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Why Did the Signers of the Declaration of Independence Engage in this Treasonous Act?

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Abstract

The penalty for committing an act of treason against the Crown in 1775, as read by British judges sentencing Irish rebels, was as follows:

You are to be drawn on hurdles to the place of execution, where you are to be hanged by the neck, but not until you are dead; for, while you are still living your bodies are to be taken down, your bowels torn out and burned before your faces, your heads then cut off, and your bodies divided each into four quarters, and your heads and quarters to be then at the King's disposal; and may the Almighty God have mercy on your souls.¹

Those who signed the Declaration of Independence were well aware of the fact that, by virtue of their signatures, they would be endorsing a treasonous act and, if caught, their punishment would be as described above. Because of the horrendous nature of this punishment, it is not surprising that over the years the 56 delegates who signed this document were often said to be among the most heroic of the early patriots. The evidence to be reported, however, shows that the events that took place prior to the issuing of the Declaration may have encouraged the signers to voluntarily engage in this act without any fear of punishment. Some further evidence reported below also provides a possible answer to a question raised by Meier (1997) who asked why the delegates even bothered to sign the Declaration.

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Why Did the Signers of the Declaration of Independence Engage in this Treasonous Act?

Marvin L. Simner

Speaking on Independence Day, 1821, John Quincy Adams, 6th President of the United States and the son of John Adams, a signer of the Declaration, stated that the Declaration of Independence

was merely an occasional state-paper. It was a solemn exposition to the world, of the causes which have compelled the people of a small portion of the British empire, to cast off their allegiance and renounce the protection of the British king: and to dissolve their social connection with the British people.²

Although at the time it may have been “merely an occasional state-paper,” in recent years the Declaration has been referred to as a “war document”³ and, because of its message, Maier summarized its impact in the following words: “From the viewpoint of those who opposed its message, the Declaration was nothing less than a public confession of treason.”⁴ In view of the seriousness of this public confession Brodie even provided her readers with a detailed description of the horrendous penalty for treason (see the Abstract) which did not change until March 17, 1813, when Parliament approved a bill to include only hanging or beheading as a more humane form of punishment. Given the brutal nature of this early punishment, coupled with their “pledge to each other (of) our Lives, our Fortunes and our sacred Honor,” as stated in the Declaration itself, it is certainly not surprising that the 56 delegates to the Second Continental Congress in Philadelphia who signed the Declaration have often been considered among the most heroic figures in American history.⁵ The author of an 1857 publication titled “American’s Own Book” characterized their lives and the personal consequences of performing this deed in the following manner.

The memories of few men will perhaps be cherished, by their posterity, with more jealous and grateful admiration than those of the patriotic individuals, who first signed the political independence of our country. They hazarded by the deed not only their lands and possessions but their personal freedom and their lives, and when it is considered that most of them were in the vigor of existence, gifted with considerable fortune, and with all the offices and emoluments at the disposal of royalty within their reach, the sacrifice which they risked appears magnified, and their disinterested patriotism more worthy of remembrance.⁶

The purpose of the current undertaking was to ask if the act of signing the Declaration was truly fraught with as much danger as has so often been suggested. To answer this question we reviewed the timeframe and events associated with the drafting and the dissemination of each of the three initial versions of the Declaration.

The Emergence of the Declaration of Independence

The first phase in the development of the Declaration occurred on June 7, 1776, during a meeting of the Second Continental Congress when Richard Henry Lee from Virginia presented the following motion on behalf of Virginia to the congressional delegates in Philadelphia.

That these united colonies are, and of right ought to be, free and independent states, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved.⁷

Owing to the contentious nature of Lee's motion it was decided that a vote on the motion needed to be delayed until July 1 so that the delegates would have sufficient time to meet with the colonies they represented to determine how best to deal with this matter. Because of comments that had occurred during the course of the initial debate it was also decided that a committee needed to be formed to draft a document that reflected the justification as well as the significance of the motion.

On June 10 the Continental Congress appointed the following five delegates to form such a committee: John Adams, Benjamin Franklin, Richard Henry Lee, Robert Livingston and Robert Sherman. As the result of his role in preparing the Virginia motion Lee was also asked to draft the follow-up document requested by Congress. On June 11 Lee received word that his wife was ill and that he needed to return to Virginia immediately. It was due to his abrupt departure that Thomas Jefferson, a fellow delegate from Virginia, was asked to take his place and to prepare the required draft.⁸

The second phase took place on June 28, 1776, when Congress met as a whole to read Jefferson's draft, which had been modified to some extent by several committee members. Because it was felt that the submitted draft required still further modifications, it was decided to postpone ratification for several days. The third phase occurred on July 2 when the final revised draft was read and approved, but not signed. Next, Charles Thomson, Secretary of the Continental Congress,

Ordered that the Declaration be authenticated & printed. That the committee appointed to prepare the Declaration superintend & correct the press. That copies of the Declaration be sent to the several assemblies, conventions & committees or councils

of safety and to the several commanding officers of the continental troops and that it be proclaimed in each of the united states & at the head of the army.

This unsigned body of the Declaration was then delivered to Thomas Dunlap, a local printer in preparation for printing. It has been estimated that around 200 paper copies of this initial version of the Declaration were printed and circulated as required by Congress. Of this number, 21 copies are known to exist and 17 were examined in the 1970s by Fredrick Goff.⁹ Although it has been claimed by Wilfred Ritz¹⁰ that 34 of the delegates who were present on July 2 signed the document, the only names Goff identified were those of the Congressional Secretary, Charles Thomson, and the President of the Continental Congress, John Hancock. Thus, if the claim by Ritz has any merit, what might have been signed was the printer's proof which, it is said, has never been found and may have been destroyed (see page 189 in Ritz). While it is unknown if these 34 delegates purposely avoided signing the circulated document to prevent being charged with treason, because of the absence of their names, it is extremely unlikely that any would have been charged with treason.

