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1320, 1776 and All That: A Tale of Two ‘Declarations’

ABSTRACT

Founding documents are parsed, revered and preserved but they can also be misread, mythologised and overlooked. This article examines the entangled fates of the Scots Declaration of Arbroath (1320) and the US Declaration of Independence (1776) at a moment between the seven-hundredth anniversary of the one in 2020 and the two-hundred-and-fiftieth anniversary of the other in 2026. It shows that the two ‘declarations’ were both diplomatic texts, rhetorically shaped, and part of sequences of similar documents that have otherwise been largely overlooked. Some recent commentators have suggested that Arbroath influenced the US Declaration; on the contrary, the article argues that the Declaration influenced Arbroath, at least in its reception and its construction as an alleged charter or ‘declaration’ of Scottish ‘independence’. I conclude by presenting fresh evidence for the presence of Arbroath in Philadelphia in 1776, to reflect on the sometimes surprising ways in which documents become, or do not become, foundational.

Keywords: Scotland, USA, 14th century, 18th century, Declaration of Arbroath, Declaration of Independence

The more famous a text is, the more likely it is to be misunderstood. Foundational documents accrete myths like barnacles: one task for historians is to clear off the encrustations by returning to the original sources. Yet putting texts back into their contexts, though necessary, is hardly sufficient to recover fully their historical significance. Even later misapprehensions form part of their meaning: the historian’s remit includes the history of their reception, of the uses they faced and the abuses they suffered. This task gets more complex, and still more demanding, when documents become entwined with each other, either as part of their reception history or in the course of their mythologisation. All these conditions apply to the twinned topics of

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this article: that is, to the ‘Declaration of Arbroath’ (1320), to the US Declaration of Independence (1776), to their distinct afterlives and to their alleged entanglement.

This special issue of the *Scottish Historical Review* marks the seven-hundredth anniversary of Arbroath (as I shall call it from now on); four years hence, in 2026, some of us may also be called on to commemorate the 250th anniversary of the Declaration (as I will refer to it here). It is a fair bet to predict that more will be said about the Declaration in this forum than about Arbroath in 2026; it is even safer to say that the septcentenary of the one document and the sescentennial of the other will only magnify their fame. The charge for historians at each moment will be to expand understanding and expunge misunderstanding. Accordingly, and with nods to classic treatments of Arbroath by Terry Brotherstone, David Ditchburn and Ted Cowan, I return here to 1320, 1776 and all that, to recount once more the tale of two ‘declarations’, both separately and in tandem.¹

The histories of their motivation, their production and their reception have much in common that can, in turn, illuminate the stories of their misapprehension. Likewise, the lazy assumption that one depended on the other—that the letter of the Scottish nobility and barons was a source, and perhaps even *the* source, for the British American colonists’ Declaration: that a Scottish ‘declaration of independence’ birthed an American example—cannot be too often debunked.² That said, in conclusion I will reopen the case for the presence of Arbroath in Philadelphia by showing how its most famous, and, therefore, most mythologised, passage was sitting on the desks of those who drafted the US Declaration in 1776.

One scholar has termed Arbroath ‘perhaps the best-studied document in Scottish history’, while another, Grant G. Simpson, notoriously wondered whether there was anything new to say about ‘a document apparently so well known in Scotland’—before saying many novel and enlightening things about it.³ The same can be said about the Declaration and its place in the history of the United States. Yet

¹ Terry Brotherstone and David Ditchburn, ‘1320 and a’ that: The Declaration of Arbroath and the remaking of Scottish history’, in *idem* (eds), *Freedom and Authority: Scotland c. 1050–c. 1650: Historical and historiographical essays presented to Grant G. Simpson* (East Linton, 2000), 10–31; E. J. Cowan, ‘For Freedom Alone’: The Declaration of Arbroath, 1320 (East Linton, 2003), 113–36 (‘A tale of two declarations’).

² See, e.g., David Weinczok, ‘The Declaration of Arbroath: a medieval social contract that shaped the American Revolution and the modern world’, *History is Now* (10 Apr. 2014); <http://www.historyisnowmagazine.com/blog/2014/4/10/the-declaration-of-arbroath-a-medieval-social-contract-that-shaped-the-american-revolution-and-the-modern-world/>; (accessed 20 Jun. 2022); Madeleine Kearns, ‘On July fourth, thank the Scots’, *National Review* (4 Jul. 2018); <https://www.nationalreview.com/2018/07/fourth-of-july-thank-the-scots-declaration-of-arbroath/> (accessed 20 Jun. 2022).

³ L. S. Harrison, ‘“That famous manifesto”: the Declaration of Arbroath, declaration of independence, and the power of language’, *Scottish Affairs* 26:4 (2017) 435–59, at 436; G. G. Simpson, ‘The Declaration of Arbroath revitalised’, *SHR* 56:1 (1977) 11–33, at 11.

there is nothing new about saying there is nothing new to say: such complaints go back at least four thousand years to ancient Egypt.⁴ We always reconstruct the past in light of the present, or rather of multiple ‘presents’: divergent perspectives, as well as archival finds, repeatedly disrupt what seem to be settled truths. Moreover, we have learned that silences can be as eloquent as presences. Those who mythologise documents often assume continuity or impose longevity onto their favoured texts: more scrupulous historical work can show how those texts disappear underground, get forgotten or slumber peacefully before being reanimated at particular moments and for specific purposes. Again, all these conditions pertain to both Arbroath and the Declaration; they became more pointed when the unexpected prominence of the American document raised the fortunes of the Scottish one. It is only in the last century or so that either Arbroath or the Declaration have been so well studied, and then only inconsistently and intermittently within the past fifty years. Even the sense of being well studied is recent in each case. That very contingency ensures there will always be much new to say about both.

Arbroath was effectively forgotten for long stretches of its seven hundred-year history.⁵ The copy of the letter dispatched from Scotland to Pope John XXII at Avignon is now lost: at least, it has so far resisted efforts to find it in the papal archives.⁶ It went mostly underground between the fourteenth century and the second quarter of the fifteenth century, then for another hundred and fifty years before Sir George Mackenzie of Rosehaugh started its renaissance in the 1680s;⁷ and thereafter for swathes of the eighteenth and nineteenth centuries, within Scotland and certainly beyond it, until the file copy returned in 1829 to Scotland’s public records after two centuries in the hands of the earls of Haddington at Tynninghame in East Lothian.⁸

⁴ ‘Would that I had (some) phrases which were unknown, sayings that were unusual, (or) new words that had not yet been used, free of repetition, devoid of the phrases of that familiar language which the ancestors spoke’: Kha-Kheper-Rē-Senebu (c. 2000 BC), in G. E. Kadish, ‘British Museum writing board 5645: the complaints of Kha-Kheper-Rē-Senebu’, *Journal of Egyptian Archaeology* 59 (1973) 77–90, at 77.

⁵ Simpson, ‘Declaration of Arbroath revitalised’, 31; R. A. Mason, ‘Beyond the Declaration of Arbroath: kingship, counsel and consent in late medieval and early modern Scotland’, in Steve Boardman and Julian Goodare (eds), *Kings, Lords and Men in Scotland and Britain, 1300–1625: Essays in honour of Jenny Wormald* (Oxford, 2014), 265–82, at 267–8.

⁶ For John XXII’s response, see Gordon Donaldson, ‘The pope’s reply to the Scottish barons in 1320’, *SHR* 29:1 (1950) 119–20.

