

LESSONS ON THE RIGHTS AND RESPONSIBILITIES OF MASSACHUSETTS CITIZENS

Massachusetts was the last of the newly independent states to ratify a constitution. Authored primarily by John Adams in the fall of 1779, it was altered little before its passage in 1780. The state government, therefore, was set up very much in his image. It established a detailed plan for a government with three branches and a system of checks and balances. Adams, it would turn out, had penned what would become the longest continuously operating written constitution in the world.

In its preamble, Adams eloquently expressed the purpose of the government. Many of these principles could be found in other state constitutions and, later, the United States Constitution, the ratification of which Adams supported. After the preamble, Adams listed the rights that all Massachusetts citizens were guaranteed. It is these two sections that are to be examined here.

Today, a discouragingly small percentage of Americans can name the rights that even just the First Amendment guarantees them. Even fewer Massachusetts residents know or have ever seen our state constitution.

“The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people,” wrote Adams in the preamble. The government exists to protect individual rights, and because the government is an agreement among the people, Adams would agree that individuals have responsibilities that correspond with these rights.

What are the basic principles of republicanism that Adams wants Massachusetts citizens to recognize and live by? What are the responsibilities that correspond to our rights? How does the U.S. Constitution compare to the Massachusetts Constitution, written seven years earlier?

Document 1

What is Adams saying about the purpose of republican government in the preamble? Where do you see these principles reiterated in the Declaration of Rights? Does the list of rights appear to be at all redundant? Where? What does the document reveal about Adams’s (and Massachusetts citizens who subscribe to its principles) view of human nature? Why do you imagine Adams placed the list of rights toward the start of the document?

Constitution of the Commonwealth of Massachusetts, 1780

PREAMBLE

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain and establish the following *Declaration of Rights*, and *Frame of Government*, as the **Constitution of the Commonwealth of Massachusetts**.

PART THE FIRST
*A Declaration of the Rights of the Inhabitants
of the Commonwealth of Massachusetts*
[*excerpted*]

Article I. All men are born free and equal, and have certain natural, essential, and unalienable 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.

Article II. It is the right as well as the duty of all men in society, publicly, and at stated seasons to worship the Supreme Being, the great Creator and Preserver of the universe. And 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; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Article III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality [. . .] to promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require [. . .] the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion and morality [. . .] And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law [. . .]

Article V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

Article VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

Article VII. 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: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

Article VIII. In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments [. . .]

Article X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people [. . .] And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

Article XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

Article XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself [. . .] And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land [. . .]

Article XIV. 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. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation [. . .]

Article XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practiced, the parties have a right to a trial by jury [. . .]

Article XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth

Article XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Article XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Article XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer [. . .]

Article XXI. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever [. . .]

Article XXVI. No magistrate or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments

Article XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature [. . .]

Article XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and

administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

Article XXX. In the government of this 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 of men.

Constitution of the Commonwealth of Massachusetts, "Preamble," "Part the First,"
www.mass.gov/legis/const.htm

Document 2

How can you tell that the U.S. Constitution drew from the Massachusetts Constitution (as well as others)? How are the principles in its preamble evident in the Massachusetts Constitution? How are they different? Compare the Bill of Rights to the Declaration of Rights. How are they similar? Different?

The Constitution of the United States of America [excerpt]

Preamble (1787)

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Constitution of the United States of America, "Preamble," www.archives.gov/national-archives-experience/charters/constitution_transcript.html

Bill of Rights (1789)

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Putting it all together

- 1. Choose ten Articles from the Declaration of Rights. For each, list the right that it says the government must protect. Then, consider what responsibilities citizens have that correspond with each of these. For instance, any citizen that wishes to have his right to a trial by jury has the corresponding duty to serve on a jury when called. Compile students' ideas and produce a Declaration of Responsibilities.*
- 2. Both of these documents have been altered since they were first written. Research the ways that they have been changed. How do these changes reflect the changing attitudes and experiences of citizens? How do they reflect a changing understanding of republicanism? How might Adams judge these changes?*

THE ISSUE: WHO CAN GET MARRIED? EQUAL PROTECTION FOR WHOM?

In November 2003, the Massachusetts Supreme Court handed down a landmark decision that expanded the right to marry to partners of the same sex. Its decision included an order to government officials to pave the way toward issuing marriage licenses within 180 days.

Some citizens, like the judges in the majority, believe the decision was merely the logical extension of the state's guarantee of equal rights to its citizens, as stated in Article I of the Declaration of Rights in the state constitution. But in Article XXX, the principle of separation of powers is strongly and plainly expressed. The court overstepped these boundaries and delved into the business of legislation, others believe.

The debate rumbles on. And while the state now allows same-sex partners to marry, people are still at work to change the constitution to limit this right. Moreover, other states have and will explicitly ban gay marriage by passing constitutional amendments.

Examine the following documents:

*“Excerpts: The Majority Opinion,” *The Boston Globe*, 19 November 2003
[Excerpt from majority opinion of Supreme Judicial Court decision on same-sex marriage, written by Chief Justice Margaret H. Marshall.]*

*“Excerpts: The Dissenting View,” *The Boston Globe*, 19 November 2003
[Excerpt from dissenting opinion of Supreme Judicial Court decision on same-sex marriage, written by Justice Francis X. Spina.]*

Note: Boston Globe articles published before 2004 are not freely available on the internet. They are accessible to Boston Globe subscribers from its website, from any Boston Public Library branch or remotely using a Boston Public Library card, and as a part of many electronic databases that may be available through local public and school libraries.

*Jeannette Batz Cooperman, “Missouri to Vote on Gay Marriage Ban” *The Boston Glob*, 2 August 2004 [accessed 12 December 2007]
http://boston.com/news/specials/gay_marriage/articles/2004/08/02/missouri_to_vote_on_gay_marriage_ban/*

Use the documents listed above to answer the following questions:

- 1. For what reason does the court say that same-sex partners must be free from government interference and free to marry?*
- 2. How does the court address the several concerns of those who don't support the rights of same-sex partners to marry?*
- 3. What does the court say and suggest about the evolving nature of government and society?*
- 4. The dissenting opinion states that the court is overstepping its boundaries. How?*

5. Which articles in the state constitution must the justices have drawn from to base their opinions?
6. As the issue is playing out in Missouri, how do arguments there compare to those used by Massachusetts justices?

SERVICE-LEARNING CONNECTIONS: MASSACHUSETTS STATE CONSTITUTION

The following list contains ideas that teachers and students might like to pursue as service-learning extensions for this lesson. Teachers should make certain students have ample time and prompting to reflect on the significance of their service and how John Adams might have considered their work. Students and teachers could:

- Visually depict a *Declaration of Rights and Responsibilities* for Massachusetts citizens, and then post it around their school to educate fellow students about the state constitution and the responsibilities of citizenship.
- Sponsor a public forum on the issue of gay marriage, or other issues involving the rights of citizens in Massachusetts (such as student speech, death penalty, religious liberty, or voting rights).
- Identify an issue of particular interest to individual students that involves the rights of Massachusetts citizens, and write to public officials or lobby on behalf of the issue.
- Teach lessons to younger students about the state constitution, John Adams's role in its creation, and its relation to the U.S. Constitution.