The first formal public reading of the document took place on July 8 in Philadelphia and the first newspaper to publish the body of the Declaration was the *Pennsylvania Evening Post* on July 6 followed by a German translation published in Philadelphia on July 9. On that same day George Washington received his copy and, in compliance with the order from Congress, had it read to his troops. According to Maier,¹¹ Washington and Congress hoped that the material contained in the body of the Declaration would inspire the soldiers, and "might also encourage men to join the army and help American affairs take a more favorable turn."

In line with this last point, it is worth noting that of the many grievances in the Declaration that were levied against the British, with few exceptions, most began with the words "He has refused..., He has forbidden..." By personalizing the enemy in this fashion the colonists' anger was clearly directed solely at the crown which would have made military recruitment far easier than if the blame for the grievances had been placed on the largely amorphous body of the British Parliament. In the words of Black,¹² this terminology was an intentional "indictment of a conspirator, who had misused his executive power...making George akin to an Old Testament plague." Indeed, it was the case that after hearing the Declaration, hatred of the king had become so pronounced that crowds in many cities tore down and destroyed signs or statues representing authority. For example, in New York City an equestrian statue of King George was pulled down and the lead used to make musket balls.¹³ Because it was also the case that a number of the grievances had already been resolved or never enforced,¹⁴ these may have been included in the Declaration, at least in part, to refresh the colonists' memories of their previous resentments against the crown in order to further encourage enlistments.

When understood in this way, the initial printing of the Declaration, which was circulated but unsigned, might not have been intended as a war document, in the literal sense of a declaration of war, but instead to serve as a military recruitment tool or call to arms in the event that a full scale war with Britain ever became necessary. Given this possibility it is not surprising that Maier¹⁵ was further led to conclude that the Dunlap Broadside “was designed first and foremost for domestic consumption.”

The second version of the Declaration, which was finished on August 2, 1776, had a very different purpose. Known as the Matlack copy, this time the Declaration was printed on parchment and it was hoped that everyone would sign by August 2.¹⁶ With the exception of five delegates who signed sometime later, everyone did so by this date. Because only one copy was produced, this parchment version was not destined for widespread distribution but, instead, was intended for later preservation in a permanent location once the war was over. Hence, very few people outside of the members of the Continental Congress would have been aware of this signed copy since it “traveled with the Continental Congress as it moved by land and by water during the Revolutionary War...(possibly) rolled for transport or, just as likely, folded to fit into a saddle bag or wooden chest.”¹⁷

The level of secrecy associated with the Matlack copy as well as the degree of anonymity that had accompanied the Dunlap Broadside, changed with the printing of the third and final version of the Declaration. Known as the Goddard Broadside this version was authorized by Congress on January 18, 1777. It was printed on paper with the names of all but one of the 56 signers (Thomas McKean), and was intended for public distribution to a much wider audience than the Dunlap Broadside. With the release of this third version, the public for the first time became aware of those who had endorsed the message contained in the document. Until then, outside of the delegates themselves, no one knew who had actually been responsible for the message. In fact, it wasn't until 1784 that Thomas Jefferson was even identified as its author!

What is most important here in relation to the issue at hand is the date when this third version was released to the public. By late December, 1776, early January, 1777, the Continental Army under George Washington's command, had gained what were extremely important military victories in New Jersey. The battle of Trenton was won on December 26, 1776, while the victory at Princeton was achieved on January 3, 1777. In commenting on the timing of this release Maier¹⁸ made the following observation.

They (the signers) were not given to throwing their fate into God's hands needlessly. Only on January 18, 1777, after the long, disastrous military campaign of 1776 (in which the Americans suffered major losses in the battles of Brooklyn Heights and New York City) was over and the Americans had won victories at Trenton and Princeton, did

Congress send the states authentic copies of the Declaration of independence with the names of the members...subscribing the same.

Although it is unclear what Maier might have meant by the statement “throwing their fate into God’s hand’s needlessly,” it is possible that the delegates could have considered this an opportune moment for reaching a negotiated settlement for ending the war with Great Britain. Given the losses the British had already suffered at Lexington and Concord, Bunker Hill, Boston and now at Trenton and Princeton, it could be that this third version with all of the names attached, was released at a time when the members of the Continental Congress might have been reasonably confident that more British losses were to be expected in the future. If the Continental Army had been successful in achieving this goal, the Declaration with its list of grievances could then have been used as the starting point for such negotiations. As one of the conditions for achieving a peaceful settlement, Congress, no doubt, would have requested the dismissal of any charges of treason that otherwise could have been levied against the signers of this document.

There are several reasons for suggesting that this might have been the case. First, because of the successes that had already been realized in resolving a number of the grievances (see end note 14) it would have seemed reasonable to think that similar progress could have been achieved in resolving the remaining grievances through an early set of talks with representatives from Great Britain. Second, as recently as July 8, 1775, the Continental Congress had attempted to broker an end to the impending war when it sent to the King an appeal for reconciliation known as the Olive Branch Petition.¹⁹ Although this petition was initially rejected, Lord Dartmouth received the King’s approval in February, 1776, to send a commission to the colonies to negotiate reconciliation on the basis of the Olive Branch Petition²⁰ and word of this commission had reached the members of Congress as early as May, 1776.²¹ Third, Benjamin Franklin had been in discussion with two of the highest ranking British commanders in North America, General William Howe and his brother, a Vice-Admiral in the British navy, both of whom were strongly in favor of finding a peaceful solution to the impending conflict. In the spring of 1776 General Howe sent a letter to London that expressed his reservations about a British victory owing to the strength of the colonial military and had even previously proposed several means for achieving a negotiated settlement.²² Finally, the delegates were also aware of Franklin’s conversations with Lord Chatham, an important member in the House of Lords who had supported a peaceful settlement with the colonists. On February 1, 1775, Lord Chatham introduced “A provisional Act for Settling the Troubles in America,” that was designed to “pacify America” by granting the Continental Congress “a role in devising a new constitutional and financial settlement.”²³

In addition to this parliamentary and military support in favor of a peaceful solution to these difficulties, it was also known that a similar level of support existed among the citizens of Great Britain who were kept fully informed throughout this period of all the events that were taking place in the colonies.