⁷ Sir George Mackenzie, *Observations upon the Laws and Customs of Nations, as to Precedency* (Edinburgh, 1680), 20–1; Clare Jackson, *Restoration Scotland, 1660–1690: Royalist politics, religion and ideas* (Woodbridge, 2003), 64–5; R. A. Mason, ‘The Declaration of Arbroath in print’, *Innes Review* 72:2 (2021) 158–76. As Mason notes, Mackenzie almost certainly used a transcription of Arbroath by Gilbert Burnet that appeared independently in Burnet, *The History of the Reformation of the Church of England, The Second Part* (London, 1681), appendix (separately paginated), 110.

⁸ R. K. Hannay, *The Letter of the Barons of Scotland to Pope John XXII in 1320* (Edinburgh, 1936), 3; it is now Edinburgh, National Records of Scotland, SP 13/7.

Arbroath had had a specific purpose at the time of its writing in 1320: once that purpose had been served, ‘it remained a matter of record, only of interest to the few who were especially obsessed with documents’.⁹ It would take the peculiar and distorting pressures of later moments to fashion it into something its authors did not conceive and would not have recognised: a charter of national identity; an early statement of popular sovereignty; a Scottish Magna Carta; a Scottish Declaration of Independence; least of all, a source text for the American Declaration. More revealingly, Arbroath sat out broader political conversations in Scotland because it was inappropriate or inassimilable to the needs of the time—for example, because it did not fit the assimilationist and then unionist-nationalist narratives that dominated the Scottish political thought of ‘banal unionism’ between the mid-eighteenth and the mid-twentieth centuries.¹⁰ Its continuous history within Scottish national, and nationalist, culture goes back only to the 1940s. And specifically scholarly interest in Arbroath has, if anything, been even more episodic: for instance, the *Scottish Historical Review* notes that only one article on Arbroath has appeared in this journal’s pages in the quarter-century preceding its septcentenary in 2020.¹¹

The reception history of the US Declaration was similarly patchy, even if on a shorter time scale. It, too, had a particular aim in 1776: to attract foreign support for the anti-imperial revolt by British American colonists by asserting their independence from Great Britain and justifying their rebellion with normative arguments and a roll-call of unredressed grievances. Within a little over eighteen months, the infant United States—in the plural, as they then were—had secured a treaty of amity and commerce with France in February 1778; five years later, Britain acknowledged American independence in the peace of Paris (1783). Its work done, for almost half a century the Declaration of Independence, like Arbroath four hundred and fifty years earlier, remained mostly a slumbering matter of record. Only one state constitution, New York’s (1777), quoted it; the US federal constitution (1788) did not; it was absent from the debates over the constitution’s ratification; and Alexis de Tocqueville failed to mention it in *Democracy in America* (1835–40).¹² Much as Arbroath remained indigestible within Scotland’s prevailing political consensus for two centuries, so the US Declaration stood athwart political debate in the early American republic. In the wake of the French revolution, it smacked of Jacobinism

⁹ Bruce Webster, ‘The Declaration of Arbroath and Scottish national identity’, *Medieval History* 3 (1993) 156–65, at 162.

¹⁰ Colin Kidd, *Union and Unionisms: Political thought in Scotland, 1500–2000* (Cambridge, 2008); Harrison, “That famous manifesto”, 439.

¹¹ Benjamin Hazard, ‘A manuscript copy of the Declaration of Arbroath from the Roman archives of Fr. Luke Wadding (1588–1657)’, *SHR* 90:2 (2011) 296–315; [David Ditchburn], ‘Editorial: The Declaration of Arbroath and the *Scottish Historical Review*’, *SHR* 99:2 (2020) pp. vii–viii.

¹² David Armitage, *The Declaration of Independence: A global history* (Cambridge, MA, 2007), 92.

and anti-British sentiment to white Americans, who did not embrace it as ‘American scripture’ until after the war of 1812.¹³ Even then it did not attain its foundational status—again, at least among white Americans—until the United States started to become a singular noun, after the civil war. Until that moment, the Declaration’s most consistent remembrancers had been African Americans, from the Connecticut preacher Lemuel Haynes in 1776 to the towering freedman Frederick Douglass in the 1850s, all of whom used the normative promises of its second paragraph—its ‘self-evident truths’ about human equality—to judge their white countrymen. It would take Abraham Lincoln to transmute the Declaration from ‘old wadding left to rot on the battle-field after the victory is won’ into the bearer of universal truths and foundational document of national identity it remains for most Americans to this day.¹⁴ Arbroath has yet to find its Lincoln, though various Scots since Mackenzie of Rosehaugh have tried to take on a recuperative role for Arbroath.

The belated status of Arbroath and the Declaration within the respective national mythologies of Scotland and the United States may have obscured features of their historical origins that make them, if not quite kindred, then certainly akin to one another. The most obvious, before coming to their conceptual content, is that both began life as *diplomatic* documents. Arbroath was an episode in a process of ‘diplomatic beggar-my-neighbour’ played between England (under Edward II [1307–27]) and Scotland (under Robert Bruce [1306–29]) at the papal curia.¹⁵ For all its sabre-rattling rhetoric about driving out kings, Scots freedom and ‘the slaughter of bodies, the perdition of souls, and all the other misfortunes that will follow’, Arbroath was an essentially *defensive* document within an ongoing peace process overseen by the curia.¹⁶ After the pope had repeatedly excommunicated Bruce at the behest of the English crown, he demanded that the Scots king and four of his bishops appear in Avignon to account or atone for their continuing aggression against the English invaders. Arbroath was the documentary and strategic response to this heavy-handed but no doubt sincere papal move to restore the peace between the two kingdoms. That is, it was diplomatic in both the original sense of the term, describing a species of physical text (a *diploma*), and in its

¹³ Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York, 1997); Armitage, *Declaration of Independence*, 90–3.

¹⁴ Ruth Bogin, “‘Liberty further extended’: a 1776 antislavery manuscript by Lemuel Haynes”, *William and Mary Quarterly* 3rd ser., 40:1 (1983) 85–105; Armitage, *Declaration of Independence*, 96–100; Mia Bay, “‘See Your Declaration Americans!!!’: abolitionism, Americanism, and the revolutionary tradition in free Black politics”, in Michael Kazin and J. A. McCartin (eds), *Americanism: New perspectives on the history of an ideal* (Chapel Hill, 2006), 25–52; Eric Slauter, ‘The Declaration of Independence and the new nation’, in Frank Shuffelton (ed.), *The Cambridge Companion to Thomas Jefferson* (Cambridge, 2009), 12–34.

¹⁵ A. A. M. Duncan, *The Nation of Scots and the Declaration of Arbroath (1320)* (London, 1970), 26.

¹⁶ All quotations are from the English translation of Arbroath in Duncan, *Nation of Scots*, 34–7.

extended meaning, relating to a particular kind of negotiation among various sovereign agents.¹⁷

Arbroath was a move in an iterative game that had been in play for at least two decades before 1320. The most public, and most destructive, set of manoeuvres was on the battlefield, alongside which ran the repeated exchanges of diplomatic documents. The historical recovery of that game, its rules and its counters, has clarified that Arbroath was hardly the singular cry of the Scottish people, a unique expression of their soul in 1320 uttered once and yet for all time. It was just one example, among many, of similar baronial letters dispatched to the papacy from the frontier nations of Poland, Ireland, Lithuania and Scotland in the previous century, and shared many of their features: notably, a conception of a unitary nation, or community of the realm; a genealogical history to undergird that idea of nationhood; an attachment to historic rights which appeared to be under threat and needed defence; an appeal to the pope for his aid in that defence; and a specific rhetorical repertoire—the *ars dictaminis*—that rendered such appeals legible and potentially persuasive within the literary and legal culture of the Curia.¹⁸ Arbroath was not unique even within the precise and structured context of papal mediation between England and Scotland, but was rather one tine of a three-pronged epistolary attack, with the two other letters complaining about papal disrespect for Bruce's title and interference in choosing a bishop of Glasgow.¹⁹ It also clearly drew upon another diplomatic letter addressed to Pope John XXII, the Irish Remonstrance of 1317, in both its substance and its structure, as Seán Duffy demonstrates elsewhere in this issue.²⁰ These details are familiar to Scottish historians of the period but they bear repeating, both to recall the tactical purposes behind Arbroath and to establish what its authors—whether those in whose name it was issued, or whoever drafted the letter in the jargon of the papal chancery—were trying to achieve within the rules of the game they were playing so consciously and deftly.

