

"MERCILESS INDIAN SAVAGES" AND THE DECLARATION OF INDEPENDENCE: NATIVE AMERICANS TRANSLATE THE *ECUNNAUNUXULGEE* DOCUMENT

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Thomas Jefferson, by all accounts a man of the Enlightenment, did not take kindly to American Indians. His hostilities are legion and complex. Originator of the United States government's ethnic cleansing policies of the early nineteenth century termed "Indian Removal" and enthusiast and sponsor for the Lewis and Clark Expedition that among its several purposes identified intelligence for use in the subjugation of Indian nations west of the Mississippi River, Jefferson in 1776 penned a noted reference to Native peoples in the Declaration of Independence.¹ Found as the eighteenth item on the list of transgressions committed by King George III against American colonists is Jefferson's assertion that Britain's monarch "has excited domestic insurrections amongst us and has endeavored to bring on the inhabitants of

*University of Nebraska-Lincoln. Recognition and appreciation must be accorded to the Humanities Centre at the Australian National University, Canberra, for my time there as a fellow where I refined this essay and presented a version as a seminar paper, to the Center for the American West of the University of Colorado which sponsored my lecture given based upon portions of this essay, and to the Renvall Institute for North American Studies at the University of Helsinki, Finland, where final refinements in the essay were completed. I am indebted to my colleague Emily Greenwald for sharing her Indian Fourth of July manuscript and research with me; Jane Hafen from the University of Nevada, Las Vegas, for pointing me toward Gertrude Bonnin's writings; and Jay Buckley at the University of Nebraska for his research assistance. Discussions with Susan Miller, Arizona State University; Philip Deloria, University of Michigan; and Willard Rollings, University of Nevada, Las Vegas, were invaluable.

1. For a discussion of Thomas Jefferson and Native Americans, see BERNARD W. SHEEHAN, *SEEDS OF EXTINCTION: JEFFERSONIAN PHILANTHROPY AND THE AMERICAN INDIAN* (1973) and JAMES P. RONDA, *LEWIS AND CLARK AMONG THE INDIANS* (1984).

Ward Churchill ties the "founding fathers's" hostility toward Indian nations to their speculative investments in western lands. Ward Churchill, *The Earth is Our Mother: Struggles for American Indian Land and Liberation in the Contemporary United States*, in *THE STATE OF NATIVE AMERICA: GENOCIDE, COLONIZATION, AND RESISTANCE* 141-42 (M. Annette Jaimes ed., 1992) [hereinafter *STATE OF NATIVE AMERICA*]. For a more traditional interpretation, see I FRANCIS PAUL PRUCHA, *THE GREAT FATHER: THE UNITED STATES GOVERNMENT AND THE AMERICAN INDIANS* 28-38 (1984).

For recent diverse works on the Declaration, see *A CASEBOOK ON THE DECLARATION OF INDEPENDENCE* (Robert Ginsberg comp., 1967); JAY FLIEGELMAN, *DECLARING INDEPENDENCE: JEFFERSON, NATURAL LANGUAGE, AND THE CULTURE OF PERFORMANCE* (1993); DAVID FREEMAN HAWKE, *HONORABLE TREASON: THE DECLARATION OF INDEPENDENCE AND THE MEN WHO SIGNED IT* (1976); JAMES M. BULMAN, *IT IS THEIR RIGHT: THE DECLARATION OF INDEPENDENCE, AND WHAT HAS FOLLOWED* (1975); *WE, THE OTHER PEOPLE: ALTERNATIVE DECLARATIONS OF INDEPENDENCE BY LABOR GROUPS, FARMERS, WOMEN'S RIGHTS ADVOCATES, SOCIALISTS, AND BLACKS, 1829-1975* (Philip S. Foner ed., 1976).

our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions."²

Accused of "insurrection" against the United States before it existed, violations of the international laws of warfare, and prevention of Europeans from taking Native homelands on the "frontiers," North American indigenous peoples inhabiting the lands that became part of a new nation, the United States, have had and continue to have a unique relationship with the Declaration of Independence and other American founding documents, such as the Articles of Confederation, the Constitution, and the Bill of Rights. The creators and users of these most important words are known as the "Ecnunnaunuxulgee" to the Creeks of Georgia, meaning those "people greedily grasping after the lands of red people."³

Jefferson's "merciless Indian savages" have dealt with the Declaration of Independence, its translation and meaning, from its very conception, and they have endured its promulgation into policies that have had profound impacts upon their peoples. Over two millennia, American Indians have interpreted the Declaration of Independence in at least three ways: as a document of colonialism in the century of its creation; as a document used as a basis for assimilation and the forced alteration of nineteenth-century cultures; and as a twentieth-century document turned on its head in the fight for the restoration of Native sovereignty.⁴

The Eighteenth-Century Translation

Native America understood the Declaration of Independence at its outset. Depending upon the Indian nation and the timing of its immediate contact with the Revolution, they perceived the document as both a cruel myth and a dire geopolitical statement of purpose. While the Declaration embraced the promises of good government, fairness to all humankind, a social contract, and a sense of individual investment in a democratic movement, the reality excluded Indians from the ideology derived from the movement against British oppression.⁵ In practice American patriots denied first to eastern

2. THE DECLARATION OF INDEPENDENCE para. 24 (U.S. 1776).

3. MICHAEL D. GREEN, *THE POLITICS OF INDIAN REMOVAL: CREEK GOVERNMENT AND SOCIETY IN CRISIS* 26 (1982). Green explains how the Creeks called their Georgian neighbors this epithet; it has greater meaning beyond Georgia's boundaries. See also COLIN G. CALLOWAY, *THE AMERICAN REVOLUTION IN INDIAN COUNTRY: CRISIS AND DIVERSITY IN NATIVE AMERICAN COMMUNITIES* 20 (1995) [hereinafter CALLOWAY, *AMERICAN REVOLUTION IN INDIAN COUNTRY*].

4. It is well to note that indigenous peoples of the United States constitute over 500 separate Indian nations today and speak in at least 150 different languages. Prior to European and African contact, those numbers were significantly higher. Thus, it is very difficult to offer a singular Native translation of the reception and meaning of the Declaration of Independence, and this essay should be read with this serious deficiency in mind.

5. VINE DELORIA, JR., & CLIFFORD M. LYTLE, *AMERICAN INDIANS, AMERICAN JUSTICE* 59-60, 81 (1983).

indigenous populations, and then later to Indian nations located in every state to join the American union, republican theory as articulated in the Declaration. How then did Native Americans translate the American independence movement, its doctrine and subsequent federal actions?

Indians responded to the American Revolution as individuals and as tribes. Positive individual responses prevailed among the small numbers of Indians who had left their villages and were already traveling down the acculturation road to Christianity and extensive use of the English language. But the majority of eastern Indians responded tribally, and these national entities mostly saw the Revolution at the onset as a family disagreement. As outsiders, they naturally sought to avoid the conflict.⁶

In 1775 an unidentified Oneida leader offered diplomatic commentary to Governor John Trumbull of Connecticut. His eloquent statement advised both the British and the Americans on the coming conflict. "Possess your minds in peace respecting us Indians," said the Oneida. "We cannot intermeddle in this dispute between two brothers. The quarrel seems to be unnatural. You are *two brothers of one blood*."⁷ This is a particularly interesting referent from a diplomat of one of the successful Six Nations of the Haudenosaunee or Iroquois Confederacy. "We [Oneidas] are unwilling to join on either side in such a contest, for we bear an equal affection to both you Old and New England."⁸ The Oneidan was explicit, "Should the great king of England apply to us for aid, we shall deny him; if the Colonies apply, we shall refuse."⁹ Then the Oneida ambassador allowed how exceptional he perceived this coming revolution. "The present situation of you two brothers is new and strange to us. We Indians cannot find, nor recollect in the traditions of our ancestors, the like case, or a similar instance."¹⁰

Perhaps the meaning of the Declaration of Independence in the immediacy following its creation can best be understood from the historic treatment of those Indian nations who chose to ally with the patriots. Indians who remained loyal to England after all expected to meet with land confiscation in defeat; and neutralists found that as the Revolution progressed their

6. CALLOWAY, AMERICAN REVOLUTION IN INDIAN COUNTRY, *supra* note 3, at 28. Calloway, in his study of the Western Abenakis of Vermont, observed that "The years between the conquest of New France and the outbreak of the American Revolution saw western Abenaki bands adjusting to the new reality of British dominance. For many, the British takeover initiated a new era of distress." COLIN G. CALLOWAY, THE WESTERN ABENAKIS OF VERMONT, 1600-1800: WAR, MIGRATION, AND THE SURVIVAL OF AN INDIAN PEOPLE 202 (1990).

7. *Oneida Indian Speech to Governor [John] Trumbull, 1775*, in THE WORLD TURNED UPSIDE DOWN: INDIAN VOICES FROM EARLY AMERICA 149 (Colin G. Calloway ed., 1994) [hereinafter WORLD TURNED UPSIDE DOWN].