It is a fact of some importance that English newspapers made the colonial interpretation of events in America accessible to the English public in precisely those terms that (the Continental) Congress thought most convincing. In its first petition to the Crown, Congress explicitly planned a public relations campaign in England in the hope of eliciting public support for its actions...The English press cooperated in this effort with surprising unanimity; even those editors who were hostile to the colonies consistently printed the most important papers...During the Stamp Act crisis all the key trading and industrial areas of England petitioned for repeal; a decade later, sixteen of these twenty-five places (64%) appealed once again for conciliation...In 1775 the people of England advised the king of England: If this plan (of war) should continue to be enforced, it must be attended with a great waste of blood and treasure to this country, without any well-grounded prospect of success, and may finally deprive these kingdoms of the valuable trade of America, and force the inhabitants of that country, against their inclination and interest, to set up an independent state.²⁴

Unfortunately for the Congressional delegates, however, shortly after the release of the third version of the Declaration the tide of war had changed for the worse which meant that the possibility of now reaching a negotiated settlement as the result of the Continental Army's early position of strength, had quickly become remote. Beginning with the Battle of Bound Brook on April 13, 1777, of the 39 engagements that were fought between the colonial victories at Trenton and Princeton and when the French military first entered the war (September, 1778), only 10 battles were won by the Americans while the British had won 29 which meant that the British were no longer in a position of weakness.

It goes without saying that if the end of the war had favored the British, the signers of the Goddard version of the Declaration, whose names were now well known, could very well have been charged with treason. Despite this possibility though, all was not necessarily lost, at least in the minds of the delegates who had agreed on January 18, 1777, to sign this version of the Declaration. On June 20, 1776, which was well before the release date for this third version, British Vice-Admiral Richard Howe had issued a statement that offered amnesty to any American who agreed that he would not participate in any further rebellious activities against the Crown. His brother, General Howe, on November 30, 1776, extended the same offer to those who would agree to "remain in peaceful obedience to his Majesty...(and) In the fall of 1776, many people of New Jersey accepted the terms that the Howe brothers offered them."

Within a few weeks, British authorities reported that more than three thousand people had come forward to make an oath of allegiance to George III and take their 'protection papers'.²⁵

Of central importance to the current report, Richard Stockton, one of the Declaration's early signers and "high on the list of the Americans the British sought to capture," was arrested and imprisoned on November 3, 1776. On December 29, 1776, Stockton also took advantage of this offer, initialed the required statement, and was set free. "Had he not signed the Amnesty statement he would have remained in prison with the liability of being 'hanged, drawn and quartered,' as well as losing all of his property, thus impoverishing his family."²⁶ The critical point here is that those whose printed names appeared on this third widely circulated version of the Declaration would have known about the Howe brothers' offer and could have allowed their names to be released in January 1777 with full knowledge that if worse came to worse they too would have been able to avoid a charge of treason by taking the same oath before the war ended.

Conclusion

Based on the foregoing evidence it seems reasonable to draw the following conclusions. The first version of the Declaration, intended principally for domestic consumption, was used as a recruiting tool for the colonial military rather than as a "war document," and if those who are said to have signed it on July 4, only signed the printer's proof, not the circulated copy, they were probably not concerned about being charged with treason. The second version, which did contain their names, was only available on a single parchment copy that was carefully protected and hidden throughout the war. This version, too, probably would not have generated any fear of bringing charges of treason because, in all likelihood, it would have been destroyed if subsequent events suggested that the war was about to be lost. Finally, the third version, though widely circulated and with all but one of the delegates names, was released at a time when the delegates were aware that if they subsequently signed the British offer of amnesty, this action on their part would have negated the charges of treason. In essence those who added their names on July 4, 1776, August 2, 1776, or even as late as January 18, 1777, probably did so in full knowledge of the fact that, regardless of when or what they signed, the odds of being charged and convicted of treason were extremely remote. Hence, the belief that the 56 delegates who signed the Declaration had voluntarily engaged in this act despite the horrendous nature of the punishment that would have ensued if caught, appears to be unfounded.

Whether or not one still wishes to view the signers as heroes, however, it must be said that with few exceptions they were among the ablest, the brightest, the best educated, and the most devoted citizens that America had to offer at the time. Most had attended the leading

colleges of the day either in America or England and of the 56 signers, following the revolution, two became Presidents of the United States, two others became United States Senators, and 14 were state governors. During the early stages of the revolution many took part in committees to draft the Articles of Confederation as well as templates on how to establish alliances with other counties both for trade and to seek help during the war. We mention these points because they have an important bearing on a further question regarding the signers posed by Pauline Maier.

Why, however, was it (the Declaration) signed at all? Only John Browne, Parliament's clerk, signed the English Declaration of Rights. Moreover, according to Lois Schwoerer, the members of England's seventeenth-century Parliaments did not customarily sign instruments they presented to the King, nor were declarations and petitions signed by their drafters elsewhere in Europe. "Of the documents comparable to the Declaration of Rights," she says, "only the Declaration of Independence of the American colonies was signed by its framers."²⁷

As one possible answer to her question Maier noted that the Crown did not recognize the legitimacy of Congress. By signing this document, the delegates signified that each of the colonies they represented were in support of the terms contained within the document. "This was, they seemed to say, not the work of an inconsequential faction of colonists, as their critics in England so often alleged, but the voice of the American people and of the men of consequence they selected to speak for them."²⁸

While Maier's answer certainly could be correct, there is also another way to address this matter. In line with a point raised above (see page 6), consider for the moment that the Declaration might not have been intended solely for use as either a war document or a recruiting tool but, instead, as a legally crafted instrument issued collectively by thirteen sovereign nations (as the term "United States" implies) to bring about a negotiated end to an impending war.²⁹ We raise this possibility because within the body of the Declaration were the grievances the Crown had been asked to rectify and that served as justification for the concluding section which contained the words by Richard Henry Lee (see page 3) as grounds for achieving a solution to end the hostilities.