Almost four and a half centuries later the US Declaration of Independence was part of a similar series of diplomatic and documentary manoeuvres. In the eighteen months or so before July

¹⁷ Simpson, 'Declaration of Arbroath revitalised', 18.

¹⁸ Sarah Layfield, 'The pope, the Scots, and their "self-styled" king: John XXII's Anglo-Scottish policy, 1316–1334', in Andy King and M. A. Penman (eds), *England and Scotland in the Fourteenth Century: New perspectives* (Woodbridge, 2007), 157–71; Sarah Layfield, 'The Papacy and the Nations of Christendom: A Study with Particular Focus on the Pontificate of John XXII (1316–1334)', unpublished Ph.D. thesis (Durham University, 2008); Sebastian Zanke, *Johannes XXII., Avignon und Europa—das politische Papsttum im Spiegel der kurialen Register (1316–1334)* (Leiden, 2013), 272–83.

¹⁹ A. A. M. Duncan, 'The making of the Declaration of Arbroath', in D. A. Bullough and R. L. Storey (eds), *The Study of Medieval Records: Essays in honour of Kathleen Major* (Oxford, 1971), 174–88, at 175–6.

²⁰ Maeve Callan, 'Making monsters out of one another in the early fourteenth-century British Isles', *Eolas: Journal of the American Society of Irish Medieval Studies* 12 (2019) 43–63, at 52–7; Seán Duffy, 'The Irish Remonstrance: prototype for the Declaration of Arbroath', above 395–428.

1776 the Continental Congress had issued fifteen other state papers addressed to a variety of audiences around the British empire: to the British people, the inhabitants of Quebec, the people of Ireland, the assembly of Jamaica, the six nations of the Iroquois confederation, the province of Canada, the prime minister, Lord North, and King George III (1760–1820) himself.²¹ These papers were much more disparate than the barons' letters of the thirteenth and fourteenth centuries, in their arguments, their addressees and especially in their genres. Because they were all printed, they were also public, and quite deliberately so, in a manner that obviously could not have been true of Arbroath, an artefact from centuries before the age of mechanical reproduction directed towards a highly specific readership in the papal curia. But they were public in different ways also because they were addressed to different *publics*, as congress's strategy changed in light of the shifting military situation in North America, the state of opinion around the British Atlantic empire and the responses of both parliament and king to their imprecations. Congress directed most of its arguments before July 1776 to specific British communities, in Ireland, Quebec or Jamaica, for instance, with the aim of garnering support by implying conspiracies or policies that would affect others next. Only in the Declaration itself did they finally speak to the 'Opinions of Mankind' as a whole. This shift in appeal, from other British settler communities to global public opinion, enacted what the Declaration itself hoped to achieve: a place among the 'Powers of the Earth', no longer in allegiance to the British crown or under the authority of the British parliament.²² The Scots in whose name Arbroath was to Avignon expected further exchanges and more conventional correspondence, as the diplomatic game continued. By contrast, congress published the Declaration to the whole world to show that they were exiting one game—that is, of petitioning upwards within a monarchical empire—to join an entirely different one, as free and independent states within a horizontally arranged international order comprising the powers of the earth.

Petitioning was one pre-modern game that Scottish nobles and British American colonists, all operating within hierarchical, monarchical regimes, would have well understood.²³ Arbroath itself was,

²¹ *A Decent Respect to the Opinions of Mankind: Congressional state papers, 1774–1776*, ed. J. H. Hutson (Washington, DC, 1976).

²² 'A Declaration By the Representatives of the United States of America, in General Congress Assembled' (4 July 1776), in Armitage, *Declaration of Independence*, 165.

²³ For recent work on cultures of petitioning see, e.g., Karin Bowie and Thomas Munck (eds), *Early Modern Political Petitioning and Public Engagement in Scotland, Britain and Scandinavia, c. 1550–1795, Parliaments, Estates and Representation* 38:3, special issue, (2018) 271–391; Rohit De and Robert Travers (eds), *Petitioning and Political Culture in South Asia, Modern Asian Studies* 51:3, special issue, (2019) 1–311; Karin Bowie, *Public Opinion in Early Modern Scotland* (Cambridge, 2020), 50–88; Richard Huzzey and Henry Miller, 'Petitions, parliament and political culture: petitioning the House of Commons, 1780–1918', *Past & Present* 248 (Aug. 2020) 123–64;

at least in part, generically a petition. It was a submission of grievances addressed to a superior—in this instance, a spiritual superior—in hopes of eliciting an action that would be a form of redress. The Scots beseeched John XXII, ‘their reverend father and lord’, with their ‘most earnest prayers and suppliant hearts’, to ‘look with paternal eyes on the troubles and anxieties brought by the English upon us and upon the church of God . . . to leave in peace us Scots’.²⁴ Similarly, in 1775 the Continental Congress had directed its Olive Branch Petition to George III, ‘beseech[ing his] Majesty, that [his] royal authority and influence may be graciously interposed to procure us relief [*sic*] from our afflicting fears and jealousies . . . to settle peace through every part of your dominions’.²⁵ Scots and colonists alike knew that every humble submission could possibly lead to the redress of their grievances but in each case they did so amid active combat, with a sword in one hand and an olive branch in the other, as it were. In the case of the colonists this was almost literally the case, as their Olive Branch Petition to the king was accompanied by a ‘Declaration by the Representatives of the United Colonies . . . Setting Forth the Causes and Necessity of Their Taking Up Arms’, directed not to the king but instead to ‘rest of the world’ and, like the more famous Declaration of a year later, published to shape the opinions of ‘mankind’.²⁶ ‘The deft grammatical manoeuvrings of the document’, it has been said of Arbroath, ‘mark it as a piece of careful propaganda directed toward a specific diplomatic situation’: much the same was true of the Declaration.²⁷ In 1320 and in 1775–6 each group of petitioners was keeping its diplomatic options open, as they pursued parallel paths rhetorically and militarily.

Arbroath and the Declaration each come into sharper historical focus when considered as diplomatic documents produced within cultures of petitioning from inferiors to superiors. In this regard Arbroath may actually have more in common with the Olive Branch Petition or the 1775 Declaration on Taking Up Arms than it does with the 1776 Declaration of Independence. After all, one of the many reasons the authors of the Declaration offered to justify their independence was that, ‘[o]ur repeated Petitions have been answered only by repeated Injury’: in that indifference to the suffering of his people lay the final, even culminating, cause for casting off their monarchical allegiance to

²³ (Continued) Daniel Carpenter, *Democracy by Petition: Popular politics in transformation, 1790–1870* (Cambridge, MA, 2021).

²⁴ ‘Declaration of Arbroath’, in Duncan, *Nation of Scots*, 36.

²⁵ ‘The Olive Branch Petition’ (5 July 1775), in *A Decent Respect to the Opinions of Mankind*, 130.

