

Quincy History

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Quincy, Massachusetts

Quincy Historical Society

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The Constitution of Massachusetts

By H. Hobart Holly*

Quincy's Constitution Common commemorates what is by far the most important historical event that ever took place here, namely, the drafting of the Constitution of Massachusetts. This event has become one of international significance, truly a milestone in the history of democratic government.

Samuel Eliot Morison considered the drafting of the Constitution of Massachusetts to be John Adams' greatest contribution to history. Andrew C. McLaughlin, then President of the American Historical Association, said in 1914: "If I were called upon to select a single fact or enterprise which more nearly than any other single thing embraced the significance of the American Revolution, I should select—not Saratoga or the French Alliance, or even the Declaration of Independence—I should choose the formation of the Massachusetts Constitution of 1780..." He noted that this constitution "rested upon the fully developed convention, the greatest institution of government which America has produced." Probably its greatest impact on history was as the pattern for our Federal Constitution of 1787.

James Madison is rightly called the Father of the Federal Constitution. It was he, and the Constitutional Convention of 1787, who produced that historic document. Among the prodigious tasks accomplished were balancing the representation of the large states and the small, and establishing what powers the thirteen sovereign states would surrender to a new federal government. The result was truly the keystone of our national life.

Many, however, have the erroneous impression that the three-branch, two-house legislature form of government was conceived by the Convention at Philadelphia. This form of government was established in the Massachusetts Constitution of 1780. In this document, John Adams set forth both the philosophy and the form of constitutional democratic government. For this achievement, John Adams is truly the father of constitutional government in this country.

In John Adams' time, service to one's country was considered second only to the ministry as a vocation of

honor. In the British tradition, men accepted it as their duty to contribute to their country what talents and services they could. A man of John Adams' high principles would take this obligation seriously.

As a young lawyer, John Adams lived at a time when tensions with the mother country were building. Attention was being given to the colonists' rights as British subjects, and the responsibilities of governments to their subjects. A great admirer of the classics, John Adams studied the beginnings of democratic philosophy and the democratic states in ancient

CONSTITUTION COMMON

In the law office at his home in what is today the City of Quincy, John Adams, together with Samuel Adams and James Bowdoin, drafted the Constitution of Massachusetts of 1780. The oldest democratic constitution in use today, it has served as the pattern for our Federal Constitution, for those of the other states, and for those of most other democracies.

This common is dedicated to the privileges and responsibilities of democratic government that are enjoyed under these constitutions; and in honor of John Adams, the chief author of the Constitution of Massachusetts.

A GOVERNMENT OF LAWS AND NOT OF MEN

(Eight excerpts from PART the FIRST of the Constitution of Massachusetts—

A DECLARATION of the RIGHTS of the Inhabitants of
the Commonwealth of MASSACHUSETTS)

(An explanation of the sculpture)

Wording on the plaque in Quincy's Constitution Common next to City Hall.

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Greece and Rome. He then studied the history of democracy in Europe and the writings of the European political philosophers. In formulating his thoughts on constitutional government, he referred especially to the writings of John Locke and Montesquieu. There is no question that the thinking of these two European political philosophers had a great influence on the Constitution of Massachusetts and, through it, on our Federal Constitution.

It is important to note that this activity on the part of John Adams was taking place in the period of the American Revolution which John Adams said took place in the hearts of men, and ended with the War for Independence. Before this time, government to the colonists was an institution two thousand miles away to which they were loyal but in which they had no role in making laws. With rising resentment over laws imposed on them, the colonists turned more and more to their local governments for means to uphold the rights that they considered to be theirs. John Adams became increasingly involved in the councils of government on this side of the Atlantic, and in the Patriot movement. Increasingly too, he was looked upon as a leader, not in arousing the people to support the cause, but in defining the cause and its objectives.

At the time of the Stamp Act in 1765, John Adams, then age twenty-nine, was called upon by his town to draft the Braintree Instructions, one of the earliest definitive statements of the colonists' position. It had great impact on the General Court of Massachusetts and on subsequent events of the American Revolution. This was obviously the work of a person knowledgeable in matters of government and the rights of man under it. In correspondence and in published papers, John Adams expressed his developing philosophy on constitutional government. In 1770, by his defense of the British soldiers after the Boston Massacre, at great risk to his career, he established "justice for all" as a principle of government here, not just a popular phrase.