Following its ratification the 56 members of Congress who signed the Declaration would now be empowered to serve as duly elected bargaining agents or representatives of the United States ("We...the Representatives of the United States of America"). Since 25 of the 56 members were lawyers, given their legal training they would have been well aware of the need for signatures because it was common practice at the time for sovereign nations to add the signatures of those charged with negotiating contractual arrangements to the bottom of all relevant documents.³⁰ The earliest example of this use of signatures by one of the colonies is the Treaty

of Watertown, the purpose of which was to create a negotiated contractual arrangement between the State of Massachusetts Bay and several Indian bands for the purpose of establishing a military alliance. On July 19, 1776, which was very shortly after the Declaration was ratified, the Treaty was signed by the 17 Governors of the State of Massachusetts Bay.³¹

Although Britain did not agree with the colonies self-proclaimed designation as a series of “sovereign nations,” Britain apparently did agree with this proposed use of the Declaration. In March 1778 Parliament authorized the Carlisle Peace Commission to grant the colonies a number of concessions designed to end the war, many of which stemmed directly or indirectly from the grievances in the Declaration.³² According to Weldon Brown’s 1941 summary of the Peace Commission’s mandate,

England proposed a restoration of conditions existing prior to 1763... (and) there was to be a relaxation of the principle of parliamentary legislative supremacy. The colonists were to have a greater share in their government, such as the popular election of governors, and their own customs officials...The colonies could have a representation in Parliament, and Parliament would recognize the priority of Congress over American affairs...Standing armies in America in peace time could be discarded if the colonies would supply their own troops. Changes in provincial governments and charters were not to be made except by popular consent...(and there was to be) colonial freedom from parliamentary taxation...³³

There is little doubt, based on Brown’s summary, that the concessions offered by the Peace Commission represented a major shift in how much Britain was willing to sacrifice in order to reconcile the differences between the two countries in an effort to end the war and keep the American colonies within the British fold. In fact, Brown even concluded that “The recognition of Congress was a virtual renunciation of the legislative supremacy of Parliament over the internal affairs of the colonies. These instructions (to the Commission) showed that England was at last awaking to the fact that America was a nation, strong and powerful. Beyond the possibility of British subjection.”³⁴ In 2005 David Wilson further concluded that when the Commission arrived in America it was “empowered by the British king to give Congress nearly anything it wanted to end the rebellion.”³⁵

Despite the promise that the Commission’s mandate held for reconciliation, the Commission’s goal was doomed from the start. Owing largely to the victory that the continental army had achieved at Saratoga on October 7, 1777, coupled with an agreement that France would provide military assistance to aid the colonies in their war with Britain, even before the Commission arrived in America in June, 1778, their offerings were viewed with contempt by the delegates. In a rebuke to a draft of the bill received from General Howe concerning the goal of

the Commissioners, which was “to treat, consult, and agree upon Means of quieting the disorders in the Colonies,”³⁶ Congress resolved on April 22, 1778, that

...these United States cannot with propriety, hold any conference or treaty with any commissions on the part of Great Britain, unless they shall, as a preliminary thereto, either withdraw their fleets and armies, or else, in positive and express terms, acknowledge the independence of said states.³⁷

In essence, the delegates were so convinced that America would now win the war there was no need to accept or even consider the Commission’s offerings and so on June 17, 1778, which was when the final unanimous Congressional decision was reached,³⁸ the war was allowed to continue until five years later when the Paris Peace Treaty, which finally ended the war, was signed on September 3, 1783.

Epilogue

Before we leave this last topic, and in line with remarks by Anthony Gregory, it is worth asking whether the Congressional decision to reject the Commission’s offerings was indeed “unanimous” as stated above. In a 2018 review of the workings of the Carlisle Peace Commission, Gregory drew attention to this point when he noted that none of the historians who had thus far evaluated the outcome of the Commission’s efforts “scrutinized the Congress’s confident claims of unanimity.”³⁹ While not among the reasons given by Gregory for raising his concern, our concern with the word “unanimous,” when used in this especially critical context, strongly suggests that the Continental Congress as a whole must have been in agreement when the decision was reached to reject the Commission’s offerings. Unfortunately, this was not the case. Of the 80 elected delegates who were eligible to cast a vote during the 1778 Congressional meetings, only 31 were in attendance when the final vote was tallied on June 17.⁴⁰ The Congressional record for that date also shows that in the case of North Carolina none of its five elected representatives were present and in five of the other states the numbers in attendance were substantially lower than the numbers elected. In Connecticut whereas eight were elected only three attended, in Maryland eight were also elected but only two were present, while in Georgia one attended whereas five were elected, and in New Jersey as well as in Pennsylvania nine were elected in both states, yet of these 18 delegates only five were available to cast a vote.

The question these attendance figures raise, of course, is whether the views held by such relatively small numbers were truly representative of the views held by the much larger body charged with making decisions on behalf of the Second Continental Congress. This matter becomes particularly important when we consider the highly suspicious attitude held by these

31 delegates towards the Peace Commission itself as revealed in the following material that also appeared in the Congressional minutes and was unanimously approved on June 17.

Whereas, many letters, addressed to individuals of these United States, have been lately received from England, through the conveyance of the enemy (the Peace Commission), and some of them, which have been under the inspection of members of Congress, are found to contain ideas insidiously calculated to divide and delude the good people of these states: Resolved, That it be and it is hereby earnestly recommended to the legislative executive authorities of the several states, to exercise the utmost care and vigilance and take the most effectual measures to put a stop to so dangerous and criminal a correspondence.

In addition to this warning, on June 17 the 31 delegates also unanimously agreed on the appointment of a sub-committee that consisted of three members (Richard Henry Lee, William Henry Drayton, and Gouverneur Morris), all of whom were strongly in favor of independence and opposed to reconciliation.⁴¹ The sole purpose of this sub-committee was to review and censor all of the correspondence from the Commission.