²⁶ ‘Declaration by the Representatives of the United Colonies of North-America, now met in GENERAL CONGRESS at PHILADELPHIA, Setting forth the CAUSES and NECESSITY of their taking up ARMS’ (6 July 1775), in *A Decent Respect to the Opinions of Mankind*, 91–7.

²⁷ M. P. Bruce, ‘Creating Scottish nationalism: English translations of the fourteenth-century Declaration of Arbroath’, in Karl Fugelso (ed.), *Memory and Medievalism* (Woodbridge, 2007), 126–56, at 136.

George III.²⁸ By so doing, they sought to transform a civil war (as the Declaration on Taking Up Arms had, in fact, called it) within the British empire into a conflict between legitimate belligerents outside it, and under the law of nations rather than subject to the authority of the British crown.²⁹ Unlike the Scottish earls and barons who threatened to drive out Robert I if he dared to make them or their 'kingdom subject to the king of England or the English', the representatives of the United States abandoned a king who, they claimed, had not only failed to protect them but had committed numerous grave injuries against them.³⁰

By symbolically cutting off the king's head and throwing off their allegiance, the *ci-devant* colonists effected a shift in their political personality that would have been unimaginable to their Scottish predecessors.³¹ Arbroath was, if anything, a declaration of *dependence*—on the papacy, and more generally upon the institution of monarchy—by seeking John XXII's intercession and by threatening to find a substitute king, not a substitute for kingship, should their current ruler become their 'enemy and a subverter of his right and ours'.³² In this fundamental sense, 1320 can *not* be seen as 'a Caledonian 1776'; it may in fact have been closer to a Caledonian 1775.³³

Arbroath and the Declaration were both contingent documents: that is, they were tied to their specific purposes and contexts by agents who knew precisely the limits of language and hence the possibilities for persuasion available to them. Another way to describe this is to call the two documents rhetorical—not in the vulgar meaning of that term but rather in its technical sense of being written to persuade using an inherited armoury of recognised tropes and figures. The rhetorical artistry of Arbroath has been clear since the 1940s, when J. R. Philip first identified its detailed debt to the Roman historian of embattled liberty, Sallust, and Lord Cooper discerned its broader use of the medieval *ars dictaminis*.³⁴ Such reliance on Roman rhetoric came more naturally to a document written in Latin, the diplomatic vernacular of the day, but it did also ensure that Arbroath's argument would fall easily to

²⁸ 'A Declaration By the Representatives of the United States of America', in Armitage, *Declaration of Independence*, 169.

²⁹ David Armitage, *Civil Wars: A history in ideas* (New York, 2017), 134–47; 'Declaration ... Setting forth the CAUSES and NECESSITY of their taking up ARMS', in *A Decent Respect to the Opinions of Mankind*, ed. Hutson, 97 ('... to relieve the empire from the calamities of civil war').

³⁰ 'Declaration of Arbroath', in Duncan, *Nation of Scots*, 36.

³¹ 'We need to cut off the King's head: in political theory that has still to be done': Michel Foucault, 'Truth and power' (1977), in *idem, Power/Knowledge*, ed. Colin Gordon (New York, 1980), 12.

³² 'Declaration of Arbroath', in Duncan, *Nation of Scots*, 36.

³³ Brotherstone and Ditchburn, '1320 and a' that', 19, 27–8.

³⁴ J. R. Philip, 'Sallust and the Declaration of Arbroath', *SHR* 26:1 (1947) 75–8; T. M. Cooper, 'The Declaration of Arbroath revisited', in *idem, Supra Crepidam: Presidential addresses delivered to the Scottish History Society* (London, 1951), 48–59; Malcolm Richardson, 'The *ars dictaminis*, the formulary, and medieval epistolary practice', in Carol Poster and Linda Mitchell (eds), *Writing Manuals from Antiquity to the Present: Historical and bibliographic studies* (Columbia, SC, 2007), 52–64.

hand if and when the pope were to issue a bull against Edward II and his designs upon Scotland. The author(s) of Arbroath targeted their language with precision. Once its contingent purposes had been served—or not served—it was, as Abraham Lincoln might have said, left on the battlefield, to be cannibalised for parts or interpreted towards ends its creators could not have envisaged and would likely not have endorsed, such as the construction of subsequent Scottish nationalism.

Unlike Arbroath, the Declaration does not exist in Latin, from 1776 or later.³⁵ Yet that does not mean it was not also rhetorical.³⁶ It was written in the language of the empire, English, but constructed in order to maximise its rhetorical impact by using a mix of legal genres conventional at the time. Even more than Arbroath, the Declaration was a piece of textual bricolage,³⁷ sutured together largely by Thomas Jefferson in his role as primary drafter from congress's resolution for independence, approved on 2 July 1776, the preamble he had written for Virginia's constitution, and fellow Virginian George Mason's 1776 Declaration of Rights, along with historical material from Jefferson's own *Summary view of the rights of British America* (1774), all to prove that 'these United Colonies are, and of right ought to be, FREE AND INDEPENDENT STATES', as the final paragraph concluded, conclusively. QED.

The Declaration did not just combine material from a range of previous documents, like some Frankenstein's monster jerry-rigged out of fundamental freedoms: it was also generically eclectic, and, therefore, backward-looking because built from existing forms. The second paragraph, its most famous, comprised a declaration of rights, albeit one strictly subordinate to the Declaration's primary purpose of asserting the independence of colonies as (now) states among other states. As Abraham Lincoln put it, 'The assertion that "all men are created equal" was of no practical use in effecting our separation from Great Britain; and it was placed in the Declaration, not for that, but for future use.'³⁸ The central bill of particulars drawn up against the king was a declaration in a contemporary legal sense: in Sir William Blackstone's words, 'the *declaration, narratio, or count*' was the medium of a complainant in a civil trial, laying out the causes of their suit.³⁹ Only the final paragraph was a declaration of *independence*, as it publicised the resolution that the members of the Continental Congress had

³⁵ A Latin translation did appear online on Tumblr (4 Jul. 2015) but it has since disappeared: <https://o-eheu.tumblr.com/post/123216266461/the-declaration-of-independence-in-latin> (accessed 20 Jun. 2022).

³⁶ On the Declaration and contemporary rhetorical culture, see esp. Jay Fliegelman, *Declaring Independence: Jefferson, natural language and the culture of performance* (Stanford, CA, 1993).

³⁷ Callan, 'Making monsters out of one another in the early fourteenth-century British Isles'; Duffy, 'Irish Remonstrance'.

³⁸ Abraham Lincoln, 'Speech at Springfield, Illinois' (26 June 1857), in *The Collected Works of Abraham Lincoln*, ed. R. P. Basler, 9 vols (New Brunswick, NJ, 1953–5), ii. 406.

³⁹ William Blackstone, *Commentaries on the Laws of England*, 4 vols (London, 1765–9), iii. 293.

ratified on 2 July 1776. Almost all the separate parts of the Declaration were unoriginal: almost all were repurposed from texts written in the preceding months. However, the rhetorical combination of them was original, as was the very term ‘declaration of independence’. Those words did not appear in English (or their equivalents in other languages) before 1776, though the term ‘declaration of independency’, with a political meaning, had appeared once in 1775.⁴⁰ To bring this knowledge back for a moment to Arbroath, it would be fair to say that it could not have been considered as a Scottish ‘declaration of independence’ at any time *before* 1776, because no foundational document, of any kind, had been defined or denoted as such until then, at the very earliest.