By 1775 changes in government appeared certain, with more sovereignty going to the individual colonies, and independence becoming an increasing possibility. Accordingly, the leaders in the colonies began to

think of government that would assure them of the rights for which they would be willing to fight. By this time, John Adams was recognized as an authority on governmental law, especially constitutional government toward which attention was turning. He was undoubtedly the foremost authority on this subject in this country if not the world. North Carolina asked him to draft a constitution for them but he declined. He did, however, carry on correspondence with them in which he set forth his ideas on constitutional government. In 1775 he had communications with Richard Henry Lee of Virginia, and in May of 1776 with Patrick Henry of Virginia. The essence of John Adams' ideas on constitutional government thus presented was published as *Thoughts on Government*. Through the distribution of this paper, the leaders in many if not all of the thirteen colonies must have been at least introduced to the subject of constitutional government. With a man of John Adams' knowledge and reputation among their number, it is only natural that the Massachusetts Constitutional Convention of 1779 should call on him as the principal for drafting a constitution for the sovereign Commonwealth of Massachusetts.

The Constitution of Massachusetts was the embodiment of all that the colonists were fighting to achieve—the acknowledgement of their rights and a form of government that would guarantee those rights. PART the FIRST is "A DECLARATION of the RIGHTS of the Inhabitants of the Commonwealth of MASSACHUSETTS." There are thirty rights in all. Excerpts from eight are on the plaque in Constitution Common. PART the SECOND is "THE FRAME OF GOVERNMENT." Here is set forth a democratic government with a Legislative Branch, an Executive Branch, and a Judiciary



**John Adams
1735-1826
The Father of Constitutional Government
in the United States**

Branch. The Legislative Branch consists of a Senate and a House of Representatives. The powers to be exercised by each of these elements of the government are carefully defined. Thus in 1780, there was within the United States of America a constitutional government of the basic form that was adopted by the Constitutional Convention of 1787 for our Federal Constitution.

John Adams left for Europe before the adoption of the Massachusetts Constitution by the Convention of 1780. He did not return until after the Constitutional Convention of 1787. How copies of the Constitution of Massachusetts reached the leaders of the other states is not clear; but it is evident that they did. It is also evident that John Adams was in touch with the developments leading to the Constitutional Convention of 1787, but again in what way is not clear. While in England, and not long before the Convention, John Adams wrote a lengthy treatise titled *A Defense of the Constitution of Government of the United States of America*. In this

he stated his case for the form of government represented by the Constitution of Massachusetts. Whether he was asked to do this, or wrote it on his own initiative is not known. It is known, however, that he was greatly concerned by the strength of a faction that favored a single-house legislature and other philosophies with which he did not agree. It was most certainly written for people familiar with the Constitution of Massachusetts. It was first printed in England, and then in Philadelphia in 1787.

In reference to this volume, Benjamin Rush, a delegate from Pennsylvania said "Mr. Adams' book has diffused such excellent principles amongst us that there is little doubt of our adopting a vigorous and compounded Federal Legislature. Our illustrious Minister in this gift to his country has done us more service than if he had obtained alliances for us in all the nations of Europe."

On May 28, 1987, the late Paul C. Reardon presented a paper before the Quincy Historical Society titled *John Adams and the Federal Constitution*. In this paper, Judge Reardon cites a 1955 address by Mr. Basil Brewer of New Bedford in which he points out the strong influence of the Massachusetts Constitution, even to wording, on the Federal Bill of Rights. The following is quoted from that address:

"The preambles of the two documents vary in wording, but they are almost identical in their meaning."

Says the U.S. Constitution: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated."

Says the Massachusetts Constitution: "Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers and all his possessions."

Says the U.S. Constitution: "Nor shall he be compelled in any criminal case to be a witness against himself."

Says the Massachusetts Constitution: "Or be compelled to accuse, or furnish evidence against himself."

Says the U.S. Constitution: "Any accused is entitled to be confronted with the witnesses against him."