In sum, our concern with the word “unanimous,” which stems from both the numerical evidence and the attendance records cited above along with these two further points, is how open minded to reconciliation were these 31 representatives in relation to the 80 delegates as a whole? While it is not possible to know the views of the main body of the 1778 delegation, when the delegation that met in 1775-1776 to decide on the issue of independence versus reconciliation, these two opposing positions were debated at considerable length on the floor of Congress. The following comment by York offers a sense of the uncertainty that had existed among a very large number over the two conflicting political ideologies.

Through the fall of 1775, for every John Adams wanting independence there were probably two other patriots wanting reconciliation. There continued to be, as Adams observed, “a Strange Oscillation between Love and Hatred, between War and Peace.” Thus the messages from leaders in New York and New Jersey, as well as from Pennsylvania and Maryland, urging Congress not to do anything precipitate, anything that could frustrate their desire to reunify the empire.⁴²

As a concrete illustration of this Congressional rancor, even though the colonies had voted to ratify the Declaration on July 2, 1776, as recently as one day before the vote was taken, not all of the colonies or the delegates chosen to represent the colonies necessarily favored the message of independence contained within the document. On July 1 a “Committee of the Whole took a vote and found that only nine of the thirteen colonies were ready to support independence, with Pennsylvania, Delaware, South Carolina, split and the delegates from New

York still without official authorization to vote for independence.”⁴³ In terms of the delegates themselves, although 88 were authorized to attend the Second Continental Congress in 1775-76, and 34 might have signed the printer’s proof on July 4, 22 others waited until August 2 or later to sign, and the remaining delegates did not sign at all.

While the reasons for delaying or failing to sign are not known for every delegate, Carter Braxton, one of the delegates who had delayed until August 2, mentioned several reasons that were given by many of his peers.⁴⁴ One reason centered on the fear that once independence from Britain was achieved, civil wars could erupt among several of the colonies over long simmering border disputes. For instance, the border dispute between Connecticut and Pennsylvania, which dated back to the charter of 1662 and erupted in gunfire in the 1770s, was not resolved until 1783 when “All local Pennsylvania officials in the formally contested area were ordered to protect Connecticut people in the Wyoming Valley, and Pennsylvania settlers were warned not to molest them.”⁴⁵ A second reason stemmed from an equally longstanding desire on the part of many to actually achieve reconciliation. As long as the colonies delayed their endorsement of separation, the possibility of reaching a negotiated settlement of the differences that existed between the colonies and Great Britain could continue to be explored. Once independence was declared, however, that possibility would no longer exist. Strangely enough, Thomas Jefferson was among those who initially had hoped for reconciliation. Seven months after the battles of Lexington and Concord he wrote “There is not in the British Empire a man who more cordially loves a union with Great Britain than I do.” Following his assessment of the grievances, however, he was “saddened that he could no longer live in what he deemed an unjust empire.”⁴⁶

We mention these points because if a more representative body of delegates had been present on June 17, 1778, and if their views had resembled the views of those who met in 1775-76, the Commission’s offerings might not have been rejected and the war could have ended five years earlier and avoided “a great waste of blood and treasure.”

Most students of the war believe that about thirty thousand who served in the Continental army perished while on duty, a percentage roughly equal to the total of regulars in the Civil War and nearly ten times greater than among those who soldiered for the United States in World War II. If these conservative estimates are correct, about one in sixteen American males died in the Revolutionary War, compared with one in ten in the Civil War, and one in seventy-five in World War II...(In terms of Britain and her allies) one-quarter of all British and German soldiers deployed in North America - roughly ten thousand redcoats and seventy-five hundred mercenaries died there...Taken as a whole, in excess of fifty thousand who served Great Britain died and more than twenty thousand Frenchmen died. Spanish died too, so that ultimately close to one

hundred thousand who served in British and European armies lost their lives in this widespread conflagration.⁴⁷

An early end to the war also would have greatly attenuated the financial burden that the colonies were subsequently forced to endure. According to material provided by the Avalon Project at the Yale Law School, although France was certainly an essential ally, it did not offer its military assistance merely as a gracious gesture. At the end of the war France sent an invoice to Congress for all of the military expenses that it had incurred between 1778 and 1782 which totaled approximately 18,000,000 pounds “with interest at five percent per annum...” Although this one debt was finally settled in 1795, it is said that the overall cost of the Revolutionary War was around 165,000,000 pounds which led to what Smith⁴⁸ referred to as a “downward dollar plunge and near bankruptcy” for the newly established American Republic.⁴⁹

While there is no way of knowing how long the American colonies would have remained within the British fold if the Peace Commission’s offerings had not been rejected, given the seriousness of the issue at hand, it would seem reasonable to ask why no attempt was made to delay the vote to provide more time for additional delegates to attend, or for those already in attendance to consult with their colleagues at home before the final decision was rendered. In 1775-76, Congress delayed the vote on the Declaration itself for approximately three weeks (see page 3 above) to provide ample time for the delegates to decide how best to proceed. We examined the minutes of all 46 sessions held by the Continental Congress between April 22 and June 17, 1778, and found no mention of any comparable motion before the final vote was rendered on June 17.

Finally, and despite these considerations it must also be acknowledged that even if all of the elected delegates had been present in 1778 and a more balanced approach to the matter had been taken, it still might have been difficult for the United States to have negotiated a peaceful settlement with Great Britain. The reason here being that on February 6, 1778, which was well before the Peace Commission arrived, the United States and France had already signed a military agreement known as the Treaty of Alliance. Among the many items listed in the treaty, Article 8 contained the following provision: “Neither of the two parties shall conclude either a truce or peace with Great Britain, without the formal consent of the other first obtained...”⁵⁰ Hence, for the United States to have accepted the Peace Commission’s offerings, it would have been necessary for France also to have agreed with their decision. Because France was an avowed enemy of Great Britain such an agreement would have been extremely difficult to obtain and, without such an agreement, this potential treaty with Great Britain could not have been ratified. Of equal importance, and as a further function of the Treaty of Alliance, a fleet of armed French ships had arrived off the coast of North America on July 8 and was heading to New York.⁵¹ Needless say, preparations for such a lengthy voyage also must

have taken place long before June 17, which by itself suggests that both France and the United States were already on their way to war with Britain long before the Peace Commission arrived. Thus, although we certainly agree with the importance of Gregory's concern over the meaningfulness of the term "unanimous," it would appear from the above evidence coupled with this brief overview of the Treaty of Alliance, that beyond the motivational reasons given by Gregory for Congress's dismissal of the Peace Commission's offerings, a careful examination of the entire rationale behind the decision on June 17 could prove to be far more complex than previously thought.