This was because it was not until the mid-eighteenth century that any people had used the language of independence to declare their statehood. When the British Americans announced that their former colonies were now ‘FREE AND INDEPENDENT STATES’, they were speaking a cutting-edge idiom. That idiom had various convergent sources but the most immediate, most prestigious and most operative came from the contemporary law of nations, or what we would describe today as the language of international law. The reigning authority on the subject was the Swiss diplomat and jurist Emer de Vattel, whose elegant compendium, aptly entitled *The Law of Nations (Les Droits des gens)*, cornered the market and swept the world for almost a century after its publication in 1758.⁴¹ Vattel repeatedly reminded his readers that human beings had originally been ‘free and independent’ in a state of nature; once they had joined together to form nations or states, those bodies took on the characteristics of the people who had made them up and became, in turn, ‘free and independent’ bodies in an international state of nature. This is worth stressing for two reasons: first, that Vattel’s work is the only one we can prove to have been in the hands of the drafters of the Declaration—not John Locke, not Francis Hutcheson, or any of the Enlightened sources, Scottish or otherwise, that have been proposed for it, but Vattel.⁴² The second, as we shall see later, is that Vattel provides the (so far) missing link between Arbroath and the Declaration.

⁴⁰ David Armitage, *Foundations of Modern International Thought* (Cambridge, 2013), 221–2.

⁴¹ Emer de Vattel, *The Law of Nations* (1758), ed. Béla Kapossy and Richard Whatmore (Indianapolis, 2008); Elisabetta Flocchi Malaspina, *L’eterno ritorno del Droit des gens di Emer de Vattel (secc. XVIII–XIX): L’impatto sulla cultura giuridica in prospettiva globale* (Frankfurt am Main, 2017); Koen Stapelbroek and Antonio Trampus (eds), *The Legacy of Vattel’s Droit des Gens* (Cham, 2019).

⁴² Garry Wills, *Inventing America: Jefferson’s Declaration of Independence* (New York, 1978); Vincent Chetail, ‘Vattel and the American dream: an inquiry into the reception of the law of nations in the United States’, in Pierre-Marie Dupuy and Vincent Chetail (eds), *The Roots of International Law: liber amicorum Peter Haggemacher* (Leiden, 2014), 249–300; William Ossipow and Dominik Gerber, ‘The reception of Vattel’s *Law of Nations* in the American colonies: from James Otis and John Adams to the Declaration of Independence’, *American Journal of Legal History* 57:4 (2017) 521–55.

We know why the Declaration spoke of 'FREE AND INDEPENDENT STATES' with Vattel's voice, because Benjamin Franklin told us so. In late 1775 Franklin hunted down copies of the latest, expanded edition of Vattel's work, issued in Amsterdam that year, because 'the circumstances of a rising state make it necessary frequently to consult the law of nations'. He secured three copies, one of them for the Continental Congress itself, whose members lapped it up. As Franklin wrote to the work's editor in December 1775, it 'has been continually in the hands of the members of our congress, now sitting'.⁴³ I have documented elsewhere the importance of Vattel's *Law of Nations* for the Declaration: suffice it to note here that his distinctly modern idiom, of states as 'free and independent', was as conspicuously absent from Arbroath as it was constitutive of the essence of the Declaration.⁴⁴ The so-called Declaration of Arbroath—conceived first at Newbattle abbey and composed, but not signed, at Arbroath⁴⁵—was not a declaration and never spoke of independence. In this basic sense, the two documents could hardly have been more different, conceptually and generically.

The one genre capacious enough to contain both Arbroath and the Declaration, at least in the eighteenth and nineteenth centuries, was the genre of the manifesto. The influence of the aesthetic avant-garde of the early twentieth century has concentrated the meaning of 'manifesto' almost exclusively around statements of artistic originality, with the conspicuous exceptions of the *Communist Manifesto* (1848) and, in Britain at least, of party political platforms at election time.⁴⁶ When Marx and Engels fired off their eponymous salvo, they knew well that the primary meaning of 'manifesto' in their own time was military and diplomatic. Manifestos were public announcements by sovereign agents of revolutionary or destructive events couched as justifications for embarking on such disruptive actions—invasions, wars, changes of regime, for instance. Manifestos were explanatory and they were public: they literally made manifest to the wider world or to public opinion the reasons why those sovereign actors had embarked on their radical actions.⁴⁷ The Declaration was, for much of its length, just such a manifesto.

Contemporary diplomatic language defined a 'declaration', in the exchanges between sovereigns, as an international announcement, or 'general manifesto, published to all the world', such as a declaration of war or even a declaration of independence.⁴⁸ It was for this reason

⁴³ Benjamin Franklin to C. G. F. Dumas (9 Dec. 1775), in *The Papers of Benjamin Franklin*, gen. eds L. W. Labaree et al., 43 vols to date (New Haven, CT, 1959–), xxii. 287.

⁴⁴ Armitage, *Declaration of Independence*, 38–41.

⁴⁵ Duncan, 'Making of the Declaration of Arbroath'.

⁴⁶ *100 Artists' Manifestos: From the Futurists to the Stuckists*, ed. Alex Danchev (London, 2011); *Why are We 'Artists'? 100 world art manifestos*, ed. Jessica Lack (London, 2017).

⁴⁷ Martin Puchner, *Poetry of the Revolution: Marx, manifestos, and the avant-gardes* (Princeton, NJ, 2006).

⁴⁸ [Robert Ward], *An Inquiry into the Manner in which the Different Wars in Europe Have Commenced, during the Last Two Centuries* (London, 1805), 3.

that Thomas Paine, in his *Common Sense* of February 1776, urged the necessity of ‘a manifesto to be published, and dispatched to foreign courts’, to bring legitimacy to the American cause and to achieve military and commercial assistance towards it.⁴⁹ Paine imagined a declaration of independence before such a genre existed: declarations of independence were a novelty, without precedent, before the summer of 1776; manifestos were not, and the Declaration would have been immediately recognisable within that conventional genre, even though it would take decades for it to establish a new genre within which other documents could be understood, imitatively, as declarations of independence.

It was only almost a century after 1776 before anyone identified a, or even *the*, ‘Scottish declaration of independence’ in the fourteenth: that is, only once the Declaration itself had recovered from its taint of revolutionary Jacobinism after 1815 and after it had become a fundamental charter for the United States—in the singular—after the civil war. (It is significant in this regard that when Arbroath was adventitiously published on the eve of the US civil war, in New York in March 1861, its publisher did not link it to the Declaration.)⁵⁰ It was not until 1870 that two authors, the great Scottish antiquarian Cosmo Innes and the English jurist and colonial administrator Edward Shepherd Creasy, converged in calling it a declaration of independence. For Innes, in his 1870 introduction to the *Facsimiles of National Manuscripts of Scotland*, the ‘Barons’ Letter [was] surely the noblest burst of patriotic feeling, the finest declaration of independence that real history has to show’.⁵¹ Yet it seems to have been the Englishman Creasy who was the first to use the exact term ‘Scottish Declaration of Independence’ in print that same year, in the index to his *History of England from the Earliest to the Present Time* (1870), published from Sri Lanka while he was chief justice of Ceylon. He there described and paraphrased Arbroath, though he mistook both its date (citing 1318) and its origin (calling it a ‘Memorial of the Scottish Parliament to the Pope, 1318’). Moreover, Creasy struggled to find the right frame to make the letter familiar to his readers, as he also described it as the ‘Grand Remonstrance addressed to the Pope’.⁵²

Until the time of Innes and Creasy, if Arbroath was called anything other than a letter, it was termed a ‘manifesto’, the genre it shared with the Declaration in the eighteenth and early nineteenth centuries:

⁴⁹ [Thomas Paine], *Common Sense; addressed to the inhabitants of America*, new edn (Philadelphia, 1776), 36.