8. *Id.*

9. *Id.*

10. *Id.*

situation became untenable, and they too were forced to choose. Indian patriots at the beginning of the Revolution included two of the Six Iroquoian Nations, the Oneidas who had been forced to choose sides and the Tuscaroras; tribes in Maine and Nova Scotia who had cast their fate previously with the losing French side in the French and Indian War — the Passamaquodies, Penobscots, Maliseets, and Micmacs; the Catawbias and significant factions among the Creeks and Chickasaws in the South; and the Indian towns in central and southern New England. Their reasons for siding with the Americans varied, but basically each had experienced bad treatment from British authorities, and those disagreements centered around land disputes.¹¹

Colin Calloway explains in his 1995 book, *The American Revolution in Indian Country*, the complexity of roles played by Native Americans in the Revolution. The Stockbridge village Indians, patriots of the Revolution, are a case in point. Stockbridge was the last of the "praying towns" or missions established by Puritans in southwestern Massachusetts near the New York and Connecticut borders. Mahicans and Housatonics constituted most of its residents who had turned to Christianity in their efforts to deal with their changing world.¹²

Stockbridge Indians helped the British during the French and Indian War, but subsequently English colonial officials allowed white settlers to move into the town and take land. In addition, New York manor lords encroached upon Stockbridge farms. The situation became a crisis; in 1763 Indians owned 75% of the town's land; by 1774, the eve of the Revolution, they owned just 6% of Stockbridge land holdings. The town commons was sold in 1773 to new settlers. Because of the shortage of land and other problems, 500 Indians left Stockbridge leaving 300 while nearly 1000 non-Indians moved into Stockbridge. This pattern happened throughout New England. When the American Revolution began, Stockbridge Indians saw a chance to regain lost lands by allying with the patriots.¹³

Solomon Unhaunawwaunnutt, a Stockbridge sachem and captain in a Massachusetts minutemen company, addressed Congress in April, 1775. "I am sorry to hear of this great quarrel between you and Old England," he lamented. "It appears that blood must be shed to end this quarrel."¹⁴ These were words couched in neutrality, but at that same meeting he offered to be

11. JAMES H. MERRELL, *THE INDIANS' NEW WORLD: CATAWBAS AND THEIR NEIGHBORS FROM EUROPEAN CONTACT THROUGH THE ERA OF REMOVAL* 215-21 (1989); CALLOWAY, *AMERICAN REVOLUTION IN INDIAN COUNTRY*, *supra* note 3, at 85; GREGORY EVANS DOWD, *A SPIRITED RESISTANCE: THE NORTH AMERICAN INDIAN STRUGGLE FOR UNITY, 1745-1815*, at 65-66 (1992).

12. CALLOWAY, *AMERICAN REVOLUTION IN INDIAN COUNTRY*, *supra* note 3, at 85-88; *see also* PATRICK FRAZIER, *THE MOHICANS OF STOCKBRIDGE* (1992).

13. CALLOWAY, *AMERICAN REVOLUTION IN INDIAN COUNTRY*, *supra* note 3, at 89-91.

14. *Id.* at 93.

an emissary to the Iroquois Confederacy to propose neutrality for the northern Indian super power, a most un-neutral act. Four months later at treaty negotiations between Congress' representatives and a number of New England tribes in Albany, Unhaunawwaunnutt expressed an openly patriot allegiance: "Wherever you go we will be by your Side. Our Bones shall lay with yours[.] We are determined never to be at peace with the Red Coats while they are at Variance with you."¹⁵ This is a declaration of loyalty and a declaration of war. But the Stockbridge sachem wanted a guarantee for his loyalty, a guarantee within the meaning of the Declaration of Independence. "If we are conquered our Lands go with yours," he observed, "but if we are victorious we hope you will help us recover our just Rights."¹⁶ Here is a direct translation of the Declaration. Stockbridge Indians too had felt the hands of the oppressive King of England, and they too subscribed to what all good patriots felt. Revolution was justified in order to "recover our just Rights." But would they? They would not!

During the war, Stockbridge Natives fought for the patriot cause in New York, New Jersey, and Canada. Up to forty were killed in New York battles, and those Indians remaining at Stockbridge suffered greatly. They petitioned for help from Congress, but little relief came. As the war neared its end, General George Washington avoided using Indians in his regiments and distanced himself from any commitments to them. Solomon Unhaunawwaunnutt died in February 1777, and soon thereafter whites moved to take over Stockbridge town completely. Within seven years, all Indians were ousted as Stockbridge selectmen; they no longer held any local political power.¹⁷

Relief came to the Indians of Stockbridge from other patriot Indians. The Oneidas in New York offered them land, and they decided to become neighbors to the Oneidas. While most Stockbridge Indians moved, some held on until Shays' Rebellion caused greater unrest in western Massachusetts, and then they too joined their relatives in upper New York state. When four Stockbridge Natives visited the new federal Congress in 1785, they were told to take their pleas to the Massachusetts legislature. Finally, seven years later a small national annuity was granted to them, and then in 1795 the United States signed a treaty with the Oneidas, Tuscaroras, and Stockbridge Indians. A saw mill, grist mill, church, and \$5000 were appropriated along with a promise of no more handouts for the once loyal allies. When non-Indians in New York coveted more lands, the Oneidas and Stockbridge Indians once again were not protected, and in 1822 they were forced to remove to Wisconsin where their relatives remain today.¹⁸

15. *Id.* at 94.

16. *Id.*

17. *Id.* at 96-100.

18. *Id.* at 102-07.

What does this mean? Certainly the Stockbridge Indians did not realize the promise of the Declaration of Independence. Their hopes of retaining their lands were crushed even though they too subscribed to the meaning of the Declaration. Colin Calloway summarizes the history of the Stockbridge Indians and other Native American Revolutionary War experiences succinctly. "Indian patriotism," observes Calloway, "did not earn Indian people a place in the nation they helped to create."¹⁹

In 1776 the Six Nations of the Iroquois Confederacy held a superior position of strength in eastern North America. Even so, they had serious problems to confront. The introduction to their body politic of virulent disease, violence and social disruption, economic dependency, undermined internal political consensus, and a constantly shifting diplomatic middle ground made any negotiations with England and the patriots very difficult.²⁰ Still sachems representing the Haudenosaunee journeyed to Philadelphia in June 1776 to observe the Continental Congress during its debates over independence.²¹ One might ponder Six Nation reactions to the discussions. While we do not have records to tell us how Native leadership responded, it is not beyond rational imagination that the text of the Declaration, if known to the Haudenosaunee at that time, might have been offensive. We do know that their concepts of confederation were discussed during their visit and that the Onondaga representative honored President John Hancock with a name, "Karanduawn," which translated from the Iroquoian language means "the Great Tree."²² Iroquois representatives left Philadelphia the last

19. *Id.* at 107. See also the treatment accorded other patriot tribes, such as the Penobscots. DAWNLAND ENCOUNTERS: INDIANS AND EUROPEANS IN NORTHERN NEW ENGLAND 128-31 (Colin G. Calloway ed., 1991).

20. See RICHARD WHITE, *THE MIDDLE GROUND: INDIANS, EMPIRES, AND REPUBLICS IN THE GREAT LAKES REGION, 1650-1815* (1991); and numerous works on the Iroquois, such as BARBARA GRAYMONT, *THE IROQUOIS IN THE AMERICAN REVOLUTION* (1972); DANIEL K. RICHTER, *THE ORDEAL OF THE LONGHOUSE: THE PEOPLES OF THE IROQUOIS LEAGUE IN THE ERA OF EUROPEAN COLONIZATION* (1992); ANTHONY F.C. WALLACE, *THE DEATH AND REBIRTH OF THE SENECA* (1969); FRANCIS JENNINGS, *THE AMBIGUOUS IROQUOIS EMPIRE: THE COVENANT CHAIN CONFEDERATION OF INDIAN TRIBES WITH ENGLISH COLONIES* (1984).

General disruption occurred as far away from the Iroquois Confederacy as the Indians in southern Louisiana. Daniel Usner tells us that the record increase in colonists in the ten years prior to the American Revolution in the lower Mississippi Valley proved tremendously destabilizing for the Indian nations of the region. DANIEL H. USNER, JR., *INDIANS, SETTLERS, AND SLAVES IN A FRONTIER EXCHANGE ECONOMY: THE LOWER MISSISSIPPI VALLEY BEFORE 1783*, at 112-15 (1992).

21. Bruce E. Johansen, *Native American Societies on the Eve of Democracy in America, 1600-1800*, 37 *ETHNOHISTORY* 277, 285 (1990).

22. Thus far, no one has suggested that Indians or, more specifically, the Iroquois Confederacy influenced the writing of the Declaration of Independence. Such, however, is not the case in the debate over the origins of the U.S. Constitution. For the most recent barrage, see the exchange between Bruce E. Johansen and Elisabeth Tooker in Johansen, *supra* note 21, and Elisabeth Tooker, *Rejoinder to Johansen*, 37 *ETHNOHISTORY* 291 (1990); INDIAN ROOTS OF

week of June; Jefferson presented the Declaration the first week of July.

