

Declaration of Independence; Massachusetts Bay Colony year 1636



By Lewis Brackett

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[History of Cape cod by Freeman, excerpt starting in page 124](#)

Yes I have this massive 2 volume history of Massachusetts Bay colony in my library... My primary interest was that both my mothers Crocker and fathers Brackett families were 1630s settlers. My Mothers ancestor is actually briefly mentioned in the record! Reading on that era, I came across this Declaration of independence and codification of laws declared by the inhabitants... By now sadly all but forgotten by history except for a few history geeks like ME.

See The history of the first five years of the [1630s settlements of Portsmouth New Hampshire and Situate Massachusetts](#). See Lewis Brackett

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The royal patent... existed until the year 1636. No laws were made touching the general organization of the government; the limits of political rights or powers were not defined; and though the laws of England were supposed to be applicable to the colony, few understood their character, authority, or force. The clergy, who were generally best informed, were disposed to follow the code of Moses rather than that of

England. A few regulations had been made, such as were supposed to be imperiously called for by the necessities of the moment; but the power of the church was paramount. As the trade of the colonists began to increase and their settlements to expand, it became evident that law, and not mere opinion, - the civil power, and not church censure alone, - must be employed to prevent otherwise constantly recurring disputes growing out of conflicting interests, and to check the selfish principle in-woven in man's nature and tending to the perpetration of wrongs.

Therefore, November 15, 1636, the Court of Associates first set forth the following declaration of rights: C We, the associates of New Plymouth, coming hither as freeborn subjects of the state of England, and endowed with all and singular the privileges belonging to such, being assembled, do ordain that no act, imposition, law, or ordinance, be made or imposed on us, at the present or to come, but shall be made or imposed by consent of the body of associates, or their representatives, legally assembled, - which is according to the liberties of the state of England." This, it will be perceived, was, in effect, a declaration of independence.

Page 125 ANNALS OF BARNSTABLE COUNTY. 125 lish laws, "present or to come/' renounced, but Parliament was denied the right to legislate for the colony. Under these circumstances, it became necessary to provide for the future. It was, therefore, next enacted, - " That on the first Tuesday in June annually, an election shall be held for choice of governor and assistants, to rule and govern the plantation." The election was confined to such as shall be admitted as freemen, to whom a stringent oath was prescribed; and none were to be admitted but such as were " orthodox in the fundamentals of religion, and possessed of a ratable estate of twenty pounds. The votes were to be given in person, or by proxy, at Plymouth. Jurisdiction of all causes under forty shillings was given to the governor, with any two assistants, " to try, and to do as God shall direct."

1) The power of trying larger suits or offenses was to remain with the whole body of freemen, by juries. No person was to "live, or inhabit, within the government of New Plymouth, without the leave and liking" of the governor and assistants.² No other civil executive office was recognized than those of governor and assistants, except that of constable, to 1 However vague and general the power conferred, – "to do as God shall direct," -such was the oneness of religious views among those to whom the power was committed, that decisions were not expected to be contradictory. At the present day, the will of God would be interpreted variously.

2) This, Belknap intimates, was "to prevent the contagion of dissimilar habits and heretical principles from without; and it was fully understood, that differing from the religious tenets generally received was as great a disqualification as any political opinions whatever. This," he adds, " was an act of severity that would not be endured at the present day."

Page 126 THE HISTORY OF CAPE COD. whom was given large power. He was to serve, as expressed in his oath, " according to that measure of wisdom, understanding, and discretion as God hath given you," and had authority to apprehend, without precept, " all suspicious persons." Offenses capital, punishable with death, were treason, murder, diabolical converse, arson, and rape. Jurors were to be chosen by the towns; the grand inquest to be impaneled by the government. The occasions that called for the interference of the magistrates were comparatively rare. It may be remarked that, at this time, the idea generally prevailed that the colonists were at full liberty to establish such government as they chose – even 1" to form a new state, as fully, to all intents and purposes, as if they had been in a state of nature, and were making their first entrance into civilized society." Hitherto, the only towns settled in this primitive colony were Plymouth, Duxbury, and Scituate.

E-Mail Lewis Brackett: Lewishb@yahoo.com