

Bollobás Enikő

THE DECLARATION OF INDEPENDENCE AND THE MAKING OF AMERICANS:
ON HOW PERFORMATIVES PERFORM THE PERFORMER

The foundational moment of logocentrism, when God creates by the *logos*, exploits performative power in a rather obvious manner. Indeed, the narrative of origin related at the very beginning of *Genesis* abounds in instances when words make things, and saying and doing are one: "Let there be light,"** "Let there be a firmament in the midst of the waters," or "Let us make man in Our image, according to Our likeness" (Gen. 1: 3, 6, 26). This "Ur-performative" is evoked emphatically at the beginning of the New Testament: "In the beginning was the Word, and the Word was with God" (John 1: 1). Commonly referred to as word magic or the power of words, and variably termed in speech act theory as illocutionary acts (Austin, *How to Do* 108), acts of "originary performativity" (Derrida, *Specters* 36-37), "linguistic magic" (Fotion, 51), or "performative sorcery" (Loxley 51), these are cases with a strong performative force, where the word, as a vehicle of creation, is used to produce some new reality.

The Declaration of Independence (1776) is one of the greatest political documents of all times, brilliantly exploiting the strong performativity of this mode of writing. An expression of Enlightenment logic, it argues along the lines of a simple syllogism: people have the right to throw off despotic governments (major premise); the British King has established absolute tyranny over the colonies (minor premise); therefore, the people of these colonies have the right and do now throw off British rule and declare independence from England (conclusion):

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, 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; and that as Free and Independent States, they have full Power to levy War, conclude Peace contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. (Jefferson, 449)

Addressing both the Americans and the British from a revolutionary speaking position, it applies directness and clarity as a rhetorical mode suited to convey "self-evident" truths and compassionate principle. Implicitly drawing an equation between act and speech act, the text enumerates the grievances in the forms of speech acts primarily (the King has *refuted, refused, forbidden, called together, dissolved, suspended, declared, abdicated, constrained*), lists the various responses of the colonies in the form of speech acts too (*warned, reminded, appealed, conjured*), following the lead of this argument to pronounce the sentence on the King: that he is "unfit to be the ruler of a free people" (449). Listing the grievances and articulating opinion about the tyrant reflects a very important moment of empowerment by the word in the history of a nation, when the oppressed gives voice to oppression and takes action as a free agent. Placing the act of declaration in the cultural context of the Enlightenment, where injustices and tyranny empower the people to take action, the acts of the colonies are presented as necessary, mandated by the "Laws of Nature" and "Nature's God" (447), while

the ideals of equality and freedom are taken for granted and presumed to be "self-evident" (447).

Indeed, it is a text peppered with performatives; as a declaration, it was produced in order to perform certain political-historical acts. To make such statements in appropriate circumstances is to do something, to perform acts and, not incidentally, to found an institution, the free state of the United States. Among the acts performed are the confirmation of certain basic values (the text very strongly appeals to shared sentiments), the giving of "facts" (accusing England by naming, labeling, and interpreting their actions), and the declaring of separation from England. In terms of its intentional structure, it successfully accomplishes the mission it promises to accomplish. As a strong performative it raises the issue of agency as well: speakers of such utterances emerge as agents, whose actions are capable of bringing about change in the world. It is quite revealing that by evoking the image of the grown son, agency appears as not only gendered, belonging to men, but also as racialized, since the option of standing up against the tyrannical father – or, indeed, as simply having a father to quarrel with – was available to whites only.

Speech act theory allows us to make several claims about the strong performative. First, these are performative acts with a tremendous performative force indeed: words make a world. Second, utterance is coincidental with action; action has no existence apart from the utterance. Third, these are acts of self-referentiality: they have, to apply Émile Benveniste's apt characterization of the performative in general, the "peculiar quality" of "referring to a reality that [they themselves] constitute," making Benveniste claims, "the signified [...] identical to the referent" (*Problems* 236). Indeed, at the time when this strong performative is uttered, there is no "world" yet for which the word could stand: that Americans are just being made, brought about performatively by the word of the signatories word causes its own truth indeed: the making of Americans.