End Notes

¹Brodie, 1974. P. 120.

²Armitage, 2007, p. 66.

³Ferling, 2015, p. 160.

⁴Maier, 1997, p. 152.

⁵Fradin, 2002; Laird, 1987.

⁶Anonymous, 1857, p. 12.

⁷Hogeland, 2010, p. 151.

⁸Laird, 1987, p. 338.

⁹Goff, 1976.

¹⁰Ritz, 1986, p. 194-195.

¹¹Maier, 1997, p. 156.

¹²Black, 2008, p. 131.

¹³Maier, 1997, p. 156-158.

¹⁴Both the Sugar Act, passed by the British Parliament in 1764, and the Stamp Act, passed in 1765, were repealed or revised largely as the result of protests that had taken place throughout the colonies. The same was true for three of the four grievances that stemmed from the Townshend Act, passed in 1767, and in reaction to the grievances associated with the Quartering Act of 1765, New York had refused to provide food and lodging to the British troops and no immediate reprisals were forthcoming (Faulkner, 1957, p. 101-103, Hinderker, 2017, p.

98). As an aid to the reader, the following summaries contain the main provisions in these as well as in several other Acts that also gave rise to the grievances in the Declaration.

The Sugar Act

Although this act imposed tariffs not only on sugar, but also on coffee, wine and many other products imported into the colonies, it was particularly disruptive to the colonists' trade with the West Indies because of the duty or tax it enacted on sugar brought into the colonies from the French West Indies.

Despite the harm that this tax produced on the colonies, its main purpose was to promote the business interests of the sugar colonies in the British West Indies. To insure that all of the duties were collected and that purchases were confined to the British West Indies sugar colonies, "the act provided heavy penalties for all shippers, British and American alike, who tried to smuggle goods contrary to the terms of the law" (Beard, et. al., 1960, p. 101).

The Stamp Act

The terms of this act required the colonists to purchase and place stamps on all printed matter such as deeds, mortgages, colleges diplomas, and licenses to practice law. Stamps were also needed for playing cards, dice, almanacs, and calendars. The costs of the stamps, which ranged from a few pence to several pounds, affected not only the livelihood of merchants, lawyers, publishers and writers, but also the average consumer through the products they purchased. Although not a direct tax, as was the case with the Sugar Act, "If the British Parliament had deliberately searched for taxes that would annoy as many Americans as possible, it could scarcely have improved upon the Stamp Act" (Beard, et. al., 1960, p. 102). As an illustration of the level of this annoyance, in August 1765 crowds in Boston burned effigies and destroyed the homes of the stamp distributor and the Massachusetts Lieutenant Governor (Wheeler and Becker, 2002, p. 77).

The Townshend Act

The Townshend Act also known as the Revenue Act imposed duties on the import of glass, lead, paper, and painters' colors. To collect the duties, the Act "gave the higher courts in the colonies, made up of British judges, power to issue Writs of Assistance, authorizing customs officers to search houses, warehouses, shops, cellars, and other places for smuggled goods and to seize them summarily if found" (Beard, et. al., 1960, p. 104).

In 1770, owing to protests from the colonists, all of the components in this act were repealed with one exception: tea. That component was then supplemented in 1773 by an additional act, the purpose of which was to relieve the British East India Company of the necessity of having to

pay duties on tea exported to the colonies. Although at first glance this move by Parliament would appear to have been favorable to the colonists, it is important to understand its history and its rationale, as interpreted by the colonists.

The British East India Company held a monopoly on all trade between India and the rest of the empire. This monopoly had yielded fabulous returns, but decades of corruption and inefficiency together with heavy military expenses in recent years had weakened the company until it was almost bankrupt.

Among the assets of this venerable institution were some 17 million pounds of tea stored in English warehouses. Normally, East India Company tea was sold to English wholesalers. They in turn sold it to American wholesalers, who distributed it to local merchants for sale to the consumer. A substantial British tax was levied on the tea as well as the three penny Townshend duty. Now Lord North, the new prime minister, decided to remit the British tax and to allow the company to sell (the tea) directly in America through its own agents. The savings would permit a sharp reduction of the retail price and at the same time yield a nice profit to the company (Garraty & McCaughey, 1989, p. 65).

Because of this move by Parliament the cost of East India tea would become lower than the cost of tea provided by many of the other companies that also served the colonists. The net effect of the move, however, was to force the closure of these other companies and thereby enable the East India Company to achieve a monopoly in the sale of its tea to the colonists. This action was seen by the colonists as “a step toward setting up British monopolies for the control of all American foreign and domestic trade” (Beard, et. al., 1960, p. 105). The public outrage was such that

little groups of patriots that had had been formed in each town during the past three years to exchange revolutionary sentiments and unite colonial protests – swung into action, determined that the obnoxious beverage should never be landed. When the ships arrived these groups were ready. At New York, Philadelphia, and Charleston the captains were forced to turn back or store the cargo in warehouses (Billington, Loewenberg, and Brockunier, 1947, p. 53).

The only exception was Boston where the tea ship *Dartmouth* arrived on November 17, 1773, and was allowed to unload by order of the colony’s British appointed Governor. Approximately one month later the tea chests on board were thrown into the harbour by a band of colonists which gave rise to what has become known as the “Boston Tea Party.” Arguably the most significant outcome of the Tea Party for the colonists was the passage in Parliament of The Coercive Acts in 1774. Aside from transferring the capital of the Massachusetts Bay colony

along with the custom house from Boston to Salem, it “closed the port of Boston to all commercial navigation until the tea, valued at around eighteen thousand pounds, should be paid for” (Faulkner, 1957, p. 110).

