligation, to resist such violations.

The suggestion that government could violate the law was radical. It had its beginnings at the time of the Magna Carta when English lords demanded that the King acknowledge that the lords had certain rights. The lords were, in essence, war lords. Each had their own private army. The King, they said, could only have such money from the lords as the lords agreed to give him. If the King took money or things of value from the lords by force, that was a theft and the lords had the right to resist. The lords formed a Parliament to decide how much money the lords would give to the King's government. The colonial legislatures, whose members were chosen by the landowners in the colony, were

copied from Parliament. Each of these legislative bodies believed that taxes could only be taken if the representative of the property holder agreed to give the money. The idea that taxes were gifts, fit well into the power struggle between the King of England and his lords.

Philosophers also claimed that government was a "social contract" between the people and rulers. The theory implied that kings only had power because their subjects agreed to it. Most Europeans, however, thought this to be utopian theory, not practical reality.

Things were different in the North American colonies. Some had been founded as incorporated business ventures in which only the freeholders of the corporation could vote. A freeholder was someone who owned real estate and paid taxes. Others colonies were established as religious communities. In at least one colony there was an attempt to recreate the European feudal system by giving large grants of land called baronies to powerful Englishmen.

By 1770, the American colonists had been running their own affairs for over 100 years. They believed that government was formed by the agreement of those people who would make up the community. This was not utopian to North Americans, it was their reality. All attempts to duplicate European feudal society in North America failed.

Trouble started when Great Britain tried to impose European governance on a people who no longer thought in terms of the old world's social classes. It is hard to convince a self-sufficient people to be dependant upon a government that treated them as inferiors. It is hard to convince people that they subject themselves to the "protection"

of some war lord or the government if the people are armed and capable, with their neighbors, of defending themselves.

North Americans still thought of themselves as Englishmen in 1775. By June of 1776, 13 of England's North American colonies had been at war with England for over a year. The colonists formed new governments, raised an army, and maintained domestic order all without the help of the old ruling class. Their new governments were established on the principles of Natural Law and the social contract. Many of these new governments were voted on by all the people of a colony thus playing out the "social contract" theory in reality. This was unheard of in Europe.

In 1776 Americans finally announced to the world that they were, indeed, a new nation. It was not an easy step to take. It was not the act of student protestors. Although some involved were rabble rousers, most were responsible, mature, and respected members of their communities. Unlike many revolutionaries who come from an underclass, the members of the Continental Congress all had much to lose. The safe course would have been to stay home, to have not gotten involved. These men, however, had a different vision of the world. To that vision they pledged their lives, their fortunes, and their sacred honors. They put it all on the line.

Among the 56 men who signed the Declaration of Independence in 1776 were lawyers, farmers, and plantation owners. There were judges, merchants, doctors, teachers, ship's masters, an iron master, a minister and a publisher. John Hancock inherited his huge fortune. Benjamin Franklin was a self-made man, having started life as a runaway servant. Many of the men

were self educated. Eight were from the British Isles. Three were abolitionists. At least 16 were slave holders. Five would be captured and imprisoned by the British. Two would go bankrupt loaning money to the Revolution. Eight would see most of their property destroyed by the British during the war. Had the Revolution failed, they all could have been executed by the British as traitors.

Today, if we are involved in a war, skeptics will say, "Why are we fighting?" The implication is that nothing is worth fighting for. The signers of the Declaration thought otherwise. As gentlemen, they felt they should explain their actions. To much of the world, their revolution seemed to be a dishonorable betrayal of the ruling classes to whom they owed an allegiance. Even today, in some areas of the world, some cultures still believe that the highest good is a blind obedience to the community's headman or dictator. To such people, fighting against even the most despotic leader is wrong because a subject's duty is to obey, even if it means killing themselves or members of their family.

In simple and direct terms the Declaration of Independence declared that not only did all mankind have basic human rights given to them by God, but it was the right and the obligation of all to fight for those rights.

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another . . . a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

They went on to outline the abuses of the English government which led to the Revolution. Those

abuses included refusal to pass legislation important to good government; refusal to establish legislative districts thereby disenfranchising the people; interfering with the meetings of local legislative bodies; refusing to establish sufficient courts in convenient locations; creating "a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance;" not keeping the armed forces under the control of the civil authority; not giving people fair trials; and, in other ways, waging war against the American states. Some twenty-eight grievances were named, twenty-nine if you count the failure to act on the twenty-eight.

The second paragraph of the Declaration Independence was, is, and should always be the answer for Americans as to, "Why we fight."

"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 "

By this statement the Declaration proclaimed that human rights are granted by God, not governments. Such rights are not just for American citizens, but for all mankind. In the eyes of God no one person is more worthy than any other person. This statement of eternal truth eventually led the United States to abolish slavery and extend full civil rights to women. Contrary to those shallow thinkers of today who would give up personal civil rights for the illusion of safety, basic human rights, as opposed to government benefit programs, are not restricted to United States citizens. They belong to all peoples. No one should be imprisoned without trial.

No one should be subjected to cruel and unusual punishments. All people who are accused of wrongdoing should have a fair trial.

The most radical statement was yet to follow. It is a statement of principle that even today some people fail to understand:

"That to secure these rights [the natural rights of the people], Governments are instituted among Men, deriving their just powers from the consent of the governed. 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

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to institute new Government, laying the foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. 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. But when a long

train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.”

The issues addressed by the Declaration are timeless. Does government exist to impose its will upon the people or to serve the people? Are the common people to be trusted to make decisions on their own behalf or do they need an elite to tell them how to run their own affairs? Should people be dependent upon the government, the police, for their safety or should people be able to protect themselves?

The powerful message of the Declaration of Independence is that government is the creation of the people. It exists to serve the people. It exists to protect the rights of the people. No one by virtue of birth or wealth or social position is entitled to rule over anyone else.

The signers of the Declaration of Independence were political radicals. Their vision of government had never been tried in modern history. Their views of the rights of mankind were thought by many to be impractical. They rejected the concept of a closed, elite, ruling class. They embraced the concept of natural rights for all. They ripped open the barriers that blocked the road leading to an achievement of civil and human rights. That they were unable in their lifetime to reach the goal at the end of the road should not detract from the fact that without their courage, the road might still be blocked. Indeed, there are many nations today who have yet to set a foot onto that road.

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