⁵⁰ *A Letter from the Nobility, Barons, and Commons of Scotland, in the Year 1320 . . .* (New York, 1861), published by C. A. Alvord.

⁵¹ Cosmo Innes, ‘Introduction’, in *Facsimiles of National Manuscripts of Scotland*, ed. Cosmo Innes, 3 vols (Edinburgh, 1867–72), ii. viii.

⁵² E. S. Creasy, *History of England from the Earliest to the Present Time*, 2 vols (London, 1869–70), ii. 8–9, 578 (index entry, *s.v.*, ‘Scotland’: ‘Scottish Declaration of Independence, or Grand Remonstrance addressed to the Pope’); Harrison, “‘That famous manifesto’”, 441.

Creasy himself referred to it as '[t]his Manifesto'.⁵³ The first three English-language printings of Arbroath, between 1689 and 1703, were all titled *A Letter From the Nobility, Barons & Commons of Scotland, in the Year 1320*.⁵⁴ The next twist on the title came in 1705, when its first historian, the presbyterian Whig James Anderson, set it within a sequence of evidence to prove that the crown and kingdom of Scotland had long been independent and included Arbroath alongside other early fourteenth-century remonstrances as one of the 'remaining excellent MANIFESTO'S of our independency'.⁵⁵ During the American war, the Continental Congress issued a *Manifesto* justifying independence in 1778; a year later, in 1779, Sir David Dalrymple cited lengthy extracts from Arbroath in his *Annals of Scotland*, calling it by the contemporary term, 'a manifesto addressed to the pope' that the Scots used 'to justify their cause'.⁵⁶ (In 1781 perhaps the greatest Scot involved in the American cause, the Rev. John Witherspoon, wrote a 'Memorial and manifesto of the United States of North-America'.)⁵⁷ By the early nineteenth century 'manifesto' was the term of art for Arbroath, 'that famous Manifesto addressed to Pope John', 'a celebrated and energetic manifesto' or, most notably, what Sir Walter Scott called 'a spirited manifesto or memorial, in which strong sense and a manly [*sic*] spirit of freedom are mixed with arguments suited to the ignorance of the age'.⁵⁸ So long as Arbroath and the Declaration were each thought of as manifestos—and before the genre of the manifesto itself was irreversibly transvalued, from diplomatic to revolutionary and artistic, in the decades following 1848—Arbroath would not be typified as any kind of declaration, least of all a declaration of *independence*. Should we then perhaps be celebrating not the septcentenary of the Declaration of Arbroath, but rather the seven-hundredth birthday of the Newbattle Manifesto?

⁵³ Creasy, *History of England*, ii. 9, footnote.

⁵⁴ *A Letter From the Nobility, Barons & Commons of Scotland, in the Year 1320 . . . Translated from the original Latine, as it is insert by Sr. George Mackenzie of Rosehaugh in his Observations on precedency, &c.* (Edinburgh, 1689); *A Letter from the Nobility, Barons, and Commons of Scotland in the year 1320 . . .* (Edinburgh, 1700); *A Letter from the Nobility, Barons and Commons of Scotland, in the year 1320 . . .* (Edinburgh, 1703). It appeared with the same title in 1745: *A Letter in Latin and English, from The Nobility, Barons and Commons of Scotland, in the year 1320 . . .* (Edinburgh, 1745).

⁵⁵ James Anderson, *An Historical Essay, Shewing that the Crown and Kingdom of Scotland is Independent . . .* (Edinburgh, 1705), 253. On Anderson, see Mason, 'Declaration of Arbroath in print'; K. J. Williams, *The First Scottish Enlightenment: Rebels, priests, and history* (Oxford, 2020), 184–90.

⁵⁶ *By the Congress of the United States of America. Manifesto* ([Philadelphia, 1778]); Sir David Dalrymple, *Annals of Scotland* (Edinburgh, 1779), 93, 95.

⁵⁷ John Witherspoon, 'Memorial and manifesto of the United States of North-America' (1781), in *The Works of the Rev. John Witherspoon, D.D. L.L.D.*, 2nd edn, 4 vols (Philadelphia, 1802), iv. 365–74.

⁵⁸ Sir Walter Scott *et al.*, *The Cabinet History of England, Scotland, and Ireland*, 2 vols (London, 1830), i. 140; *The Somers Tracts*, 2nd edn, ed. Walter Scott, 13 vols (London, 1809–15), xi. 573 ('The manifesto was drawn up at Aberbrothock'); Harrison, "'That famous manifesto'"; Simpson, 'Declaration of Arbroath revitalised', 11.

That we are not doing that is one sign of the global impact of the Declaration itself, well beyond the United States. Starting in the 1810s, during the implosion of Spanish America after Napoleon's invasion of the Iberian peninsula, declarations of independence—more often called, in the Hispanic legal tradition, *actas de independencia*—blossomed and proliferated, sometimes in direct imitation of the *Estadounidensian* original, but increasingly independently of it.⁵⁹ If we fast-forward two centuries, we can now see that more than half the states represented at the United Nations have a fundamental text either called a declaration of independence or approximating to one. As numbers of such documents were issued, and nationhood became fused with statehood across the nineteenth century, the hunt was on for foundational documents that could be retrospectively baptised as declarations of independence, even when they did not adopt that terminology, when they did not declare independence and when they did not arise—as most declarations have done—from anti-colonial or anti-imperial secession (as, of course, Arbroath did not).

The most illuminating parallel with Arbroath in this respect is the *Plakkaat van Verlatinge* (1581), or Act of Abjuration, issued by the Spanish Netherlands during the Dutch revolt against Spain. The states general then did what the Scots only threatened to do in 1320—throw off their allegiance to their prince, in the Dutch case, King Philip of Spain (1556–98). Yet like their Scottish predecessors, they did not abjure monarchy itself: they sought only 'another powerful and merciful prince to protect and defend' themselves.⁶⁰ This other declaration of dependence, therefore, rhymed with Arbroath but did not directly echo it. And just as Arbroath would come for a time to be termed the 'Scottish Declaration of Independence', the Dutch *Plakkaat* would be known as the 'Dutch Declaration of Independence'. Unlike Arbroath, which was mostly so called within Scotland itself, the Dutch declaration was an American creation. Within the Netherlands, it retained its historic name and it was only in the United States, and as a result of a late-nineteenth-century burst of 'Holland-mania', that the Dutch document was retroactively renamed a 'declaration of independence', in homage to the links between the two transatlantic republics.⁶¹

⁵⁹ David Armitage, 'Declarations of independence and the law of nations', in Liliana Obregón, Juan Amaya-Castro and Laura Betancur-Restrepo (eds), *The Oxford Handbook of International Law and the Americas* (Oxford, forthcoming).

⁶⁰ 'Edict of the States General of the United Netherlands by which they Declare that the King of Spain has Forfeited the Sovereignty and Government of the Aforesaid Netherlands' (26 July 1581), in *Texts concerning the Revolt of the Netherlands*, ed. E. H. Kossmann and A. F. Mellink (Cambridge, 1974), 224.