The Quartering Act

This act required the colonies to cover the cost of room and board for all the British soldiers sent to the colonies following the end of the seven year war between Britain and France. Although many, but not all, of the colonies had agreed to this requirement during the war, now that the war was over, the colonies saw no reason to cover the costs of housing a standing army during peacetime.

Standing armies had been anathema to Englishmen since at least the early seventeenth century, and even in the mid-eighteenth century opposition to them remained an article of faith for many traditionally minded critics. They regarded peacetime armies as expensive and unnecessary; more important, they considered them to be an indispensable support of arbitrary government. Standing armies, they believed, threatened popular liberties wherever they appeared and were the tools of ambitious kings who sought to expand royal prerogatives at the expense of the people (Hinderaker, 2017, p. 81).

¹⁵Maier, 1997, p. 131.

¹⁶Hogeland, 2010, p. 175-176.

¹⁷Ritzenthaler and Nicholson (2016). Over the years this parchment copy of the Declaration had faded substantially and required considerable restoration work before the version that now appears in the National Archives could be mounted. For information on how restoration was accomplished as well as how this original version of the Declaration was transported during the war see the article by Ritzenthaler and Nicholson.

¹⁸Maier, 1997, p. 153.

¹⁹Maier, 1997, p. 24

²⁰Perry, 1990, p. 81.

²¹Hogeland 2010, p. 35-36.

²²Fischer, 2004, p.73- 76.

²³Black, 2008, p. 119.

²⁴Bradley, 1986, pgs. 96, 133, and 215.

²⁵Fischer, 2004, p. 161-162.

²⁶Laird, 1987, p. 129.

²⁷Maier, 1997, p. 151.

²⁸Maier, 1997, p. 152.

²⁹As evidence that the 13 colonies considered themselves “sovereign nations,” the Continental Congress established a committee to develop protocols consistent with those used by other sovereign nations “upon the reception of foreign Ministers.” The following protocol was under consideration in July, 1778, to be used in the case of a visiting foreign ambassador.

When he shall arrive within any of the United States he shall receive from any battery, fort or castle the same salute or honors paid to the Flag of the Prince or State which he shall represent...When the ambassador is arrived at the door of the Congress Chamber the member who presents him shall announce him to the President (of the Congress) and they shall bow to each other. The President shall then announce him to the whole house, who shall bow to him and he to them. He and the President shall then again bow to each other, and be seated; after which the members shall sit down. The President shall be seated on a chair raised upon a stage two feet above the ground, and the ambassador on a chair directly opposite to him, and raised eighteen inches. The ambassador shall then sitting in his chair speak to the President and receive an answer, after which the ambassador, the President and the whole house, shall again rise, and the ambassador shall retire in the manner in which he was introduced, not bowing or being bowed unto. The same persons shall wait on him upon this return who went to bring him to the house. His title shall be Excellency. (JCC, vol. 11, p. 698-699)

³⁰See Jenkinson, 1785, for examples of similar documents with signatures issued in the 18th century by Great Britain to achieve contractual agreements with other countries.

³¹Main Historical Society, 1869-1916, Vol 24, p. 189-195. As an interesting aside, it might not have been possible for the State, on its own, to negotiate such a treaty in 1778. According to Article 6 in the Articles of Confederation, which was passed in March, 1778, “No state, without the consent of the United States, in Congress assembled...shall enter into any conference, agreement, alliance, or treaty with any king, prince, or state...”

³²Britain had been well aware of these grievances long before March 1788. Even though the first version of the Declaration (the Dunlap Broadside) was not intended for wide-spread distribution, four copies had been sent to England by British representatives in the colonies and

all of the grievances had appeared in the London newspapers and elsewhere as early as mid-August 1776 (see Armitage, 2002, p. 50-51).

³³Brown, 1941, p.250-251. To understand the implications of the 1763 proposal mentioned by Brown, recall that at the end of the seven year war with France, which Britain had won, France was required to turn over to Britain a substantial amount of territory that bordered on the edge of the British colonies and that extended as far west as Spanish Louisiana and as far north as the Hudson Bay Company preserve. Of major concern to the colonists Britain wished to reserve all of this newly acquired land solely for the settlement of the Indian bands that had previously resided there. Thus, all colonists who had already settled on this land as part of a growing western movement, were commanded by Britain to “forthwith remove themselves from such settlements” (Linklater, 2002, p. 47) and that “no settlers were to cross the Appalachian divide and the purchase of Indian land was forbidden” (Garraty and McCaughey, 1989, p. 60). It was also the case that, because of this western movement, two companies had been created to accommodate the needs of many eastern land speculators. The Ohio Company of Associates planned to purchase 500,000 acres beyond the Ohio River, and the Loyal Land Company organized by Peter Jefferson, Thomas’s father, planned to buy 800,000 acres in an area that later became Kentucky (Linklater, 2002, p. 50). While both companies had hoped to sell their land holdings to these western oriented pioneers, after 1763 such sales were no longer possible. By proposing through the Carlisle Peace Commission, however, Britain was now willing to rescind these restrictions and allow all aspects of the western movement that had existed prior to 1763 to continue as before without interruption.

³⁴Brown, 1941, p. 252.

³⁵Wilson, 2005, p. 61.

³⁶LDC, 1778, vo. 9, p. 446.

³⁷JCC, 1778, vol 10, p. 379.

³⁸JCC, 1778, vol. 11, p. 614-616.

³⁹Gregory, 2018, p. 644.

⁴⁰An article by Dodge & Koed (2005) contains the names of all the delegates who were elected to attend the meetings of the Second Continental Congress from 1775 through 1781, when they were elected, and the years during which they served. For the names of those who served on June 17, 1778, along with the minutes of that meeting see the Journals of the Continental Congress, 1778, Vo. 11, p. 614- 616.

⁴¹As an illustration of how committed William Henry Dayton was to independence over reconciliation, the following excerpt is from a letter he sent to the Carlisle Commissioners shortly before June 17, 1778.

