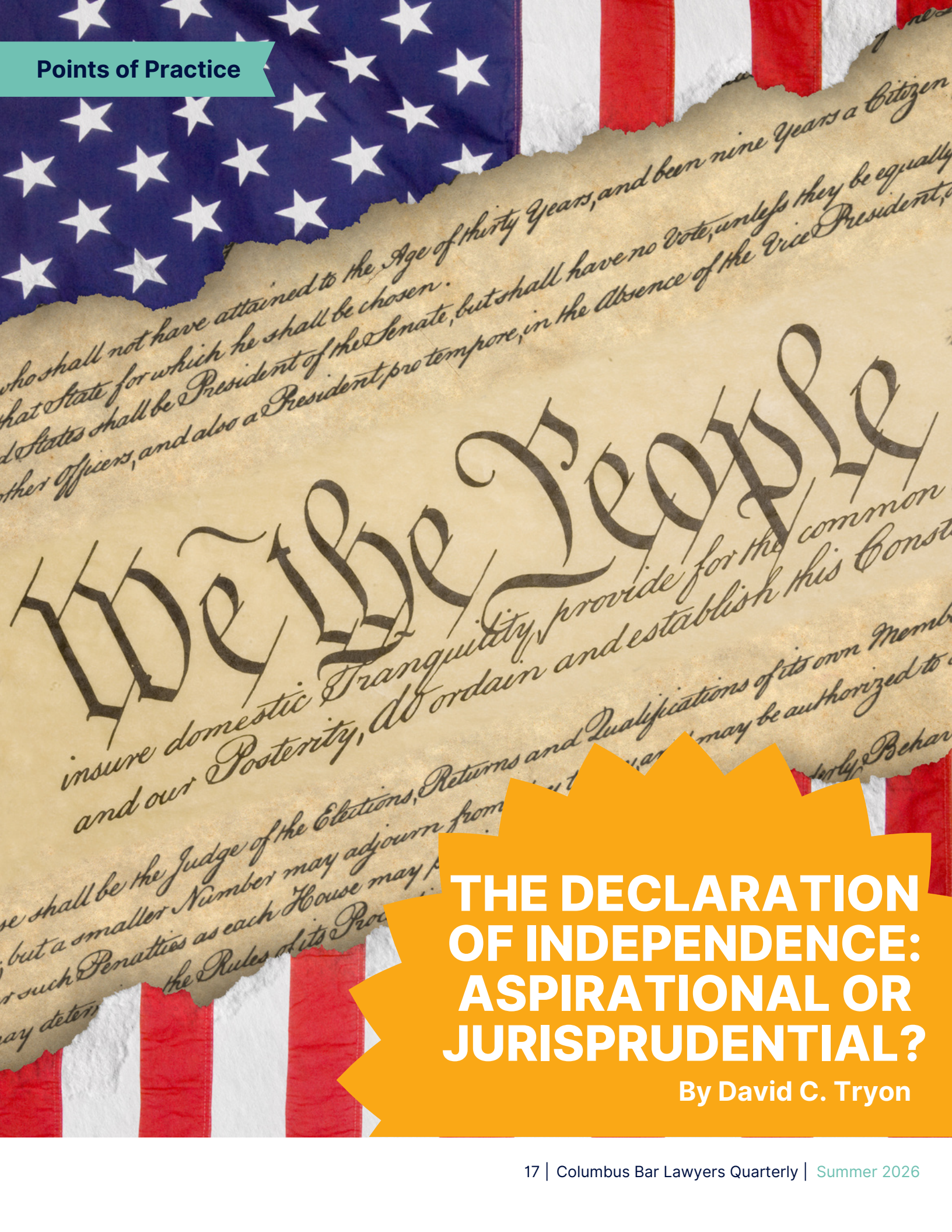




THE DECLARATION OF INDEPENDENCE: ASPIRATIONAL OR JURISPRUDENTIAL?

By David C. Tryon

“Where there is no vision, the people perish...”

— *Proverbs 29:18* (King James)

The Declaration of Independence: A Vision of Freedom and Equality

Margaret Thatcher once correctly said of the United States, “No other nation has been built upon an idea — the idea of liberty.”[1] Most nations primarily reflect their own history, language, and geography, but America was founded on a mission statement announced famously by “the greatest sentence ever crafted by human hand”[2]: “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.”[3]

That new vision of liberty makes the United States of America unique among the nations and has inspired generations of Americans and people around the world to live up to its great

promise by holding our institutions to that “promissory note to which every American was to fall heir.”[4] As President Calvin Coolidge recognized on our Declaration’s 150th anniversary, “[g]overnments do not make ideals, but ideals make governments.”[5]

A Vision That Informs American Jurisprudence

Despite “read[ing] like a legal document,”[6] the Declaration of Independence is not law.[7] As Chief Justice Roberts has explained, “[t]he Declaration of Independence was then, and remains today, a statement of national aspirations, not a codification of enforceable legal obligations.”[8] Recognizing that a new national charter was necessary to sustain the Declaration’s principles,[9] the Framers drafted the Constitution as the binding fulfillment of the Declaration’s promise.[10] Thus, the Declaration has long been valuable for informing our jurisprudence because, although

its “principles may not have the force of organic law ... it is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence.”[11]

Courts have looked to the Declaration as “one of many sources of the Constitution’s original meaning”[12] and have used it to illuminate “the understandings of the American people from the pertinent ratification era,” which provide “strong evidence” of the Constitution’s meaning.[13] The Declaration, for example, has informed the judiciary’s constitutional interpretation of the Bill of Rights by listing “America’s many [pre-ratification] objections to British laws and the system of oppressive British rule over the Colonies.”[14] The American revolution erupted in no small part due to Britain’s “long train of abuses” and its “history of repeated injuries and usurpations.”[15] And because the Constitution’s subsequent legal protections were meant to guard against those abusive injuries,

the Declaration’s explanation remains useful to our modern judicial understanding.