In Searle's general theory of speech acts, declarations are different from his other categories, assertives, directives, commissives, and expressives, in that here "saying makes it so" (*Expression* 16) and that here "we bring about changes through our utterances" (29). As such, declarations are paradigm illocutionary acts in that when they are successfully performed, a change in the world occurs. Indeed, by asserting, promising, stating, or ordering, the state of affairs contained in the propositional content of the illocutionary act will not come about. That is why Shakespeare, in *Timon of Athens*, could split the two parts of the illocutionary act of promising friendship into making the promise and being a friend: "Promise me friendship, but perform none," says Timon to Alcibiades (IV, iii). When a government official announces, for example, no matter how very formally, that a painting is an "original Botocelli," this does not make that painting an original Botocelli. Or, to use James Loxley's example: "saying 'I promise to butter the parsnips' butters no parsnips" (51). Only in declarations will propositional content correspond with reality at the moment when it is uttered. "Declarations are alone," Loxley continues, "in producing the situation they describe, such that if I say you're fired, you're fired; if I say the meeting is adjourned, then the meeting is adjourned" (51). Moreover, a promise connects in time two situations that are otherwise apart from each other: the moment of promising and the moment of fulfilling a promise. This is the "irreducibly temporal aspect [of] the promise: it looks forward to its own felicity" (99). Elie Wiesel's novel *The Oath* exploits this temporal gap between promising and fulfilling that promise when the protagonist's oath, made as a child with all members of the community that whoever would survive the pogrom will forever bury the secret of its story, is overwritten by a more powerful impulse, one he recognizes as an adult: that if by telling he could save a young life, then he must tell the world about it, even if that means he will break his original oath. (He comes to this recognition after realizing, much like Timon, that he actually promised not keep the promise.) Only in declarations are these two moments coincidental, bringing about a

** Quotations are from the *New Geneva Study Bible: New King James Version*. Nashville: Thomas Nelson Publishers, 1995.

correspondence between propositional content and reality. "Declarations," Searle argues, "bring about some alternation in the status or condition of the referred to object or objects solely by virtue of the fact that the declaration has been successfully performed" ("Classification" 37). They are a special case of illocutionary acts in that they have two illocutionary points: they get the words to match the world and get the world to match the words. Searle calls this consequence of illocutionary point "direction of fit," the difference that "determines how that content is supposed to relate to the world" (29). In declaratives, then, this direction of fit is simultaneously both "words-to-world" and "world-to-words" (38). On the one hand, they successfully manage to get language match the world and, on the other, they get the world match the language.

Viewed from the poststructuralist-postmodern perspective, the *Declaration* is not only a marvelous example of strong performativity, but also a classroom case for the self-referentiality of the performative: it indeed refers to a reality that it produces: "language makes itself part of what it refers to," as Shoshana Felman claims (*Scandal* 51). What is even more important in this particular case, it showcases the way the act constitutes the actor: the "We" of the American people. The paradox of the speech act lies in the fact that the entity declaring itself "American People" did not yet exist when independence was declared in their name ("in the name and by the Authority of the good people"). The signers, Derrida points out, do not exist prior to the signing.

They do *not* exist as an entity, the entity does *not* exist *before* this declaration, not as *such*. If it gives birth to itself, as free and independent subject, as possible signer, this can hold only in the act of signature. The signature invents the signer. (*Negotiations* 49)

Although the signatories claimed to act in their name, the "united States of America," the "General Congress," or the "free and independent states" did not exist either. In this felicitous speech act, the "We" of the "American people," as well as the United States as "free and independent states" were really constituted simultaneously with the issuing of the declaration; independence could be achieved because the entity "the American people" was produced. "It was," Sandy Petrey insists, "through speaking in the name of the American people that the delegates produced a people to name; it was by invoking an authority that they established an authority to invoke" (159).

The power of the document lies in the fact that the delegates produced the "We" of the American people by pledging to each other (as opposed to the Crown), yet managed to retain their allegiance to God. Actually, the text evokes the authority of God to validate the speech act: it is by His ultimate authority (as Nature's God) that performative language claims entitlement for the people. God, who is (once again) performatively produced by being named and being assigned ultimate authority, now authorizes the claim of entitlement to the signers as representatives of the American people.

In the deconstructive reading of the *Declaration*, then, the signature indeed invents the signer. Because it is a strong performative declaration, the signature is maintained within the founding act itself, fully engaging or producing the signer in the process. If anything, it is this special status of the signer that sets the performative apart from the constative. Because in another sense, to which I will return a little later, the difference between a constative and a performative structure is very difficult to grasp here.

Derrida raises another issue, that of delegated representation. In a triple gesture of deferred authority, the signature stands for the signers – attesting to their absence rather than presence, as Jonathan Culler points out (*On Deconstruction* 125) –, who claim to represent the people (the "good people," which, we know from history, did not include women or blacks),

behind whom there is the ultimate authority, therefore the ultimate signer and guarantor of the "Laws of Nature." So it is really God as a "last instance" to whom authority is deferred by the people, their representatives, and then their signatures. "God is the name – the best one – for this last instance and this ultimate signature [...] God is the best proper name," Derrida says, adding, however, that in point of fact Thomas Jefferson considered himself to be the sole signatory, replacing God as the founder of the new nation (*Negotiations* 52).

From a common sense perspective, however, it is not easy to accept the claim that the performative process of signing (a declaration of independence) is in itself sufficient to produce the signer (the independent nation). What about unsuccessful revolutions, why couldn't they produce free nations by saying so (or signing so) in comparably worded declarations?