America is independent de facto et de jure. She will maintain her station at the expense of her last drop of blood...Our resolution is fixed, nor do we fear “the horrors and devastations of war,” with which, in the conclusion of your letter, you threaten us. France has acknowledged our independence; the great powers of Europe smile upon us; we rely upon our own virtue and the favour of Heaven. If we continue firm, we shall continue independent. Farewell. (LDC, 1778, vol. 10, p. 121)

⁴²York, 2003, p. 88.

⁴³Vile, 2019, p. xxxiv.

⁴⁴Hawke, 1976, p. 164-166.

⁴⁵Russ, 1966, p. 51

⁴⁶York, 2003, p. 90.

⁴⁷Ferling, 2015, p. 325-326.

⁴⁸Smith, 2015.

⁴⁹For a highly readable account of the financial as well as the political turmoil that resulted in America following the end of the revolution see Barbash, 1987, p. 31-40.

⁵⁰JCC, 1778, Vol 11, p. 448.

⁵¹JCC, 1778, Vol 11, p. 684.

References

Anonymous (1857). American's Own Book. Leavitt & Allen: New York, NY.

Armitage, David (2002). The Declaration of Independence and International Law. The William and Mary Quarterly, Vol. 22, No. 1.

Armitage, David (2007). The Declaration of Independence: A Global History. Harvard University Press: Cambridge, Ma.

Barbash, Fred (1987). The Founding: A dramatic account of the writing of the constitution. Simon & Schuster: New York, NY.

- Beard, Charles A., Beard, Mary R., & Beard, William. (1960). The Beards' New Basic History of the United States. Doubleday & Company: Garden City, NY.
- Billington, Ray A., Loewenberg, Bert J. & Brockunier, Samuel H. (1947). The United States American Democracy in World Perspective. Rinehart & Company: New York, NY.
- Black, Jeremy (2008). Crisis of Empire: Britain and America in the Eighteenth Century. Continuum US: New York, NY.
- Bradley, James E. (1986). Popular Politics and the American Revolution in England. Mercer University Press: Macon, Ga.
- Brodie, Fawn M. (1974). Thomas Jefferson: An Intimate History. W.W. Norton & Co.: New York, NY.
- Brown, Weldon A. (1941). Empire or Independence. Port Washington, NY: Kennikat Press, Inc.
- De Bolla, Peter (2007). The Fourth of July and the Founding of America. Profile Books: London, England
- Dodge, Andrew & Koed, Betty K. (Eds). (2005). Delegates to the Continental Congress. U.S. Government Printing Office: Washington, DC.
- Faulkner, Harold U. (1957). American Political & Social History. Sixth Edition, Appleton-Century-Crofts: New York, NY.
- Ferling, John (2015). Whirlwind: The American Revolution and the War that Won It. Bloomsbury Press, New York, NY.
- Fischer, David H. (2004). Washington's Crossing. Oxford University Press: New York, NY.
- Fradin, Dennis B. (2002). The Signers. Walker Publishing Company: New York, NY.
- Garraty, John A. & McCaughey, Robert A. (1989). A Short History of the American Nation, Fifth Edition. Harper & Row: New York, NY.
- Goff, Frederick R. (1976). The John Dunlap Broadside. The First Printing of the Declaration of Independence. Library of Congress: Washington, DC.
- Gregory, Anthony (2018). "Formed for Empire": the Continental Congress Responds to the Carlisle Peace Commission. Journal of the Early Republic, Vol. 38, No. 4, pp.643-672.
- Hawke, David (1976). Honorable Treason. Viking Press: New York, NY.
- Hinderaker, Eric (2017). Boston's Massacre. Belknap Press: Cambridge, Mass.

- Hogeland, William (2010). Declaration. Simon and Schuster: New York, NY.
- Jenkinson, Charles (1785). A Collection of all the Treaties of Peace, Alliance, and Commerce between Great-Britain the Other Powers. London, England.
- Journals of the Continental Congress, 1774-1789 (referred to above as JCC)
- Laird, Archibald (1987). Profitable Company: Milestones and Monuments of the Signers of the Declaration of Independence. Christopher Publishing House: Norwell, Mass.
- Letters of Delegates to Congress, 1778 (referred to above as LDC)
- Linklater, Andro (2002). Measuring America: How the United States was Shaped by the Greatest Land Sale in History. Penguin Books: New York, NY.
- Maier, Pauline (1997). American Scripture: Making the Declaration of Independence. Alfred A. Knopf: New York, NY.
- Maine Historical Society (1869-1916). Documentary History of the State of Main. Portland.
- Peckham, Howard H. (1974). The Toll of Independence: Engagements & Battle Casualties of the American Revolution. Chicago, ILL: University of Chicago Press.
- Perry, Keith (1990). British Politics and the American Revolution. MacMillan Education Inc: London, England
- Ritz, Wilfred J. (1986). The Authentication of the Engrossed Declaration of independence on July 4, 1776. Law and History Review, Vol. 4, No. 1, pp. 179-204.
- Ritzenthaler, Mary L. & Nicholson, Catherine (2016). *The Declaration of Independence and the Hand of Time*. Prolouge Magazine. Vol. 48. No. 3.
- Russ, William A. Jr. (1966). Pennsylvania's Boundaries. Pennsylvania Historical Association: Gettysburg, PA.:
- Schwoerer, Lois G. The Declaration of Rights, 1689. Baltimore, MD: The Johns Hopkins University Press.
- Smith, John L. (2015). How was the Revolutionary War Paid For? Journal of the American Revolution. February 23.
- Vile, John R. (2019). The Declaration of Independence: America's First Founding Document in U.S. History and Culture. Santa Barbara, CA: ABC-CLIO.

Wheeler, William B. & Becker, Susan D. (2002). Discovering the American Past. Fifth Edition. Houghton Mifflin: Boston, Mass.

Wilson, David K. (2005). The Southern Strategy. Charleston, SC: University of South Carolina Press.

York, Neil L. (2003). Turning the World Upside Down. Westport, Ct.: Praeger