

John Adams—"Government of Laws, Not Men"

I. The Novanglus Letters*

Upon his return from the Continental Congress in the fall of 1774, Adams was met with a series of powerful and lucid essays in the *Massachusetts Gazette* defending the principles and policies of British officialdom and challenging the claims of the American Whigs. Writing over the pseudonym Massachusettensis, Daniel Leonard argued that the constitutional authority of Parliament did and must extend to the colonies. Theoretically, the colonies must be under the sovereignty of Parliament, Leonard insisted, because "two supreme or independent authorities cannot exist in the same state." Such an *imperium in imperio* was absurd and a contradiction in terms. According to Leonard, there could be "no possible medium between absolute independence" on the one hand, and "subjection to the authority of Parliament" on the other.

Historians have long recognized the importance of Adams's Novanglus letters to the Revolutionary cause. They were not only a close, point-by-point refutation of Leonard's argument, but they represent the most advanced Patriot argument against British imperial policy. The "Novanglus" letters were a systematic attempt by Adams to describe the origins, nature, and jurisdictional boundaries of the imperial British constitution. The central question that sparked Adams to write was clear and simple: Does the authority of Parliament extend to the colonies? In exhaustive and sometimes painstaking detail, Adams plumbs the depths of English and colonial legal history to demonstrate that the provincial legislatures are fully sovereign over their own internal affairs, and that the colonies are connected to Great Britain only through a modified feudal allegiance with the person of the King.

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Here, again, we are to be conjured out of our senses by the magic in the words "British empire," and "supreme power of the state." But, however it may sound, I say we are not a part of the British empire; because the British government is not an empire. The governments of France, Spain, &c. are not empires, but monarchies, supposed to be governed by fixed fundamental laws, though not really. The British government is still less entitled to the style of *an empire*. It is a limited monarchy. If Aristotle, Livy, and Harrington knew what a republic was, the British constitution is much more like a republic than an empire. They define a republic to be a *government of laws, and not of men*. If this definition be just, the British constitution is nothing more nor less than a republic, in which the king is first magistrate. This office being hereditary, and being possessed of such ample and splendid prerogatives, is no objection to the government's being a republic, as long as it is bound by fixed laws, which the people have a voice in making, and a right to defend. An empire is a despotism, and an emperor a despot, bound by no law or limitation but his own will; it is a stretch of tyranny beyond absolute monarchy. For, although the will of an absolute monarch is law, yet his edicts must be registered by parliaments. Even this formality is not necessary in an empire.

* Excerpted from: *The Revolutionary Writings of John Adams*, Selected and with a Foreword by C. Bradley Thompson, "Novanglus; or, A History of the Dispute with America, from Its Origin, in 1754, to the Present Time" (Indianapolis: Liberty Fund, 2000) (excerpt title added by Dr. Tierney) (italics in original).

There the maxim is *quod principi placuit legis habet rigorem*,[†] even without having that will and pleasure recorded. There are but three empires now in Europe, the German or Holy Roman, the Russian, and the Ottoman.

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II. The Massachusetts Constitution[‡]

John Adams was elected in 1779 to a special convention to draft a constitution for Massachusetts. He was subsequently asked by the drafting committee to author a first report. The document that follows is the draft report approved and sent by the committee to the whole convention. Although a copy of Adams's original draft is not known to exist, it is generally acknowledged that the draft report sent to the convention differs from Adams's in only two respects: Article III of the Declaration of Rights, which provided tax support for religion, and Chapter VI, Section I, which protected the interests of Harvard College, were added in committee. In addition to various stylistic changes, the final document approved by the convention and ratified by the people differs from Adams's draft in just two ways: it substitutes a qualified executive veto for an absolute veto and it did not include the governor's power to appoint militia officers.

Several principles and innovations are worth noting. First, Adams's draft is remarkably democratic: the House of Representatives, Senate, and Governor were all to be elected annually. Second, with greater clarity and in greater detail than any other state constitution of that time, he organized his draft constitution around three independent and separate powers. Third, Adams provided for a true check-and-balance system. He established a tricameral legislature, with the Governor having an absolute veto.

The Massachusetts Constitution is generally regarded as the most sophisticated and influential constitution produced during the Revolutionary period. As other states began to revise their constitutions in the post-Revolutionary period, they turned to the Massachusetts model for guidance, as did the framers of the United States Constitution.

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Chapter ii

The Frame of Government

The people inhabiting the territory heretofore called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign, and independent body politic, or State, by the name of The Commonwealth of Massachusetts.

In the government of the Commonwealth of Massachusetts, the legislative, executive, and judicial power shall be placed in separate departments, to the end that it might be a government of laws, and not of men.

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[†] "What pleases the prince has the force of law."

[‡] Excerpted from: *The Revolutionary Writings of John Adams*, Selected and with a Foreword by C. Bradley Thompson, "The Report of a Constitution, or Form of Government, for the Commonwealth of Massachusetts" (Indianapolis: Liberty Fund, 2000) (excerpt title added by Dr. Tierney) (italics added by Dr. Tierney).