Choosing sides for the American Revolution split the Iroquois Confederacy. Mohawks, Cayugas, and Senecas allied with the British, and so too did the Onondagas after a flirtation with neutrality. The Oneidas and Tuscaroras moved toward the patriot cause. Seneca sachem Kayashuta declared when the British came courting Seneca allegiance, "We must be fools indeed to imagine that they regard us or our Interest [those] who want to bring us into an unnecessary War."²³ The same could easily have been said for American entreaties.

Unlike the patriot tribes of the Iroquois Confederacy, a great indigenous confederacy in the South, the Ani-Yunwiya or Cherokee Nation, suspiciously viewed the list composed on paper by the colonists, the "Unegal-stis-gi" or white troublemakers.²⁴ Because the Unegal-stis-gi continuously tried to take Cherokee lands, most Cherokees chose to fight for the British. This was in the face of the failure of the British to enforce the Proclamation Line of 1763 barring settlers from confiscating Cherokee homelands and the fact that the British had inflicted serious damage on Cherokee towns during the French and Indian War when some Cherokees attempted to shift their traditional British alliance.²⁵

Roughly four Cherokee generations witnessed cessions of their homelands in no less than thirteen separate treaties negotiated between 1721 and 1798. Colonists moving onto Cherokee lands caused these cessions. At the third treaty council between colonists and Cherokees during which they gave up a tract of land in southwestern Virginia in 1768, Chief Dragging Canoe accurately predicted that

the whole country, which the Cherokees and their fathers have so long occupied, will be demanded, and the remnant of the Ani-Yunwiya, 'The Real People,' once so great and formidable, will be obliged to seek refuge in some distant wilderness until they again behold the advancing banners of the same greedy host.²⁶

AMERICAN DEMOCRACY (José Barreiro ed., 1992) [hereinafter INDIAN ROOTS]; Onondaga Chief Oren Lyons, *Land of the Free, Home of the Brave*, in INDIAN ROOTS, *supra*, at 30-35; Donald A. Grinde, Jr., *Iroquoian Political Concepts and the Genesis of American Government*, in INDIAN ROOTS, *supra*, at 47-66; Robert J. Miller, *American Indian Influence on the United States Constitution and Its Framers*, 18 AM. INDIAN L. REV. 133 (1993); Mark Savage, *Native Americans and the Constitution: The Original Understanding*, 16 AM. INDIAN L. REV. 57, 99-105 (1991); see also THE NATIVE NORTH AMERICAN ALMANAC 33-38 (Duane Champagne ed., 1994).

23. CALLOWAY, AMERICAN REVOLUTION IN INDIAN COUNTRY, *supra* note 3, at 29-30. For a succinct discussion of the split of the Iroquois Confederacy, see *id.* at 35-38.

24. RUTH BRADLEY HOLMES & BETTY SHARP SMITH, BEGINNING CHEROKEE 285-86 (1976). The diacritical marks and speaking letters have been eliminated in the translation.

25. THEDA PERDUE, THE CHEROKEE 34-37 (1989); RUSSELL THORNTON, THE CHEROKEES: A POPULATION HISTORY 41 (1990).

26. Dragging Canoe, 1768, in THE PORTABLE NORTH AMERICAN INDIAN READER 244

Given a choice between the British and the "greedy host" settlers, Cherokees opted for a chance to remain on their homelands.

The Declaration of Independence may have been translated into Cherokee by the phrases, "Go-weli Digalo-quastoh-di." The first phrase means "a written paper." The second phrase means "things to be guided by."²⁷ The issuance and translation of this guiding democratic document, however, did not prevent the continuing loss of lands or the Cherokees from declaring their loyalty to the British Crown. Directly involved in the American Revolution, the Cherokees initially executed several successful border raids against settlers in the Carolina Piedmont, but the Revolution proved devastating for the Cherokee people. War fought on Cherokee lands and the deaths of many Cherokee soldiers seriously weakened the nation. At the conclusion of the Revolution, Cherokees bitterly looked to a future that held a permanent loss of their way of life and their homelands. Dragging Canoe, one Cherokee leader who had early recognized his nation's demise, moved west with his followers.²⁸

Between 1777 and 1785, the states of South Carolina, Georgia, North Carolina, and Virginia forced the Cherokees to cede nearly 10,000 acres. In the first treaty signed with the United States, the Treaty of Hopewell, negotiated in 1785 near the Keowee River on the current campus of Clemson University in upstate South Carolina, the Cherokees gave up 6000 more acres and control over external trade. Cherokee headmen made a map on which a semicircle from east of the Kentucky River to the source of the Oconee River in South Carolina was drawn indicating where colonists were to cease and desist. This, of course, would be violated by the very next year. Said Cherokee headman Corn Tassel to Virginia state officials in 1787, two years after the signing of the Treaty of Hopewell,

I observe in every treaty we Have had that a bound[ary] is fixt, but we always find that your people settle much faster shortly after a Treaty than Before. It is well known that you have taken almost all of our country from us without our consent Truth is, if we had no land we should have fewer Enemies.²⁹

(Frederick W. Turner III ed., 1974).

27. HOLMES & SMITH, *supra* note 19, at 285-86.

28. See RENNARD STRICKLAND, FIRE AND THE SPIRITS: CHEROKEE LAW FROM CLAN TO COURT 48-52 (1975); MARK WARHUS, ANOTHER AMERICA: NATIVE AMERICAN MAPS AND THE HISTORY OF OUR LAND 149-50 (1997); WILLIAM G. McLOUGHLIN, CHEROKEE RENASCENCE IN THE NEW REPUBLIC 19 (1986); Neal Salisbury, *Native Peoples and European Settlers in Eastern North America, 1600-1783*, in 1 THE CAMBRIDGE HISTORY OF THE NATIVE PEOPLES OF THE AMERICAS, pt. 1 at 399, 450-53 (Bruce G. Trigger & Wilcomb E. Washburn eds., 1996); see also JAMES H. O'DONNELL III, SOUTHERN INDIANS IN THE AMERICAN REVOLUTION (1973); JAMES H. O'DONNELL III, THE CHEROKEES OF NORTH CAROLINA IN THE AMERICAN REVOLUTION (1976).

29. Speech of Corn Tassel, Cherokee, 1787, in 4 CALENDAR OF VIRGINIA STATE PAPERS 306 (1886), quoted in WORLD TURNED UPSIDE DOWN, *supra* note 7, at 170.

All told, Cherokees ceded over 82,000 acres in the hope of preventing what eventually became the forced removal of most of their people to Oklahoma on the Trail of Tears in the 1830s.³⁰

The price had been high for opposing the patriots and for recognizing the Declaration of Independence for what it was. But then the price paid by the Cherokees was not unlike the suffering and sacrifices made by those Indians who had allied with the new American nation.

Although most Native Americans viewed the American Revolution as a civil war, it turned out to be a civil war fought on Native homelands, and the results of the war left many Indians destitute. Like the Bosnians, the Rwandans, and the Cambodians of the twentieth century, the Oneidas, the Cherokees, and the Stockbridge Indians of the eighteenth century experienced vicious murders of leaders, a scorched-earth policy, forced refugee retreats, land confiscations, massive migrations, economic disruptions, and death by starvation and disease. Neither the ideology, platitudes, nor promises of the Declaration of Independence offered solace.

The Nineteenth-Century Translation

A century after the American Revolution, the relationship of American Indians with the Declaration of Independence changed as the meaning of the Declaration to Native Americans evolved, particularly by 1876 after many wars with the United States had forced most Indian nations onto reservations. During the nineteenth century, the federal government embarked upon an active policy of assimilation, attempting by force and coercion to quash Native culture. The purpose was "to bring about the destruction and disappearance of American Indian peoples as such,"³¹ and the Declaration of Independence proved to be an active agent facilitating this endeavor. How might that have been so?

Federal assimilation policy toward American Indians is known by various names. Called "Indian reform" by participants in the movement and sympathetic historians, assimilation encompassed, for example, the Dawes Severalty Act, also known as the General Allotment Act. This particular federal law, termed the "mighty pulverizing engine for breaking up the tribal mass" by Francis E. Leupp, Commissioner of Indian Affairs during the first decade of the twentieth century, spurred the loss of more Indian land than all of the wars and treaties put together.³² In addition to the elimination of communal landholding through allotments, federal assimilation policy also

30. WARHUS, *supra* note 28, at 148; THORNTON, *supra* note 25, at 40-42; MCLOUGHLIN, *supra* note 28, at 21.

31. Rebecca L. Robbins, *Self-Determination and Subordination: The Past Present, and Future of American Indian Governance*, in STATE OF NATIVE AMERICA, *supra* note 1, at 93.

