

## Constitutional Corner – A Long Train of Abuses and Usurpations

Mr. Jefferson's Declaration of Independence is often quoted in order to expound upon the principles found in its preamble, introduction and closing. "We hold these Truths to be self evident," "the laws of Nature and Nature's God," "with a firm reliance on the protection of divine Providence," and so on. These principles are indeed incredibly important to an understanding of our present form of republican government, emplaced twelve years later by the Constitution. The Declaration is the "thought and spirit" of our government while the Constitution is the "body and letter," says the Supreme Court in more than one opinion.<sup>1</sup> It is impossible to have a complete understanding of the Constitution without first understanding the principles of the Declaration. If Jefferson's "self-evident" truths are, in fact: truth, they should be as relevant today as they were in 1776. Truths, like facts, are "stubborn things."

Yet the middle section of Jefferson's Declaration, commonly called the "Complaints Section" is often ignored and little studied. Did the colonists have valid justification to separate from their mother country? Had they really experienced a "long train of abuses and usurpations" as Jefferson had claimed? Were the complaints real or imagined?

Jefferson rightly perceived 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." Few people, by their nature, seek conflict and turmoil. Most of us want nothing more than to be left alone, to conduct our lives with as little interference by government as is possible. We are reluctant to complain, to cause disturbance; we must be goaded into protesting (unless paid to do so by George Soros). In this regard, we are no different from Americans of 1776; most of us are reluctant to "upset the apple cart."

The majority of Jefferson's complaints in the Declaration trace back no earlier than the 1760s. To be sure, the colonists had legitimate complaints dating back to the 1630 Navigation Laws, enacted under Charles I. Interfering with colonial trade, both coming and going, could easily be termed an "abuse," but to the colonists of the time these were perceived as not much more than an annoyance. The 1699 Wool Act (enacted under William & Mary) forbade the export of wool from any American colony unless it was sold in the English market, yet the Act itself affected few individuals. Jefferson ignores these.

The 1733 Molasses Act (enacted under George II) affected many more. It made the cheaper French West Indies molasses, used for making rum, suddenly much more expensive than its British West Indies counterpart. A vibrant smuggling industry sprang up. Yet Jefferson only refers to these and other "tax abuses" with the collective complaint of "imposing Taxes on us without our Consent."

The 1765 Stamp Act (enacted five years after George III assumed the throne) was the first "abuse" with near universal affect. Every colonist used paper of some sort. Wills and other legal documents, newspapers, playing cards, everything made of paper would suddenly be considerably more expensive

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<sup>1</sup> Example: Gulf, C. & S. F. R. CO. v. Ellis, 165 U.S. 150 (1897)

once the Act went into effect. Protests up and down the colonies served to make matters worse; they steeled Parliament's resolve to "make laws and statutes ... in all cases whatsoever."<sup>2</sup>

The Declaration was seen by the British as an affront, an embarrassment, emanating from an "ungrateful and rebellious people." Thomas Hutchinson, former Governor of Massachusetts wrote a point-by-point refutation.<sup>3</sup> British barrister John Lind also took up the gauntlet so that the King need not "descend to altercation with revolted subjects."<sup>4</sup> Did the British government actually aim at the establishment of "an absolute Tyranny over these States?" Hutchinson and Lind scoffed at the idea. Today, looking back across 240 years, some conclude: "it is clear that the British government was the furthest removed from despotism of any in Europe."<sup>5</sup> Yet, perspective can change everything, and, spurred on by Jefferson's luminous words, the Americans fought, and prevailed.

Philosopher David Hume wrote: "It is seldom that liberty of any kind is lost all at once." Jefferson's "long train of abuses" ran for, at most, forty years before the colonists finally decided "enough is enough," and even up to the day of the vote for independence on July 2nd, many were convinced that the threshold requiring separation had not been reached, that reconciliation was not only possible, but preferred. But is America of 2016 experiencing its own "train of abuses?" How long has this been going on, and do our complaints rise to the level of those that precipitated America's first civil war?

It is tempting to look only at the last eight years to construct our "train." But that would be unfair to the many abusers of the past: LBJ, who, as a Senator, pushed through the Johnson Amendment which has prevented pastors in America from exercising the right of free speech enjoyed by every other citizen; Franklin Delano Roosevelt, who threatened to pack the Supreme Court with "yes men" if the Court didn't start finding New Deal legislation constitutional (it promptly did!); Woodrow Wilson, to whom we owe our current Administrative State and the idea of a "living Constitution;" Teddy Roosevelt, who said that the powers of the President were unlimited except for those specifically prohibited by the Constitution; Abraham Lincoln, whose multiple violations of the Constitution were willingly acknowledged - all in the name of "emergency" (the first invocation of "never let a crisis go to waste"); John Adams, whose Alien & Sedition Laws sparked the young nation's first Nullification Crisis; all the way back to Alexander Hamilton, whose "big government" ideas laid the foundation for today's Leviathan. These are only a few; the list is very long indeed.

But America's "long train of abuses" has one distinct difference from what was experienced by the colonists: our "despotism" is not imposed by a remote government 3500 miles distant (OK, Californians might object to that statement, and Hawaiians/Alaskans clearly have a point); our "despotism" was self-imposed. If, in America "we are the government and the government is us," we have no one to blame but ourselves. Our own ignorance, complacency, and sloth have produced our current constitutional

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<sup>2</sup> As stated in the Declaratory Act.

<sup>3</sup> <http://oll.libertyfund.org/pages/1776-hutchinson-strictures-upon-the-declaration-of-independence>

<sup>4</sup> John Lind, *An Answer to the Declaration of the American Colonies*. Accessed at: [https://archive.org/details/cihm\\_20519](https://archive.org/details/cihm_20519)

<sup>5</sup> Howard H. Peckham, *Independence: The View from Britain*, accessed at: <http://www.americanantiquarian.org/proceedings/44498108.pdf>

crisis and current state of “soft-tyranny.” If we are ever to rescue true liberty from its current captivity, we the people will have to also change in the process; otherwise history will most certainly repeat itself.

I will delay my discussion of the specifics of what I feel constitutes our “long train of abuses and usurpations” and what I think we should do about it until this Friday morning, July 8<sup>th</sup>, from 7-8am EDT. But I’ll give you a hint: it doesn’t just concern the Presidents (and Hamilton) who I listed above.

I will invite you to join us, on “We the People – the Constitution Matters” as we discuss “abuses and usurpations” and decide whether we have reached the point where we have a duty to “provide new Guards for [our] future security.” You can listen to the live discussion at [www.1180wfyl.com](http://www.1180wfyl.com) and call in with your questions or comments at 610-5398255. See you then.

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