Many states, for their part, have adopted key language from the Declaration into their own state constitutions.[16] The Ohio Constitution, for instance, declares: “All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.”[17] Regrettably, Ohio courts have failed to give this constitutional provision more than aspirational weight, calling it “a statement of fundamental ideals” rather than accepting it as “an independent source of self-protecting protections.”[18] That view may yet succumb to legal challenge, and the Declaration itself reminds us of our right and duty to use legal tools to resist overbearing and unjust laws in our courts and voting booths.[19]

A Cause for Gratitude and Hope

As we celebrate the nation's 250th birthday, we do well to remember that America's founding was no mere accident. "It has a philosophical cause,"[20] and so despite our many trials and tribulations, "[a]mid all the clash of conflicting interests, [and] amid all the welter of partisan politics, every American can turn for solace and consolation to the Declaration of Independence and the Constitution ... with the assurance and confidence that those two great charters of freedom and justice remain firm and unshaken." [21] And that is because, as President Coolidge reminded us 100 years ago, there is a reassuring finality to the Declaration's truths: "If all men are created equal, that is final. If they are endowed with inalienable rights, that is final. If governments derive their just powers from the consent of the governed, that is final." [22]

Though we may be "heirs" to "the magnificent words of the Constitution and the Declaration of Independence," [23] we must always remember that "[t]he real heart of the American Government depends upon the heart of the people. It is from that source that we must look for all genuine reform. It is to that cause that we must ascribe all our results." [24] So as we hope for an even greater fulfillment of the Declaration's unique and laudable vision, Thomas Jefferson's own reflections still ring true: "I like the dreams of the future better than the history of the past." [25]



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1. Margaret Thatcher, *Speech at Hoover Institution Lunch* (Mar. 8, 1991).
2. John G. Roberts, Jr., *2025 Year End Report on the Federal Judiciary* 3 (Dec. 31, 2025), quoting Walter Isaacson, *The Greatest Sentence Ever Written* 2 (2025).
3. Declaration of Independence ¶ 2.
4. Martin Luther King, Jr., *I Have a Dream, Address on the Steps of the Lincoln Memorial* (Aug. 28, 1963).
5. Calvin Coolidge, *Address at the Celebration of the 150th Anniversary of the Declaration of Independence in Philadelphia, Pennsylvania* (July 5, 1926).
6. Roberts, *supra* note 2, at 4.
7. See *United States v. Rahimi*, 602 U.S. 680, 721 (2024); *Troxel v. Granville*, 530 U.S. 57, 91 (2000) (Scalia, J., dissenting) (“The Declaration of Independence . . . is not a legal prescription conferring powers upon the courts”); Mark Graber, *The Declaration of Independence and Contemporary Constitutional Pedagogy*, 89 S.Cal.L.Rev. 509, 515 (Mar. 2016).
8. Roberts, *supra* note 2, at 5.
9. Alexander Tsesis, *The Declaration of Independence and Constitutional Interpretation*, 89 S.Cal.L.Rev. 369, 372 (2016).
10. Charles Alan Wright, *In Memoriam: Warren Burger: A Young Friend Remembers*, 74 Tex.L.Rev. 213, 219 (1995) (quoting Chief Justice Warren Burger).
11. *Gulf, Colo. & Santa Fe Ry. Co. v. Ellis*, 165 U.S. 150, 160 (1897).
12. Lee J. Strang, *Originalism, the Declaration of Independence, and the Constitution: A Unique Role in Constitutional Interpretation?*, 111 Penn St.L.Rev. 413, 414 (2006).
13. *United States v. Rahimi*, 602 U.S. 680, 719 (2024).
14. *Id.* at 721.
15. Declaration of Independence ¶ 2.
16. See, e.g., *Fid. & Cas. Co. of New York v. Union Savs. Bank Co.*, 29 Ohio App. 154, 156 (1928); *Perez v. Sharp*, 32 Cal.2d 711, 733–34 (1948), citing *Inglis v. Trustees of the Sailor’s Snug Harbor*, 28 U.S. 99 (1830).
17. Ohio Const., art. I, § 1.
18. *State v. Williams*, 88 Ohio St.3d 513, 523 (2000).
19. See Abraham Lincoln, *The Perpetuation of Our Political Institutions Address Before the Young Men’s Lyceum of Springfield, Illinois* (Jan. 27, 1838).
20. Abraham Lincoln, *Fragment on the Constitution and Union* (Jan. 1861).
21. Coolidge, *supra* note 5.
22. *Id.*
23. King, *supra* note 4.
24. Coolidge, *supra* note 5.
25. Thomas Jefferson, *Letter to John Adams* (Aug. 1, 1816).