32. *Id.* To understand the intricacies of allotment, see DAVID J. WISHART, AN UNSPEAKABLE SADNESS: THE DISPOSSESSION OF THE NEBRASKA INDIANS 187-238 (1994).

included the promotion of "civilization" via education, conversion to Christianity, legal wardship and guardianship, loss of languages, and the destruction of traditional Native political structures. Assimilation supposedly culminated in "education for patriotic citizenship," or more simply put, a campaign to abolish Native identity.³³

Assimilationists sought to crush Indian cultures. Children were taken from families, transported hundreds miles from their homes and placed in boarding schools, like Carlisle in Pennsylvania, and forbidden to speak their languages or wear their traditional dress. James Kaywaykla, a young Mescalero Apache child separated from his parents who were in a Florida prison, was sent to Carlisle where he resided for eleven years before rejoining his people at Fort Sill in Oklahoma. He recalled in his later years that

[a]t Carlisle we were subject to the indignity of having our hair cut and being forced into trousers. Our clothes were sent to our families in Florida so that they might know that we still lived. How that could have convinced them I do not know but that is what we were told.³⁴

Rations were withdrawn from reservations if Native religions were practiced or children were hidden from agents who would send them away. Indians were forbidden to leave the "rejected lands," their new reservations. Missionaries and bureaucrats sought to alter every aspect of Native life. A paramilitary internal corps, the Indian police, monitored cultural behavior and enforced appropriate penalties, and BIA agents eliminated traditional indigenous political leadership through a variety of nefarious means.³⁵ Miraculously, Native culture, albeit in a variety of changed forms, did survive this era, but it was not easily done. Indians nations adopted creative kinds of resistance in response to the many cultural threats.

One of the most bizarre aspects of this policy involved the use of the Declaration of Independence to encourage Indians to aspire to citizenship and to become less "Indian" and more "American." Federal officials and missionaries assigned to reservations sought to introduce Indians to American

33. 2 PRUCHA, *supra* note 1, at 687-736. I am indebted to Fr. Prucha for his phrase "education for patriotic citizenship" for it aptly describes the relationship of the Declaration of Independence to Native Americans during this era.

See also RUSSEL LAWRENCE BARSH & JAMES YOUNGBLOOD HENDERSON, *THE ROAD: INDIAN TRIBES AND POLITICAL LIBERTY* 61-67 (1980); DELORIA & LYTL, *supra* note 5, at 8-12; LORETTA FOWLER, *ARAPAHOE POLITICS, 1851-1978: SYMBOLS IN CRISES OF AUTHORITY* 87-92 (1982).

34. IN THE DAYS OF VICTORIO: RECOLLECTIONS OF A WARM SPRINGS APACHE 200 (Eve Ball ed. & James Kaywaykla narr., 1970); see also RICHARD J. PERRY, *APACHE RESERVATION: INDIGENOUS PEOPLES AND THE AMERICAN STATE* 144-45 (1993).

35. See WILLIAM T. HAGAN, *INDIAN POLICE AND JUDGES: EXPERIMENTS IN ACCULTURATION AND CONTROL* 70-81 (1966).

patriotism. They wanted Natives to start on the road to citizenship, but this meant more than simply being an American citizen. Indians were encouraged to be model Americans — to farm individual plots of land on reservations, send their children willingly away to boarding schools, convert to Christianity, stop using their indigenous tongue, and aspire to vote. One of the ways agents decided this could best be accomplished was by the replacement of Indian ceremonies with American ceremonies, and this led to the introduction of Fourth of July celebrations on Indian reservations.

Experiencing the Fourth of July in nineteenth-century small town America required a serious, patriotic program. These events encouraged Christian worship, community picnics, and patriotic speeches, featuring a reading and interpretation of the Declaration of Independence. Sometimes organized games involved both children and adults. Amazingly all of this was transported to reservation America, and there the translation met with mixed results.

By the last quarter of the nineteenth century, most Nez Perces, the Nimiipu, lived on a reservation in the Clearwater Valley of western Idaho. They had welcomed Lewis and Clark in 1805, and thirty years later they greeted Presbyterian missionaries to their country. The Nez Perces signed their first treaty with the United States in 1855 wherein they gave up no land but accepted American diplomatic authority and allowed Americans to influence their selection of a principal chief. That first Nez Perce leader chosen under this arrangement, The Lawyer, led a Christian faction who settled at Kamiah on the reservation.³⁶

In 1863 the United States government tried to force a more stringent treaty on the Nimiipu that included significant land cessions. This proposal split the nation into anti-treaty and pro-treaty factions; those in favor of the treaty came from the same Christian settlement at Kamiah. Eventually those opposing the treaty led by Chief Joseph fought a war with the United States that led to their forced removal to Oklahoma. Before the Joseph faction returned to the Pacific Northwest, Chief Joseph himself would be required to live on the Colville Reservation in Washington state; Idaho reservation missionaries and agents vigorously introduced assimilation programs to the Nez Perces.

Two areas of the reservation evolved essentially representing the two dimensions of the Nez Perce nation. One was the Presbyterian mission headquartered at Kamiah on the eastern side; the other was on the western side near agency headquarters at Lapwai, where Nimiipu practiced traditional religions and village headmen exerted strong political influence. The differences were most pronounced during the annual celebration of the Declaration of Independence. Those in Lapwai used the Fourth of July

36. JANE E. GAY, *WITH THE NEZ PERCES: ALICE FLETCHER IN THE FIELD, 1889-92*, at xvi-xix (Frederick E. Hoxie & Joan T. Mark eds., 1981) [hereinafter *WITH THE NEZ PERCES*].

holiday as a time to pursue Nez Perce cultural traditions — horse racing, gambling, dancing, a parade in traditional dress, and harvest ceremonies. Those residing at Kamiah held Christian religious services, served a picnic, and listened to patriotic speeches, including a recitation of the Declaration of Independence in the Nez Perce language.³⁷

In 1879 the Lapwai Nez Perces crashed the Kamiah celebration and harassed the Presbyterians. This heightened a rivalry already encouraged by federal officials on the reservation; divisions accelerated with the arrival of anthropologist Alice Fletcher and her assistant Jane Gay at Lapwai ten years later to allot the reservation. They promoted what they termed "an ascent from barbarism," which embraced the successful celebration of "Talmaks," the Fourth of July, at Kamiah.³⁸

Previously in 1885, many of the Nez Perces who had lost the war and been sent to Oklahoma were allowed to return to the Idaho reservation. The date set for this return was July 4. The Nez Perce expatriates were received at the agency headquarters in Lapwai where they witnessed a moving ceremony of prayers and speeches in Nez Perce. Then each reservation friend and relative filed past and greeted each returnee. The agent intended to make the Fourth of July "a symbol both of the white Christian nation the missionaries represented and the return from exile of those who had resisted the white man."³⁹ He hoped that the two celebrations, the traditional non-Christian and the Christian might be merged, and although this was tried in 1887 Christians complained because the traditional activities so reflective of Nez Perce culture were not stopped.

Jane Gay encouraged the Presbyterian faction to protest what she termed the "perversion" of the Fourth of July. She suggested that they write a letter to the Commissioner of Indian Affairs, an action expressly against the wishes of the reservation agent. Gay wanted the government to forbid the parade in traditional Nez Perce dress and to stop the races and gambling near the school. Surprisingly, Washington, D.C., granted the Kamiah Nez Perces' their request, and an uproar followed. Gay recorded that everyone took a gun to bed with them the night after the agent received orders to stop the parade and move the races. She had clearly helped divide the Nez Perces further, but she did not regret her actions. In her letters, she proudly recorded she had stopped the desecration of the national holiday from practices she blamed on the British and the Hudson's Bay Company, "in which naked men ride and wailing women follow, reviving old time scenes and exciting the Indians almost to frenzy."⁴⁰

37. *Id.* at xx-xxii.

38. *Id.* at xxx-xxxi.

39. *Id.* at xxxiii.

40. *Id.* at 131.

The next year, in 1890, the Kamiah celebration proved tame. A procession lead by Sunday school children marched while the missionaries lead the congregation in yelling "Hurrah! 4th July!"⁴¹ Speeches and patriotic songs preceded a barbecue. At the end of the eating, Alice Fletcher rose to speak and Jane Gay noted that "that pestilential Declaration of Independence came upon the scene again, and was explained and the meaning of the Fourth of July set forth in James [Reuben]'s most stirring Nez Perce."⁴² Many cheers followed the Christian Nez Perce rendition.

In 1891 Gay reported once again on preparations for the Fourth of July celebration. The Nez Perce school band practiced "In the Sweet By and By," and Gay congratulated herself for having helped plan a celebration of such magnitude to "rejoice that we are descendants of the signers of the Declaration of Independence."⁴³ Gay also recorded that same year many more Nez Perces were anxious to receive citizenship because they thought it might prevent the loss of their allotted lands, a development already happening on their reservation. Gay wrote that Te-le-pah came to Alice Fletcher and wanted to know how long it would be before he was a citizen. He "wanted to be posted as to his *rights before the law*."⁴⁴ When Fletcher would not answer specifically, Te-le-pah left saying he was very concerned about white stockmen trying to lease Indian land. His words proved prophetic.