⁶¹ J. P. A. Coopmans, 'Het Plakkaat van Verlatinge (1581) en de Declaration of Independence (1776)', *Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden* 98 (1983) 540–67; S. E. Lucas, 'The "Plakkaat van Verlatinge": a neglected model for the American Declaration of Independence', in Rosemarijn Hoefte, J. C. Kardux and Hans Bak (eds), *Connecting Cultures: The Netherlands in five centuries of transatlantic exchange* (Amsterdam, 1994), 187–207; M. E. H. N. Mout,

Equally striking in this regard is the discontinuity between Scottish constructions of Arbroath as a declaration of independence and American assumptions that Arbroath was a source or some kind of urtext for the US Declaration itself. After the first use of the term ‘Scottish Declaration of Independence’ in 1904, Arbroath only began to be called that with any regularity after its six-hundredth anniversary in 1920, but the heyday of this nomenclature was between the 1950s and the 1990s, mostly in political and heritage sources.⁶² In the immediate aftermath of the second world war, it was largely thanks to three women, Annie I. Dunlop, Agnes Mure Mackenzie and Mary Paton Ramsay, that Arbroath became best known as a ‘declaration’ at all, though nationalists like Hugh MacDiarmid also worked to raise the document’s profile.⁶³

It was surely no accident that it became a declaration of independence during the era of decolonisation and the rise of US hegemony after the second world war. Provincial nationalists within empires could perhaps see their own glorious future in the seeds sown by British Americans’ precocious anti-imperial secession, while those locked within composite monarchies and seeking their freedom might take the American founding charter as a textual inspiration. In this regard, the increasing prominence of Arbroath in discussions of Scottish nationalism and popular sovereignty might appear analogous to other efforts of ‘worldmaking’ in the period for which the United States and its Declaration provided inspirational models.⁶⁴ In the case of Scotland, we can be confident that the US Declaration of Independence influenced the Declaration of Arbroath—how it was read, how it was received and how it was constructed, in the twentieth century, if not in the fourteenth century.

These currents partly explain how the Newbattle Manifesto turned into the Scottish Declaration of Independence, at least in some

⁶¹ (Continued) *Plakkaat van Verlatinge. Vertaald, ingeleid en van aantekeningen voorzien* (Groningen, 2006).

⁶² John Brodie, *About Arbroath: The birthplace of the Declaration of Scottish Independence, 1320* (Arbroath, 1904); Arbroath Herald, *Declaration of Scottish Independence: Sex-centenary celebrations souvenir volume* (Arbroath, 1920); R. L. Mackie, ‘... the parchment [in Register House] may justly be called the Scottish Declaration of Independence’: Mackie, ‘“The Scottish Declaration of Independence”: the letter and its story’, *Scots Magazine*, new ser., 31:1 (Apr. 1934) 9–18, at 9; Burns Federation, *Declaration of Scottish independence, 1320. Facsimile of original in Scottish Record Office, H.M. Register House, Edinburgh* (Edinburgh, [1950]); United Scotland, *Scotland’s declaration of independence: the historic letter known as the Declaration of Arbroath in 1320, from the Scottish nation to the pope as international arbitrator* (Edinburgh, [1951]); Harrison, ‘“That famous manifesto”’, 440–6.

⁶³ A. I. Dunlop, ‘Arbroath Declaration of Scottish independence’, *Burns Chronicle & Club Directory* 25 (1950) 56–60; A. M. Mackenzie, *On The Declaration of Arbroath* (Edinburgh, 1951); Robert Crawford, ‘Afterword: A public declaration’, in K. P. Müller (ed.), *Scotland and Arbroath, 1320–2020: 700 Years of fighting for freedom, sovereignty, and independence* (Berlin, 2020), 535–58, at 540–6.

⁶⁴ On popular sovereignty in Scottish discourse during this period, see Kidd, *Union and Unionisms*, chs 3, 5, 7; on ‘worldmaking’ and the US Declaration, see Adom Getachew, *Worldmaking after Empire: The rise and fall of self-determination* (Princeton, NJ, 2019), esp. 111–14.

nationalist circles. They do not account for the mirroring process, by which the Declaration was revealed as indebted to Arbroath. That was a wholly American enterprise, as other scholars have identified. This is not the place to reprise their findings in detail, save to recall how relatively recent is that alleged genetic connection between Arbroath and the Declaration. It goes back less than half a century to the US senate resolution of March 1998 proclaiming 6 April each year as 'National Tartan Day': an invented tradition if ever there was one.⁶⁵ The arguments for that invention included the supposed parallel between 1320 and 1776 and the imputed convergence between the two, with Arbroath proposed as the 'model' or template for the Declaration. There could be no single model for such a complex text and thus no unique source for it, whether Arbroath or anything else. Stark attribution of ancestry to Arbroath is accordingly an error. But just because it is erroneous does not mean they were unconnected.

The absence of Arbroath from historiography in the Scottish enlightenment and from the works of rhetoric, *belles-lettres* and moral philosophy that bridged England's two cultural provinces, Scotland and the British American colonies, does not mean that it was entirely unavailable in 1776 or that there was no access to Arbroath in Philadelphia.⁶⁶ Cheap print and handy translations were not the only vehicle for Arbroath's uptake in the age of revolutions. Its primary vector in the second half of the eighteenth century was the great Jacobite Latinist Thomas Ruddiman's bulky and expensive, indeed luxurious and exclusive, edition of the Whig antiquary James Anderson's *Diplomata Scotiae* or, to give it its full title, the *Selectus Diplomatum et Numismatum Scotiae Thesaurus*, finally published in Edinburgh in 1739 after a long gestation (and Anderson's death).⁶⁷ There was a copy of this prestigious object in George III's library (now in the British Library in London): the king who gloried in the name of Britain thus had access to Arbroath, though he did not possess a copy of the Declaration which so comprehensively indicted him.⁶⁸ And it was in Anderson's *Diplomata* that James Boswell lighted upon Arbroath with friends while browsing the Leipzig *Ratsbibliothek* in October 1764:

⁶⁵ Euan Hague, 'National tartan day: rewriting history in the United States', *Scottish Affairs* 38 (2002) 94–124.

⁶⁶ C. J. Berry, 'Ideas of dependency and freedom in the Scottish Enlightenment', in Müller (ed.), *Scotland and Arbroath, 1320–2020*, 181–98, at 181; compare Michael Penman, 'The Declaration of Arbroath: Georgian editions, libraries and readers, and Scotland's "radical war" of 1820', above 491–511.

⁶⁷ James Anderson, *Selectus Diplomatum et Numismatum Scotiae Thesaurus*, ed. Thomas Ruddiman (Edinburgh, 1739); *Nova acta eruditorum* 14 (Nov. 1745) 625–31; Douglas Duncan, *Thomas Ruddiman: A study in Scottish scholarship of the early eighteenth century* (Edinburgh, 1965), 132–5.

⁶⁸ Anderson, *Diplomata*: London, British Library (hereafter, BL), shelfmark 133.i.16. The King's Library did contain a copy of [John Lind and Jeremy Bentham], *An Answer to the Declaration of the American Congress* (London, 1776) (BL 102.g.32), which includes each clause of the Declaration together with a stinging refutation.

My old spirit got up, and I read some choice passages of the Barons' letter to the Pope. They were struck with the noble sentiments of the liberty of the old Scots, and they expressed their regret at the shameful Union. I felt true patriot sorrow. O infamous rascals, who sold the honour of your country to a nation against which our ancestors supported themselves with so much glory!⁶⁹

Four years after this encounter, Boswell placed Arbroath's Sallustian sentence prominently on the title page of his *Account of Corsica* (1768)—'For we fight not for glory, nor riches, nor honours, but for freedom alone, which no good man gives up except with his life.' He signalled his debt to Anderson with his motto, calling Arbroath the 'Lit. Comit. et Baron. Scotiae ad Pap. A. D. 1320': the *Diplomata* was the only publication before 1768 to give it that precise Latin name.⁷⁰ More importantly, Boswell had made the first connection between Arbroath and an independence struggle in the age of revolutions: in this case, Pasquale Paoli's revolt in Corsica.⁷¹ It would not be the only such linkage.

