



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
Joel W. Solomon United States Courthouse
900 Georgia Avenue
Chattanooga, Tennessee 37402

**THE DECLARATION OF INDEPENDENCE INSPIRES
THE FEDERAL JUDICIARY AND THE RULE OF LAW**

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In a few months we will observe the 250th anniversary of the Declaration of Independence. That document announced the formation of a new nation and laid the foundation for the rule of law in that new nation. With its soaring, aspirational proclamations that all persons “are created equal” and “are endowed by their Creator with certain unalienable Rights,” the Declaration laid the groundwork for federal courts to interpret the Constitution and give meaning to concepts such as liberty, equality, and justice.

THE DECLARATION PROVIDES AN UNDERPINNING FOR FEDERAL COURTS.

Although not a legal document, the Declaration’s statement of first principles sets the moral compass and underpinnings for the federal judiciary.

The American ideal of full equality under the law was proclaimed by the Declaration’s assertion that all persons “are created equal.” Legal equality holds all persons, regardless of station, wealth, or status, as equal before the law and entitled to equal treatment.

The Declaration’s assertion that all persons are “endowed by their Creator with certain unalienable Rights” underpins the principle that certain rights are so fundamental that no government can deny them. We see this established in the Constitution’s prohibition on depriving anyone of life, liberty, or property without due process of law.

THE RULE OF LAW ENVISIONED BY THE DECLARATION.

Although the rule of law is not explicitly mentioned in the Declaration, we do see philosophical underpinnings of the concept in the Declaration’s condemnation of King George’s arbitrary power. The Declaration included twenty-seven grievances about the conduct of the king and the monarchy, ranging from abolishing colonial charters to depriving Americans of trial by jury. The colonists saw these decisions as exercises of arbitrary power. The Declaration envisions a government bound by law, not subject to the whims of its leaders. And for its vision of the rule of law to operate effectively, there must be courts with the independence and authority to enforce the law, even if it means going against prevailing public opinion or sentiments.

Judges must ensure that laws are enforced fairly, government power is constrained, and individual rights are protected.

At the same time, courts must respect the will of the people as expressed by their elected representatives. This draws upon the Declaration's statement that governments derive "their just powers from the consent of the governed." The authority and legitimacy of the government come from the people. The people are entitled to have their will followed when it is expressed through properly enacted laws. For this reason, courts should not strike down a properly enacted law unless it violates the Constitution or is infirm in some other manner. In those cases, the courts act as a check on majority excesses. But in all other instances, courts act as a partner to the legislative and executive branches, as envisioned by our democratic republican form of government.

CONCLUSION.

Our country is indeed fortunate to celebrate the 250th anniversary of the Declaration of Independence. Our courts continue to draw inspiration and guidance from the Declaration. It continues to speak—not from the bench as binding authority, but from the nation's conscience as a guiding star. For the federal judiciary, it is a timeless reminder that the pursuit of justice is inseparable from the promise of equality, and that the rule of law is indispensable to breathing life into the proclamation that all persons "are created equal."

Curtis L. Collier
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