The *Seneca Declaration of Women* (1848) was modeled on *The Declaration of Independence* in a way similar to how Olympe de Gouges's *Declaration of the Rights of Woman* (1791) was modeled on the new French constitution's *Declaration of the Rights of Man and Citizen* (1789). The text follows the same logic as the pretext: it too appealed to "self-evident" truths ("We hold these truths to be self-evident: that all men and women are created equal" [Stanton, 438]); it too listed the grievances, which this time women have suffered from men. This text also exploits the force of performatives, whereby women claimed agency. Moreover, the iterative structure of the *Seneca Falls Declaration* seems to accomplish a particular political purpose: it showed some of the fundamental discrepancies of the original document. Rhetorically, the iterative form demonstrated the fact that certain individuals (among them, women and blacks) were excluded from the group called nation, and that the document beautifully crafting the Enlightenment values of a nation does not allow some of the oppressed to rise against the oppressor (on the discrepancies, see Kerber, "Can a Woman"). By virtue of the iterative form, rational thinking was shown to be appropriated by white men, thereby the "rational" drafters were stripped of their prerogative as "rational" thinkers. (Of course, African Americans could follow a similar line of argument, since the document does not speak of or for blacks.)

From a speech act point of view, *The Seneca Falls Declaration* was infelicitous as a speech act because it was unable either to invent American women as a legal entity or to achieve what they stated in the propositional content of their Declaration: independence from and equality with men. Had they been able to retroactively produce themselves as subjects, their speech act would have been felicitous, their struggle successful. In their case, the referent failed to produce the sign (of women as a legal entity); therefore, reference ceased to hold (exist).

To return to *The Declaration of Independence*, the felicity of the performative seems to depend on the existence of the "free people" who sign the document; moreover, history must retroactively validate the performative, the act of declaration by such no small matter as winning the War of Independence. So we have a particular temporalization of the future-anterior kind, here projecting the consequence of a future event (the successful revolution) back into the past as a precondition to the felicity of the speech act (that the signatories are a legal entity entitled to claim independence). The drafters of the *Declaration* presume the felicitousness of their speech act (of declaration as well as of the *Declaration*) by taking for granted that which is just being performed: the American people, the American people successfully winning independence. "The felicity of this speech act," Hillis Miller observes, "depends on presuming the priority of that which it posits or creates" (*Speech Acts* 124). There is a strong element of constativity, or constative-performative undecidability, in such speech acts: often they mask themselves as constatives, affirming constatively a state of affairs that is just being brought about performatively.

Indeed, the dilemma here is, in speech act terms, whether the *Declaration* is a constative or a performative act. Even historians are not in agreement; some argue for the former, saying that the American Revolution really confirmed existing social and political realities (see Nelson, "The Revolutionary Character"). This claim seems to be supported by John Adams too, who, in his letter to Jefferson, insisted that "The Revolution was in the Minds of the People, and this was effected, from 1760 to 1775, in the course of fifteen Years before a drop of blood was drawn at Lexington" (Cappon, 455). Therefore, what we read as a performative, a declarative, earlier is really a constative. As Derrida puts it,

One cannot decide [...] whether independence is stated or produced by this utterance [...] Is it that the good people have already freed themselves in fact and are only stating the fact of this emancipation in [*par*] the Declaration? Or is it rather that they free themselves at the instant of and by [*par*] the signature of this Declaration? (49)

So the text cannot escape the aporia between stating and declaring, the constative or the performative. But it is exactly this undecidability, according to Derrida, "between a performative structure and a constative structure that is *required* to produce the sought-after effect" (49; emphasis in original).

Already Austin accepted the possibility of such undecidability between constative and performative utterances. "Very commonly the *same* sentence is used on different occasions of utterance in *both* ways, performative and constative," Austin claims (*How to Do* 67). And, he adds, "[t]he thing seems hopeless from the start." This is especially the case in revolutionary situations or other radical acts, which create – by what Derrida terms as "fabulous retroactivity" (50) and Hillis Miller as a "metaleptic future anterior" (*Speech Acts* 27) – the grounds that retroactively justify them. In such revolutionary or radical instances, the conventions that authorize the performative are actually just being made, and the agency or authority out of which the signatory or utterer acts is just being assigned to this signatory or utterer. This happens in (successful) political declarations or in texts of entitlement, assigning subjectivity to those who were earlier only constructed as objects, for example. Very often these performatives are masked as constatives, giving the illusion of some preexisting reference which is only being created during the process. This is a technique not unknown in political propaganda and media manipulation, when a purportedly "objective" state of affairs is introduced through a constative, when actually that state of affairs is just being produced performatively.

In conclusion, one can say that declarations make a change in reality solely by saying so; produce the situation they describe; and establish a correspondence between propositional content and reality. Also, they manage to get both language to match the world and the world to match the language. The act produces the actor; the signer is fully engaged – meaning: *produced* – in the act of signing. The declaration becomes a felicitous speech act if future-anterior temporalization successfully projects the consequence of a future event back into the past. As such, declarations exhibit a clear constative-performative undecidability in that they are masked as constatives affirming a state of affairs that is just being brought about. Finally, declarations are iterable structures that reproduce, always in a radical and provocative manner, the originary performative of word as *logos*.

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