Jane Gay and Alice Fletcher never doubted their strong commitment to the federal assimilation program. For four years, these two intrepid women divided up the reservation and recorded their observations. They assigned nearly 2000 allotments clearing the remaining 500,000 acres of Nez Perce homelands to be sold to non-Indians. These actions proved devastating to the Nimiipu. What progress they had made toward adapting to a farming economy crumbled, and by 1911 non-Nez Perces rented 98% of their remaining allotted land. The U.S. government, moreover, in 1897 banned the Lapwai Talmaks celebration completely, and thereafter a gospel meeting was held at Lapwai on the Fourth of July.⁴⁵

The Nez Perces' experiences with the Declaration of Independence and Fourth of July celebrations involved many nuances. Historian Emily Greenwald explains that "The holiday encompassed conflicting meanings: it simultaneously served Indians as a means for articulating identities as patriotic Americans, or for doing the exact opposite, identifying with Indian

41. *Id.* at 135; see also HANA SAMEK, *THE BLACKFOOT CONFEDERACY, 1880-1920: A COMPARATIVE STUDY OF CANADIAN AND U.S. INDIAN POLICY* 123-48 (1987) (discussing religion, assimilation, and reservation culture).

42. *WITH THE NEZ PERCES*, *supra* note 31, at 136.

43. *Id.* at 159.

44. *Id.* at 162 (emphasis added).

45. *Id.* at xxv, xxxii, 173.

culture rather than American.⁴⁶ Within a Nez Perce context, translations of the Declaration of Independence provided opportunities for expressing acceptance of change whether by coercion or choice and resistance to change by subterfuge or open challenge. Some Nez Percés, like Te-le-pah, saw the Declaration and its birthday as a validation of their rights, but they found they were mistaken. Others saw it as related to Christianity and the destruction of religious and cultural values. And still others, like James Reuben, embraced the new patriotism and the political and economic structures being created.

Of course, the Nez Percés did not confront the Declaration as a tool of assimilation alone. Patriotism through federal Indian agent coercion seeped onto a number of Indian reservations, such as the Fort Mojave Reservation in Arizona, the Yankton Sioux Reservation in South Dakota, and the Blackfoot Reservation in Montana.⁴⁷ One missionary, J. B. Carroll, upon observing the Blackfoot Fourth of July celebration, was not impressed, terming it a throwback to "the darkest days of heathenism and bloodshed, because it is the day on which they parade as real savages in their war paints and war dances . . ."⁴⁸ Like the Lapwai Nez Percés, the Blackfoot found a way to turn the Fourth of July into a means of cultural preservation. Similarly, the Gros Ventres regularly used their Fourth of July celebration after it was introduced by the Fort Belknap Reservation agent in the 1880s to remember the ways of the past. Sometimes miracles in tribal history occurred. It is recorded that in 1904 continuous rains and floods threatened the reservation, and on the Fourth of July Gros Ventres and Assiniboines camped together. After Sitting High, Gros Ventre keeper of the sacred Feathered Pipe, and other holy men of both nations sang all night to stop the rains, the weather cleared.⁴⁹

46. Emily Greenwald, "Hurrah! 4th July!": The Ironies of Independence Day on the Reservations 15 (manuscript paper given at the 1994 Western History Association annual meeting, Albuquerque, N.M.).

47. *Id.* at 3-5, 7-8.

48. J.B. Carroll, *The Fourth of July Dishonored*, INDIAN SENTINEL, at 28 (Bureau of Catholic Missions, Washington, D.C., 1910), quoted in Greenwald, *supra* note 46, at 5.

49. LORETTA FOWLER, *SHARED SYMBOLS, CONTESTED MEANINGS: GROS VENTRE CULTURE AND HISTORY, 1778-1984*, at 53, 75 (1987).

Andy Wilkinson, song writer and guitarist from West Texas, of distant Indian descent and a relative of Charlie Goodnight, tells in one of his songs what he says is a true story passed down from his grandfather about a Hale Country, Texas, Fourth of July celebration in 1907 and a Cherokee cowboy.

The Freedom Song

Johnny was a Cherokee cowboy,
Long braids hangin' from his hat;
He wrangled up on the Little S Ranch,
And he rode with my Uncle Jack.
He sat like a shadow in the saddle,

Reciting or memorizing the Declaration of Independence does not necessarily make for an assimilated Indian. But seen within the context of Fourth of July celebrations and the general assimilation movement, the Declaration took on a new form, an active form, reflective of what should be rather than what was. All of this culminated in a fairly bizarre movement begun in the late nineteenth century that resulted in several white men journeying over 20,000 miles in 1913 to eighty-nine Indian reservations in six months to convince Native Americans of the wisdom of outward

He wrote poetry with his rope,
He had a light hand for the horses,
And a smile for us little folk.
Johnny and Jack come a-callin',
Took my brothers, my sisters, and I
To the Hale County picnic,
Ought-seven, the Fourth of July.
They had a big tent and a little brass band,
And box lunches on the lawn.
When they raised Old Glory to the top of the pole,
We all sang the Freedom Song.

Chorus:

Oh, say, can you see?
Johnny, why aren't you singin'?
Say, can you see?
Johnny, is there something wrong?
Say, can you see?
Johnny, where are you goin'?
Johnny, why don't you stay
And help us sing the Freedom song?
The other men whipped their hats off,
They hollered and they whooped it up.
But Johnny just stood there, silent,
With a hurt and angry look.
Then his face grew soft and he kneeled right down
And he sounded plumb wore-out.
Then he said, "Little partner, it's not my freedom
That they're singin' about."

Chorus

He mounted his horse in a couple of strides
And I watched as he rode away,
Across the plains of the Land of the Free
Til he vanished in the Home of the Brave.
Since then, I've sung the Freedom Song
A thousand times or more,
And, every time, I wonder just whose freedom
It is that we're singin' for?

ANDY WILKINSON, *The Freedom Song, on THE ROAD IS STILL THE ROAD* (1996) (lyrics, "The Freedom Song," booklet, Grey Horse Press, Lubbock, Tex.).

expressions of patriotism and reverence for the United States flag and the Declaration of Independence.

Recently Indian legal historian Russel Barsh painstakingly tracked down the history of the 1913 Rodman Wanamaker Expedition of Citizenship to the North American Indian. This assimilative event involved four white men traveling in a private rail car to many reservations to have over 900 Indian leaders participate in a special ceremony that involved listening to recorded messages, including a special speech made by the President of the United States, raising an American flag, and signing a document entitled, the "Declaration of Allegiance of the North American Indian," a kind of ratification of the Declaration of Independence.⁵⁰ Why was this happening?

Rodman Wanamaker, a wealthy New York and Philadelphia department store owner, greatly admired James Fenimore Cooper, "Buffalo Bill" Cody, and the expansive American nation. He also possessed a strange romantic conquering compassion for American Indians. He believed, as did many turn-of-the-century reformers, that Indians were dying out, but Wanamaker combined his belief with the notion that a remembrance and some cloture on the history of Native Americans in the United States must be accomplished. Wanamaker decided that the destruction of the Native population "remained indecisive." He regretted that Indians had never formally surrendered, and he wished they had "melted happily into the mass of American life."⁵¹ To Wanamaker, who was very well connected politically and very rich, some kind of "national redemption and legitimacy" were required to put this story to rest; and he hit upon the bizarre notion of a National American Indian Memorial to be placed on Staten Island in New York City and an expedition bringing the news of conquest to the Indians' front door.

The Memorial, designed to be as huge as the Statue of Liberty, featured an Indian in full regalia holding a bow and arrow and welcoming everyone to America. Wanamaker reasoned that Indians would appreciate this grand sculpture, making it easier for them to embrace the loss of the North American continent. To lead the Expedition, Wanamaker selected Joseph Kossuth Dixon, a kind of flim-flam man who sold himself to prospective buyers. Dixon grew up in Germantown, Pennsylvania, attended a Baptist school in Missouri — William Jewell College, and became a Baptist minister. By 1908, Dixon emerged as Wanamaker's man with "created credentials."⁵²

At the elaborate Memorial groundbreaking, a ceremony Wanamaker paid for, not only did President William Howard Taft attend, but so did numerous federal Indian affairs officials and specially selected Indians. Before hand,

50. Russel Barsh, *An American Heart of Darkness: The 1913 Expedition for American Indian Citizenship*, 13 GREAT PLAINS Q. 91 (1993).

51. *Id.* at 93.

52. *Id.* at 92-93, 96.

these Indians journeyed to Washington, D.C., to help draft an official statement. F.H. Abbott, Acting Commissioner of Indian Affairs, asserted that the creation of the Memorial would announce to the world "their [Indian] allegiance to the United States" and signify "the union of the primitive life of this country with the civilization for which the flag stands."⁵³ Abbott originated the idea of an oath of allegiance, and he had asked the Indians present to help him compose one. Out of this came a variation on the Declaration of Independence. Called the "Declaration of Allegiance," its words offered a potent assimilative translation:

DECLARATION OF ALLEGIANCE
to the
GOVERNMENT OF THE UNITED STATES
by the
NORTH AMERICAN INDIAN

We, the undersigned representatives of the various Indian tribes of the United States, through our presence and the part we have taken in the inauguration of this memorial to our people, renew our allegiance to the glorious flag of the United States, and offer our hearts to our country's service. We greatly appreciate the honor and privilege extended to us by our white brothers who have recognized us by inviting us to participate in the ceremonies on this historical occasion.