I return, in conclusion, to the jurist from Neuchâtel, Emer de Vattel. In the first book of his *Droit des gens*, Vattel faced the unavoidable question of whether a nation may constrain a tyrant and withdraw itself from his obedience—a problem that both the Scots in 1320 and the British Americans in 1776 faced, of course. To answer the question at his own time, Vattel reminded his readers of the ends of civil society: 'Is it not to labour in concert for the common happiness of all? Was it not with this view that every citizen divested himself of his rights, and resigned his liberty?' A sovereign had to use his delegated authority 'for the safety of the people, and not for their ruin'. If a sovereign egregiously attacked these rights to what, to coin a phrase, one might call life, liberty and the pursuit of happiness, then he could be resisted; the people could pass judgement on him; and they would, at last, have the right to withdraw their obedience: 'still his person should be spared, and that for the welfare of the state'.⁷² The posthumous Amsterdam edition of Vattel's work (1773) footnoted this conclusion with two long passages in Latin, the first from the sixteenth-century Spanish Jesuit monarchomach, Juan de Mariana (fig. 1). 'To this authority furnished by

⁶⁹ James Boswell, *Boswell on the Grand Tour: Germany and Switzerland, 1764*, ed. F. A. Pottle (New York, 1953), 129 (6 Oct. 1764). Most of the *Ratsbibliothek* was destroyed in the second world war: the Leipzig copy of Anderson's *Diplomata* seems not to have survived. My thanks to Daniel Jütte for advice on this point.

⁷⁰ James Boswell, *An Account of Corsica, the Journal of a Tour to that Island; and memoirs of Pascale Paoli* (London, 1768), title page; Rhona Brown, "'Rebellious Highlanders": the reception of Corsica in the Edinburgh periodical press, 1730–1800', *Studies in Scottish Literature* 41 (2016) 108–28, at 110.

⁷¹ On the primal place of Paoli's revolt in the age of revolutions, see David Bell, *Men on Horseback: The power of charisma in the age of revolution* (New York, 2020), 19–52; Linda Colley, *The Gun, The Ship and The Pen: Warfare, constitutions and the making of the modern world* (London, 2021), 17–25.

⁷² Vattel, *The Law of Nations*, ed. Kapossy and Whatmore, 105–7 (I. iv. 51).

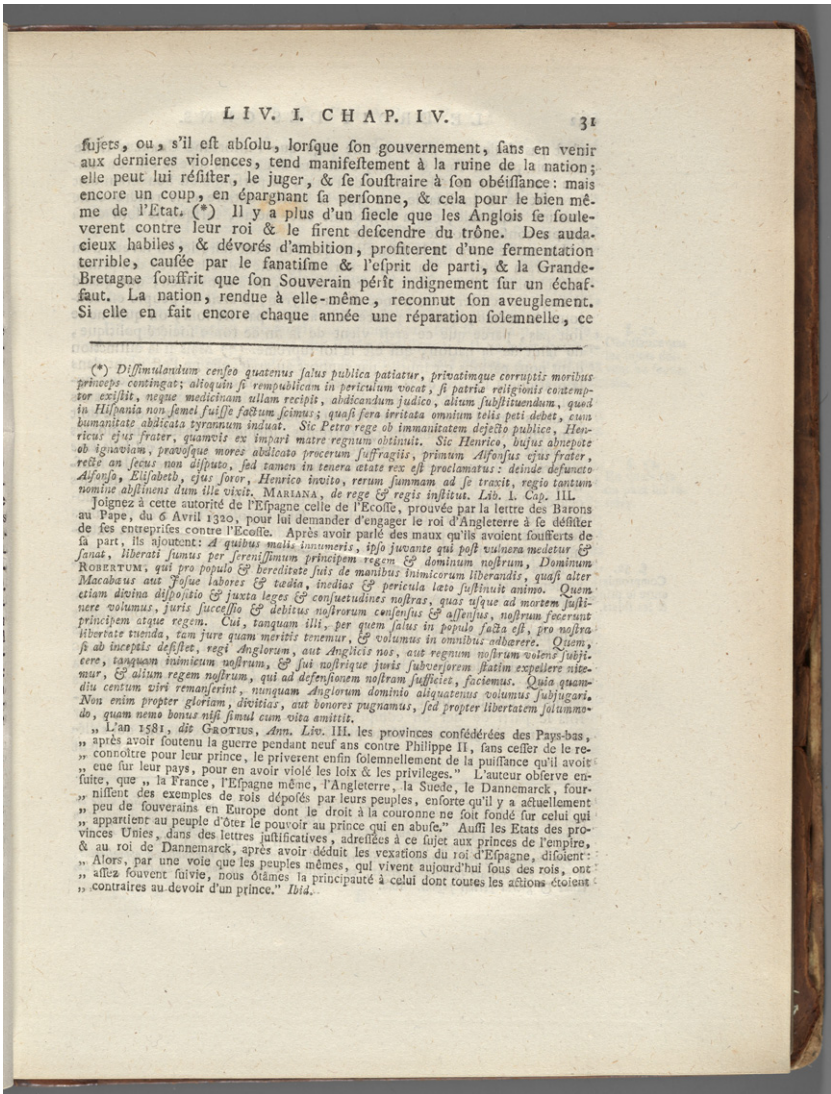


Figure 1: Emer de Vattel, *Le Droit des gens* 2 vols (Amsterdam, 1775), i. 31: Harvard University, Houghton Library, *AC7 F8545 Zz775v

Spain', Vattel's editor, Dumas, continued, 'join that of Scotland, proved by the letter of the barons to the pope, dated April 6, 1320', followed by, again, a lengthy Latin quotation, in this case the entire middle paragraph of Arbroath, running from, 'A quibus malis innumeris' all the way to the famed peroration, 'Non enim propter gloriam, divitias aut honores pugnamus set propter libertatem solummodo quam nemo bonus nisi simul cum vita amittit' ('But from these countless evils we have been set free ...

we fight not for glory, nor riches, nor honours, but for freedom alone, which no good man gives up except with his life').⁷³

That English contemporary of Arbroath, William of Ockham (c. 1287–1347), may never actually have said that entities should not be multiplied unnecessarily (*entia non sunt multiplicanda praeter necessitatem*) but this razor-sharp principle of parsimony, when applied to historical explanation, does require that probability and proximity trump speculation and similarity.⁷⁴ In the case of Arbroath and the Declaration, we do not need to propose vague, insubstantial, invocations of Arbroath as a model or a template. We can also avoid any imputed elective affinity between democratic nationalist Scots and independence-minded British Americans. Nor do we need to conjure up Scottish ancestry for signers of the Declaration, or even excavate the Scots-inflected education of its framers, if we want to posit Arbroath as one among its possible sources. Instead, we can now point to the long footnote in the specific edition of the sole source that we definitely know from contemporary testimony—Franklin's testimony—to have been 'continually in the hands of the members of our [Continental] congress'. If there is a passage from Arbroath (or Newbattle) and Avignon to Philadelphia, then it might have run through Neuchâtel and Amsterdam, along the channels of enlightened late Latinity and the burgeoning law of nations. Absence of evidence, it is said, is not evidence of absence. Equally, in this case, the presence of evidence is not evidence of the presence of Arbroath in the Declaration. Yet at the very least, it might cause us to reconsider 1320, 1776 and all that, thereby to retell the tale of two 'declarations'.

⁷³ Emer de Vattel, *Le Droit des gens*, ed. C. G. F. Dumas, 2 vols (Amsterdam, 1775), i. 31.

⁷⁴ W. M. Thorburn, 'The myth of Occam's razor', *Mind* 27:107 (1918) 345–53.