Says the Massachusetts Constitution: "Any accused is entitled to meet the witnesses against him face to face."

Says the U.S. Constitution: "The Senate shall have the sole power to try all impeachments."

Says the Massachusetts Constitution: "The Senate shall... hear and determine all impeachments."

When it came to outlining the extent of the Senate's powers in impeachment cases, the U.S. Constitution states such powers "shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit." This is word-for-word from the Massachusetts Constitution.

Says the U.S. Constitution: "No soldier shall in time of peace be quartered in any house without the consent of the owner."

Says the Massachusetts Constitution: "In time of peace, no soldier ought to be quartered in any house without the consent of the owner."

One provision of the Massachusetts Constitution that was not used in the Federal and other constitutions, is the state's responsibility for education. This may well be a reason for Massachusetts having long been a center for education.

Quincy's monument to constitutional government was designated as Constitution Plaza or Constitution Park, in the hope that this common and Quincy would be a place for people to reflect on, study and discuss constitutional government and what it means to them.



The Albert Herter painting in the House of Representatives at the State House in Boston of the drafting of the Constitution of Massachusetts. The scene is John Adams' law office as it appeared some years ago.

All men are born free and equal, and have certain natural, essential, and inalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness.

No subject shall be hurt, molested, or restrained, in his person, Liberty, or Estate, for worshipping God in the manner and season most agreeable to the Dictates of his own conscience, or for his religious profession or sentiments.

The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign and independent state:

Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family or Class of men;

Each individual of the society has the right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws.

No subject shall be held to answer for any Crimes or offence, until the same is fully, plainly, substantially and formally, described to him; or be Compelled to accuse, or furnish evidence against himself.

It is the right of every Citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit.

In the government of the Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them; The judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws and not men.

Rights which most people take for granted, are theirs under the Constitution of Massachusetts. Excerpts of eight are on the plaque in Constitution Common.

THE TOWN OF QUINCY Incorporated 1792

In connection with the 200th Anniversary of the Town of Quincy, two manuscripts in the Society's collections are of especial interest.

The petition to become a new town was handled mainly by Richard Cranch. The paragraph quoted below is from a letter dated Braintree, Feb. 1st, 1792 from Judge Cranch to his brother-in-law John Adams.

"The affair of incorporating the North Precinct of Braintree, together with the Farms and Squantum, into a separate Town, is now before the General Court. I have been very closely engaged in the matter for three weeks past, as Agent for the Petitioners. We have had all the force of Mr. Hitchborn against us, but he has not yet succeeded. The Report of the joint Committee who came to view the Premises, was in our favour, that we should be set off as a distinct Town together with Squantum and the Farms, but not to include Knight's Neck. The report was accepted in Senate, and leave

given to bring a Bill for the purpose, and concurred by the House. A Bill was brought in accordingly (drawn by your Son) which passed the Senate, and was sent down to the House last Friday. I came home the next day being very unwell, and have not heard of its fate in the House, but I think it will pass. The Senate have named the Town Quincy."

Mr. Hitchborn was the representative of Dorchester which did not favor losing some of its territory and citizens.

The residents of Knight's Neck, now Quincy Neck where the shipyard is located, withdrew their petition. In 1856 they again petitioned to separate from Braintree, and became part of Quincy.

It is very interesting that the petition for Quincy to become a town was drafted by the young lawyer, John Quincy Adams. In 1888 when Quincy became a city, the petition was drafted by another young lawyer of an old local family, Josiah Quincy.

The second manuscript was purchased a few years ago. It is the consent to the petition by non-resident owners of land in the Farms and Squantum.

Thirteen people signed the consent; three were from the North Precinct of Old Braintree, two from Dorchester, and eight from Milton. Their land was saltmarsh along the Neponset River, mostly the Montclair marshes.

Saltmarsh was valued real estate in the day when salt hay was needed by every farmer. Many people owned tracts of one or two acres. Over the years, some owners were from quite a distance. Governors Belcher and Hutchinson from Milton both owned saltmarsh in what is now North Quincy. Among the signers of the consent were Peter Boylston Adams, John Adams' brother, and one lady, Grizzel Apthorp, whose home was near present Christ Church, Quincy.

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