The Indian is fast losing his identity in the face of the great waves of Caucasian civilization which are extending to the four winds of this country, and we want fuller knowledge, in order that we may take our places in the civilization which surrounds us. Though a conquered race, with our right hands extended in brotherly love, and our left hands holding the Pipe of Peace, we hereby bury all past ill feeling and proclaim abroad to all the nations of the world our firm allegiance to this nation and to the stars and stripes, and declare that henceforth and forever in all walks of life and in every field of endeavor we shall be as brothers, striving hand in hand, and will return to our people and tell them the story of this memorial, and urge upon them their continued allegiance to our common country.⁵⁴

At the ceremony on Staten Island, President Taft and Rodman Wanamaker both spoke, and thirty-one "chiefs" signed the original document. "Indian Head" nickels were then distributed to everyone present.⁵⁵

53. *Id.* at 98. Although the groundbreaking came off as planned, the Memorial was never completed.

54. *Id.* at 112.

55. *Id.* at 99.

Joseph Dixon and Indian Affairs Inspector James McLaughlin now took the show on the road. They would duplicate the ceremony, requesting outward admiration of the flag and signatures on the Declaration from Indians. Dixon asked for and received flags for each reservation stop to be given to the Indians as "a prophecy, let us hope, of their coming citizenship and uttermost blending with the civilization that crowns the age."⁵⁶ Although President Taft was no longer the nation's leader by the time Dixon was ready to begin the reservation visits, new President Woodrow Wilson was more than willing to record a message to the Indian nations. Thomas Edison endorsed the plan and provided the equipment and technicians to help Wilson make his recording in the White House. Wilson intoned, "The erection of that monument will usher in that day which Thomas Jefferson said he would rejoice to see, 'when the Red Men become truly one people with us, enjoying all the rights and privileges we do, and living in peace and plenty.' I rejoice to foresee the day."⁵⁷

At each stop during the summer and autumn of 1913, Indian leaders gathered at a makeshift flagpole to hear the phonograph recordings of President Wilson and department store owner Wanamaker, to raise the flag, to listen or sing the "Star Spangled Banner," and to ponder the words of McLaughlin who spoke about the "meaning of [the] flag and how [the] Indian may translate his patriotism in home, farm, and school."⁵⁸ All Indians present were then asked to sign the Declaration of Allegiance, and the expedition moved on to the next reservation leaving behind the flag and a variety of memories for the participants, ostensibly about how patriotism was to be practiced and how citizenship might be assumed.

There is little evidence about what really happened at these ceremonies, Barsh tells us. Most Indians listened patiently, signed the document, and sent the Expedition on its way, but on one occasion a record has survived that indicates some Indians resisted signing the Declaration. Dixon and McLaughlin arrived at Isleta Pueblo in New Mexico to meet with the governors and councils of Ácoma, Laguna, Sandia, and Isleta Pueblos. There Pablo Abeita, Governor of the host Isleta Pueblo, voiced opposition. "I feel my people have not been treated right by the United States Government's people,"⁵⁹ Governor Abeita officially stated. Dixon reassured him that no trick was involved, but the Governor persisted, "Fair play and true justice is all we ask. We have always been under the American flag, and have honored and respected it, and will always honor and respect it, and it seems to me that my heart is not in signing this" Added Abeita, "When I

56. *Id.* at 100.

57. *Id.* at 101-02.

58. *Id.* at 103.

59. *Id.* at 106.

consider myself and my people — my people [come] first, and then the flag."⁶⁰

The Superintendent of the Isleta Agency now moved into the picture:

Governor Abeita: What do you advise, Mr. Lonergan?

Supt. Lonergan: Sign.

Major McLaughlin: I would be very sorry to leave here without having the Pueblos sign, because it would leave a gap.

[They all sign.]⁶¹

Dixon interjected at this point with some truly amazing psychology for the Pueblos: "I want to assure you that you have conquered yourselves today, and in conquering yourselves you will help conquer the government." And then he offered an oratorical flourish to ease the pain of coercion: "I pledge to you by every fold in that flag, and every red stripe, and white stripe, and the white stars in the blue field that the next time that I come to Isleta Pueblo, you will say, 'We are glad you came the first time.'"⁶² It is also recorded that the Hopis, Navajos, and Senecas did not respond well to the Expedition.

Today the flying of the American flag on Indian reservations and the frequent use of the flag by Indians in beadwork and on clothing and regalia contains a greater meaning than simply patriotism. From the Lakota perspective, the flag symbolizes the possessor's connection to the United States Armed Forces. Its use also invokes a feeling of bravery and glory. In the past flags captured by Lakotas became "prizes of war" to show off. Howard Bad Hand, a Sicangu (Brulé) Lakota from Rosebud Reservation, explains that the use of the American flag by his people must be viewed "in light of the Lakota's relationship to American culture and the need of the people to survive."⁶³

Thus, the Expedition of Citizenship and the words echoed throughout its history indicate for American Indians a significant alteration of the meaning behind the Declaration of Independence and the founding documents of American democracy. The Declaration and its celebration a century after its creation had evolved into a Declaration of Allegiance, a primer for assimilation on what white Americans assumed was the deathbed of North America's indigenous peoples.

Those assumptions were very wrong, and Gertrude Bonnin, a Yankton Sioux born on Pine Ridge Reservation, whose lifespan embraced the so-called "reform" era, stands as a living monument to how false they were.

60. *Id.* at 107.

61. *Id.*

62. *Id.*

63. Howard Bad Hand, *The American Flag in Lakota Tradition*, in *THE FLAG IN AMERICAN INDIAN ART* 12 (Toby Herbst & Joel Kopp eds., 1993).

Educated in white schools, including Earlham College, she became a teacher at the Carlisle Indian School. Very early on she decided to fight for the rights of Native people, and she did so through her organizing skills and her use of the pen. She worked as a teacher for the Indian Service and became secretary to the Society of American Indians which led her to lobby Congress. She founded the Council of American Indians and subsequently played an important role in the construction of the Meriam Report, forerunner to the Indian New Deal.⁶⁴

Under her Yankton Sioux name, Zitkala-Sa, she wrote her own Indian rendition of the American patriotic song, "My Country 'Tis of Thee," in 1917. In a prelude to its publication, she noted the large numbers of Indians participating in World War I as soldiers, the large amount of money Indians had spent on war bonds, and the significant time and energy Indian women had given to making clothing for the soldiers. Bonnin was bitter.

My country 'tis to thee,
Sweet land of Liberty,
My pleas I bring.
Land where OUR fathers died,
Whose offspring are denied
The franchise given wide,
Hark, while I sing.

My native country, thee,
They red man is not free,
Knows not thy love.
Political bred ills,
Peyote in temple hills,
His heart with sorrow fills,
Knows not they love.⁶⁵

Indians received American citizenship in 1924 as part of the assimilation movement and with the support of such disparate persons as Gertrude Bonnin and Rodman Wanamaker. Prior to 1924 some specific groups of Indians, such as World War I veterans, had obtained citizenship. But even with this act and in spite of the Fifteenth Amendment, many states still prevented Indians from exercising voting rights. The last states giving Indians the right to vote were Arizona in 1948 and Maine in 1971.⁶⁶ The

64. Frederick J. Dockstader, *Gertrude Simmons Bonnin (1875-1938)*, in *GREAT NORTH AMERICAN INDIANS: PROFILES IN LIFE AND LEADERSHIP* 40, 40-41 (1977).

65. Gertrude Bonnin (Zitkala Sa), *Indians at the Front*, 1 *AM. INDIAN MAG.* 64 (1917). I am indebted to Jane Hafen of the University of Nevada, Las Vegas, for this citation and the suggestion that Gertrude Bonnin had a number of thoughts on translating the Ecuinnaunuxulgee documents.

66. Act of June 2, 1924, ch. 233, 43 Stat. 253; DELORIA & LYTLE, *supra* note 5, at 222-26;

realization of the Declaration of Independence and full participation in American democracy for American Indians took a very long time, extended beyond the nineteenth century, and continues to evolve.

The Twentieth-Century Translation

Two centuries after 1776 witnessed the Declaration of Independence become a document of renewal for American Indians, but certainly not in ways Thomas Jefferson anticipated. Having been through numerous instances when the Declaration translated into unfortunate applications, Native Americans by 1976 and thereafter were in a position to begin the long and difficult climb toward self-determination and the modern realization of political and economic sovereignty.

Indians recognized that the Declaration of Independence established a right to revolution in "the people."⁶⁷ "All men are created equal," wrote Jefferson. They are "endowed by their creator with certain inalienable rights" — those being life, liberty, and the pursuit of happiness. Jefferson believed a proper government, one created by the people, secured these rights, and that if a government destroys these rights, then the people can alter or abolish that government. But Jefferson was cautious. One doesn't make fundamental changes "for light and transient causes." There must be "a long train of abuses and usurpations" leading toward "absolute despotism" and "tyranny."⁶⁸

A textual analysis of the list of grievances in the Declaration divides them into four categories: legislative restrictions, court tampering, military abuses and war, and nationhood interference. Indian scholars and leaders today recognize that all of these grievances apply to the history of United States-Indian relations over the past 200 years.⁶⁹

JOHN R. WUNDER, "RETAINED BY THE PEOPLE: A HISTORY OF AMERICAN INDIANS AND THE BILL OF RIGHTS 48-51 (1994).

67. "The People" is the translation into English of the meaning of most names for Native nations. For example, the Navajos call themselves Diné, which in Navajo means "the people." Most English language-only readers are exposed to a number of misnomers for Indian nations. Some tribal governments are returning to their original names by approving laws such as the Papagos did who are now officially known as the Tohono O'Odham. See WUNDER, *supra* note 66, at vii-viii.

68. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

69. See the works and speeches of Vine Deloria, Jr., K. Kirke Kickingbird, Wilma Mankiller, Tim Giago, Ada Deer, Suzan Harjo, Oren Lyons, LaDonna Harris, Elizabeth Cook-Lynn, Walter Echo-Hawk, and numerous others. See also Mark Savage, *The Great Secret About Federal Indian Law — Two Hundred Years in Violation of the Constitution — And the Opinion the Supreme Court Should Have Written to Reveal It*, 20 N.Y.U. REV. L. & SOC. CHANGE 343-72 (1993); ROBERT A. WILLIAMS, JR., *LINKING ARMS TOGETHER: AMERICAN INDIAN TREATY VISIONS OF LAW & PEACE, 1600-1800* (1997).

Federal laws, for example, vesting the plenary power over Indians in the hands of the President or the Secretary of the Interior or Indian agents and missionaries or the BIA has led to the disapproval of Indian laws passed by Indian governments, the passage of administrative rulings at "places unusual, uncomfortable and distant" from Native American leadership,⁷⁰ and the dissolution and suspension of Indian legislatures. These denials of the rights of Indian peoples encompass sections 1-5, 21, and 22 from the list of grievances in the Declaration of Independence.

Tampering with judicial power on Indian reservations has been a constant refrain since the placement of Native Americans on these land-locked, isolated "islands." Creation of the Courts of Indian Offenses in 1883 to monitor Indian behavior and to stamp out Indian culture was perhaps the most grievous example of judicial abuse.⁷¹ Judges were retained if they did the Indian agent's bidding. Jurisdiction over specific felony and misdemeanor crimes on reservations was taken away from Indian tribal courts as a result of the Major Crimes Act of 1885⁷² and subsequent additions to it. Jefferson complained that George III subjected the colonists to foreign jurisdiction. State courts obtained civil and criminal jurisdiction for Indians residing in specific states by the passage of Public Law 280⁷³ in 1953 without Indian consent. Declaration sections 8, 9, 13, 18, and 19 speak directly to these similar "abuses and usurpations."

Numerous atrocities committed in the name of war represent an even greater magnitude of grievances. Consider the infamous Cherokee Trail of Tears, the Sand Creek Massacre of 1864, or the Massacre at Wounded Knee in 1890. Standing armies occupied reservations; military actions independent of civilian power operated in Indian Country, such as the FBI activities at Wounded Knee II in 1973; and Native communities quartered troops. During the United States' wars of conquest in the nineteenth century, the American military ravaged communities, burnt villages, and destroyed lives. Mercenaries, such as the Indian police, murdered Sitting Bull and Crazy Horse and other Indian leaders. War, from the deliberate spreading of infectious, lethal diseases among unsuspecting populations to the mutilations of women and children, was waged "with circumstances of Cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy

70. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

71. FELIX S. COHEN'S HANDBOOK OF FEDERAL INDIAN LAW 141 (Rennard Strickland et al. eds., 1982).

72. Ch. 341, 23 Stat. 362 (1885); see *Ex Parte Crow Dog*, 109 U.S. 556 (1883); see also SIDNEY L. HARRING, CROW DOG'S CASE: AMERICAN INDIAN SOVEREIGNTY, TRIBAL LAW, AND UNITED STATES LAW IN THE NINETEENTH CENTURY (1994).

73. Act of Aug. 15, 1953, Pub. L. No. 83-280, 67 Stat. 588. Vine Deloria, Jr., called passage of Public Law 280 a return to the "ancient schizophrenia of ward-domestic dependent nation ideology." Vine Deloria, Jr., *Legislation and Litigation Concerning American Indians*, 96 ANNALS AM. ACAD. POL. & SOC. SCI. 436 (1978).

the Head of a civilized nation."⁷⁴ Forcing Indians to fight against their own people under penalty of death, U.S. officials created domestic insurrections and civil wars within indigenous nations, notably the Cherokees, Creeks, and Sac and Fox. Indeed, the Declaration is historically applicable from sections 10-12, 14-15, and 23-27.

Nationhood requires certain fundamental practices. There must be homelands held for a lengthy, continuous time. There must be "citizens," the people, and ways for the people to replenish and renew. There must be a means that is culturally compatible for the selection of leadership in the nation, and there must be the economic ability of the nation to trade and realize commerce. Indian nations have long suffered from interference with these basic rights. Lands have been frequently taken, the greatest losses, nearly 90 million acres, coming under the implementation of the Dawes Severalty Act⁷⁵ from 1887 to 1934. Who can be a member of a tribe and what groups constitute an Indian nation have been the subject of constant federal regulation. The Termination movement of Indian nations in the 1950s and early 1960s represents the extreme lengths to which U.S. government officials have gone to suppress nationhood.⁷⁶ Moreover, Native American elections have been voided, postponed, or denied, and Indians are taxed without their permission. The creation of New Deal governments on reservations to displace traditional Indian governments has been the subject of great dispute, in part, because the federal government insisted on counting those not voting as a vote in favor of approving the governmental scheme worked out for reservations. Finally, economic restrictions on Indians are profound and tied to the kinds of lands upon which they reside. The Declaration of Independence covers these issues in sections 6, 7, 16, 17, and 20.

What all this means is that the Declaration of Independence in today's Indian world has significant meaning. It justifies for many Native peoples a "revolution." That revolution, however, is not the typical kind of revolution in part because of the overwhelming losses sustained by Indian nations during two centuries of American rule. Revolution has come to mean making the causes listed in the Declaration meaningful to all Americans so that the basic rights of Indians can be attained.

Even before World War II, Native Americans challenged the existing colonial order by invoking the Declaration of Independence. In 1939 when the state of New York tried to assert jurisdiction over minor criminal

74. THE DECLARATION OF INDEPENDENCE para. 2, § 25 (U.S. 1776).

75. Ch. 119, 24 Stat. 388 (1887); WUNDER, *supra* note 66, at 33.

76. See LARRY W. BURT, *TRIBALISM IN CRISIS: FEDERAL INDIAN POLICY, 1953-1961* (1982); DONALD L. FIXICO, *TERMINATION AND RELOCATION: FEDERAL INDIAN POLICY, 1945-1960* (1986); Charles F. Wilkinson & Eric R. Biggs, *Evolution of the Termination Policy*, 5 AM. INDIAN L. REV. 139-84 (1977).

offenses, the Senecas refused to allow it. The Tonawanda Council sent the governor of New York their own "Declaration of Independence" explaining that they would challenge any action by the state of New York that threatened their sovereignty.⁷⁷ Over a decade later in 1951, Montana Indians held their first Montana Indian Affairs Conference. Tom Main, a Gros Ventre leader from the Fort Belknap Reservation, successfully urged the delegates to adopt resolutions demanding Indian control of their own income and the right to lease lands without signing powers of attorney over to non-Indians. Several months after the meeting, Main composed "An Indian Declaration of Independence" where he turned Thomas Jefferson's words against the U.S. government. Main declared that a state of rebellion existed against the Commissioner of Indian Affairs Dillon Myer because of twenty-three examples of "despotic colonial rule."⁷⁸ One year later the Blackfeet challenged new federal regulations over their reservation and the loss of Indian civil liberties. The Blackfeet Business Council passed a resolution embracing the ideology of the Declaration of Independence, and Blackfeet tribal chair George Pambrun journeyed to Washington, D.C., to testify before the Senate Interior and Insular Affairs Committee in April where he observed, "It soon will be 176 years since the United States began with a Declaration of Independence that says all men are created equal. My people want to be part of that Spirit of 1776 We want the right to handle our own affairs. We even want the right to make mistakes."⁷⁹

What the Blackfeet and Senecas sought are the rights entailed in the concepts of self-determination and sovereignty. Embraced by President Lyndon Johnson who was the first President to give a speech to Congress devoted to American Indian policy, self-determination initially meant greater economic and educational autonomy. After all, only a few years earlier in 1962 President John F. Kennedy had terminated the Northern Poncas. Richard Nixon probably went the furthest of any president in advocating Indian self-determination policies. He defined it as encouraging "the Indian's sense of autonomy without threatening his sense of community."⁸⁰

For most Indians, however, self-determination, while embracing economic freedoms, means achieving political and legal sovereignty. They want treaties honored and enforced, and homelands illegally taken, such as the Black Hills for the Sioux nation, returned. The central issue ultimately is power.⁸¹

77. KENNETH R. PHILP, *TERMINATION REVISITED: AMERICAN INDIANS ON THE TRAIL TO SELF-DETERMINATION, 1933-1953*, at 141-42 (1999).

78. *Id.* at 132-33.

79. *Id.* at 125, 138.

80. WUNDER, *supra* note 66, at 159-63 (quoting Richard Nixon at 160); *see also* DELORIA & LYTLE, *supra* note 5, at 21-24; Robbins, *supra* note 26, at 87-121. Robbins writes, "The key to understanding the social, economic, and political status of contemporary Native North America rests in determining the form by which it is governed." *Id.* at 87.

81. *See generally* Olive P. Dickason, *The Changing Face of Sovereignty*, in L.C. GREEN &

Indian activism in the 1960s and 1970s served to reinforce these basic tenets of modern Native life. At a conference in Chicago in 1961 Indians from throughout the United States gathered and approved "A Declaration of Indian Purpose." This document explained that "The right of self-government, a right which the Indians possessed before the coming of the white man, has never been extinguished . . ."⁸² Eight years later, a group of young Indians seized control of Alcatraz Island. They, too, issued a declaration, one sprinkled with historical sarcasm. The "Indians from All Tribes" offered a treaty to the United States in which they would buy Alcatraz for \$24 worth of glass beads and "give to the inhabitants of this island a portion of the land for their own to be held in trust . . . by the [B]ureau of Caucasian Affairs to hold in perpetuity — for as long as the sun shall rise and the rivers go down to the sea." The Philadelphia-like meeting also offered some assimilation concepts. "We will offer them our religion," declared the Declaration, "our education, our life-ways, in order to help them achieve our level of civilization and thus raise them and all their white brothers up from their savage and unhappy state."⁸³

In 1974 Vine Deloria, Jr., published *Behind the Trail of Broken Treaties: An Indian Declaration of Independence*. He argued for a renegotiation of all treaties and for the creation of Indian tribes as quasi-internationally independent nations under the protectorship of the United States. "Indians are not seeking a type of independence which would create a totally isolated community with no ties to the United States whatsoever," writes Deloria. "On the contrary, the movement of today seeks to establish clear and uncontroverted lines of political authority and responsibility for both the tribal governments and the United States so as to prevent the types of errors and maladministration which presently mark the Indian scene."⁸⁴ Population, land area size, natural resources, and potential economic development, observes Deloria, are not relative to the discussion given the nature of other sparsely populated, tiny, poor geopolitically independent nations of the world. By bestowing upon Indian tribes their independence, Deloria reasons that many positive actions would occur. These are parenthetically consistent with the terms of the Declaration of Independence. Deloria states,

OLIVE P. DICKASON, *THE LAW OF NATIONS AND THE NEW WORLD* 241-49 (1989).

82. *A Declaration of Indian Purpose from the Chicago Conference, 1961*, in *MAJOR PROBLEMS IN AMERICAN INDIAN HISTORY* 521 (Albert L. Hurtado & Peter Iverson eds., 1994) [hereinafter *AMERICAN INDIAN HISTORY*].

83. *A Proclamation from the Indian of All Tribes, Alcatraz Island, 1969*, in *AMERICAN INDIAN HISTORY*, *supra* note 82, at 523; see also TROY R. JOHNSON, *THE OCCUPATION OF ALCATRAZ ISLAND: INDIAN SELF-DETERMINATION AND THE RISE OF INDIAN ACTIVISM* (1996).

84. VINE DELORIA, JR., *BEHIND THE TRAIL OF BROKEN TREATIES: AN INDIAN DECLARATION OF INDEPENDENCE* 162 (1974).

Such an action would eliminate the errors of the past regarding the nature of Indian tribes and bring to a close the nebulous period of history which has plagued us since the days of discovery of the New World. In effect, this action would mean a surrender by the United States of its right to extinguish Indian aboriginal title to land, and would freeze the present Indian lands within the context of national boundaries rather than reservation boundaries.⁸⁵

By the 1980s although many Indians did not like the New Deal governments that had been forced upon them, leaders committed to political self-determination won leadership positions. For example, Wilma Mankiller, the Principal Chief of the Cherokee Nation of Oklahoma, and Peterson Zah, tribal chairman of the Navajo Nation, proceeded to turn their governments into modern sovereign entities. Each reflected a reassertion of tribal nationalism.⁸⁶

Even the federal government took steps in the direction of greater political self-determination for Indian peoples. In 1988 Congress approved Public Law 100-472 that allowed ten Native nations — the Quinaults, Mescalero Apaches, Tlingit-Haidas, Confederated Salish and Kootenais, Hoopas, Mille Lacs and Red Lake Chippewas in Minnesota, Lummi and Jamestown Band of Klallams in Washington, and the Rosebud Sioux to start planning for "self-governance on their own terms." This followed a report issued by the U.S. Senate Select Committee on Indian Affairs which called for a "New Era of Agreements," in which it proposed for the federal government to relinquish paternalistic controls over tribal affairs, grant full self-government, and release all assets of Indian nations, provided tribal officials are accountable to federal laws.⁸⁷

Thus, the Declaration of Independence in the twentieth century has come full circle in Indian country. Rebecca Robbins from Standing Rock Reservation suggests what many Indians believe that the true translation of the Declaration of Independence today is the inevitability of the United States living up to the promise of the Declaration and giving complete national sovereignty to indigenous peoples within its current borders. Should that happen, she believes, the Navajo Nation and a united Sioux Nation could sustain territorially based independent nation-states, and other Indian nations

85. *Id.* at 252.

86. See generally 6 NATIVE AMERICANS AND THE LAW: CONTEMPORARY AND HISTORICAL PERSPECTIVES ON AMERICAN INDIAN RIGHTS, FREEDOMS, AND SOVEREIGNTY: NATIVE AMERICAN SOVEREIGNTY (John R. Wunder ed., 1996). The volume includes essays by K. Kirke Kickingbird, Markku Henriksson, Ward Churchill, David E. Wilkins, Vine Deloria, Jr., Emma R. Gross, Russel Lawrence Barsh, Ann McCulloch, M. Annette Jaimes, Sidney L. Haring, George M. Lubick, Linda Medcalf, Rebecca L. Robbins, Clifford M. Lytle, and Glenn T. Morris.

87. Robbins, *supra* note 26, at 108-09.

with lesser land masses would probably choose some sort of commonwealth status with the United States. Trans-border tribes, like the Blackfeet, Mohawks, Haidas, Yaquis, and Tohono O'Odham, could reach multinational agreements.⁸⁸ For this all to happen, Elizabeth Cook-Lynn explains, "It may be that Americans will have to come face to face with the loathsome idea that their invasion of the New World was never a movement of moral courage at all; rather, it was a pseudoreligious and corrupt socioeconomic movement for the possession of resources."⁸⁹

In Dakota the word for "determination" is *tawacin*. The word for "independence" and "freedom" is *tawaiciyapi*. The word for "self-possessed" is *tawacin hduha*. A "declaration" is *yaotaninpi*.⁹⁰ Thus, the Declaration of Independence translated means *yaotaninpi tawaiciyapi*, but its root word comes from determination. A modern translation renders the Declaration of Independence a "declaration of self-determination" for the indigenous peoples of the United States.

Conclusion

The Declaration of Independence over time has come to represent a clarion call for fundamental rights and freedom from oppression for many peoples. It is a model for democratic expression and revolution against tyranny. Throughout the centuries since the creation of the Declaration, struggles for independence have been won and lost, and the peoples who have fought for their freedom frequently translated the Declaration into their own cultural context.

For American Indians, this can also be said, but there are important caveats. The former colonists did not translate the Declaration into the kinds of relationships it promised. For Native peoples, it became almost immediately a hollow document, especially to those Indians who fought for the patriots in the American Revolution. Perversely, the Declaration came to mean another era of colonialism in North America that has yet to cease.

Nearly a century later the Declaration evolved into a proactive instrument for assimilation, a cruel policy of attempted cultural conquest. Indians bore the brunt of this war, only it was not a war for independence but a war of submission designed to destroy culture and identity. Although Native Americans paid a terrible price during this conflict, the indigenous presence in the United States remained secure. Still another century later a reinterpreted and revived Declaration anchors Native America's push for

88. *Id.* at 111.

89. ELIZABETH COOK-LYNN, *WHY I CAN'T READ WALLACE STEGNER AND OTHER ESSAYS: A TRIBAL VOICE* 33 (1996).

90. JOHN P. WILLIAMSON, *AN ENGLISH-DAKOTA DICTIONARY* 45, 48, 89, 196 (1992).

sovereignty rights and self-determination. The Declaration has a whole new revolutionary meaning within the American context.

In a sense, then, the Declaration of Independence is a document that defies a static translation, even in its original English. So much of its historical reference depends upon how it was used, when it was invoked, why it was translated, and perhaps most importantly of all, what kind of motivations and usages are revealed by the peoples who sought to translate it.