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# "Life, Liberty..." and the Law: John Adams' political thought during the American Revolution

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UNIVERSITY OF NEW HAMPSHIRE, DEPARTMENT OF HISTORY

# **“Life, Liberty...” and the Law:**

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**John Adams’ political thought during the  
American Revolution**

5/1/2015

Submitted to the University of New Hampshire in Partial Fulfillment of the Requirements for  
University Honors and Honors in History.

## *Dedication and Acknowledgments*

I would like to dedicate this thesis to my parents, Bonnie and Francis Diemand, without whom I would not have the courage to write it. Thank you for all of your love and support these past twenty-one years, especially my four years at the University of New Hampshire.

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A special thank you goes to the faculty and staff in the History Department at the University of New Hampshire. Your support and advice these past four years has had a profound effect on me; not only as a student but as a person as well.

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## **Introduction**

### **John Adams: Man of the Law**

The year was 1753. On a rainy evening in June, a young John Adams sat in a room within the big brick buildings of Harvard College surrounded by his peers. He was in his third year of study at Harvard and part of a “clubb [sic] of students” who spent evenings together, “reading any new publications, or any Poetry or Dramatic Compositions, that might fall in their Way.”<sup>1</sup> Adams was often requested to read aloud at these meetings where his public speaking and prose were highly praised. It was even stated that he would “make a better Lawyer than Divine.”<sup>2</sup> After having this suggestion, Adams later revealed his “Inclination was soon fixed upon the Law.”<sup>3</sup> It was in this room, amongst this group of his peers that John Adams first fixated on the idea of becoming a lawyer. Up until this point in his life, Adams had been encouraged by his father to pay attention to his studies, both educational and religious, so he could become a minister. Now, with less than two years left in his college residency, Adams saw that he had another choice.

Adams had not always been an enthusiast for books and learning. In fact, it was not until half-way through his preparatory school training that he found his love for new ideas and thoughts. Higher education allowed John to become the independent thinker and distinguished writer that he would later become known for. In his autobiography, written some decades later, Adams wrote that he had a “growing Curiosity, a Love of Books and a fondness for Study.”<sup>4</sup> He graduated from Harvard College in 1755 with a Bachelor of the Arts degree and after much

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<sup>1</sup> Autobiography part 1, "John Adams," through 1776, sheet 3 of 53 [electronic edition]. *Adams Family Papers: An Electronic Archive*. Massachusetts Historical Society.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

deliberation of what to do for his career he began to study in the law office of John Putnam, a leading attorney in Worcester, Massachusetts.

In his autobiography, Adams stated, “the Law attracted my Attention more and more, and Attending the Courts of justice, where I heard.... Putnam and others, I felt myself irresistably [sic] impelled to make some Effort to accomplish my Wishes.”<sup>5</sup> Putnam agreed to house and teach Adams; this was John Adams’ life for two years. Adams later wrote, “In this Situation I remained, for about two Years Reading Law in the night and keeping School in the day.”<sup>6</sup> Adams became engulfed in the study of law and became a close observer of human folly as displayed in everyday life, a good quality for an attorney.<sup>7</sup> In November 1758, he wrote a letter to a friend in which he described the discipline and study of law and demonstrated his growing passion for it. Adams wrote that it was “a Field in which Demosthenes, Cicero, and others of immortal Fame have exulted before me! A Field which incloses [sic] the whole Circle of Science and Literature, the History, Wisdom, and Virtue of all ages.”<sup>8</sup> Adams’ growing passion for the law would soon become one of his most identifiable and influential principles.

In the following year, 1759, Adams was admitted to the bar in a ceremony before the Superior Court at Boston. A few weeks later, at the age of twenty-four, Adams had taken his first case as a lawyer, which he lost. He then vowed that he would “bend his whole soul to the law” and he would let nothing distract him.<sup>9</sup> Later, in 1761, the newly crowned King George III sent instructions to the colonies, known as the Writs of Assistance. These writs granted customs officers permission to search a person’s property, specifically those suspected of holding

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<sup>5</sup> Autobiography part 1, "John Adams," through 1776, sheet 4 of 53 [electronic edition]. *Adams Family Papers: An Electronic Archive*. Massachusetts Historical Society.

<sup>6</sup> Ibid.

<sup>7</sup> David G. McCullough, *John Adams*, New York: Simon & Schuster, 2001, 19.

<sup>8</sup> John Adams, “To John Wentworth, October- November 1758,” *Diary of John Adams, vol. 1* [Electronic edition], *Adams Family Papers: An Electronic Archive*, Massachusetts Historical Society.

<sup>9</sup> McCullough, 46.

smuggled goods, without a given reason. The court ordered this matter to be settled in Boston, to which Adams was present, along with Samuel Adams, Jeremiah Gridley, and James Otis. This political ferment was one of Adams' first direct exposures to the growing tensions between Great Britain and the colonies. In Adams' words,

The Views of the English Government towards the Collonies[sic] and the Views of the Collonies [sic] towards the English Government... appeared to me to have been directly in Opposition to each other, and were now by the imprudence of Administration, brought to...a Collision. England proud of its power and holding Us in Contempt would never give up its pretentions. The Americans devoutly attached to their Liberties, would never submit, at least without an entire devastation of the Country and a general destruction of their Lives.<sup>10</sup>

As an observer, Adams did not have an official voice in the actual courtroom but he remembered it as one of the most inspiring moments in his life.<sup>11</sup> Otis had stated the writs were null and void because they violated the natural rights of Englishmen. Adams then decided that he then had to choose a side on this matter and future matters of this nature. He chose the side which appeared to be "just...to trust in providence for the Protection of Truth and right."<sup>12</sup>

Adams' commitment to the law played a central role in shaping his response to the coming of the American Revolution. Fast forward to 1763, with the conclusion of the Seven Years War, tumultuous events in the American colonies were well underway. Relations between the colonies and Great Britain were increasingly strained and the next few years saw the institution of the first colonial taxations by the British. John Adams publicly denounced the Stamp Act of 1765, claiming that it violated the natural rights of Englishmen to be taxed by their government without consent. Adams expressed the importance of law and its necessity for the promotion of liberties in the colonies through his written opposition of the Stamp Act. Five

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<sup>10</sup> Autobiography part 1, "John Adams," through 1776, sheet 7 of 53 [electronic edition]. *Adams Family Papers: An Electronic Archive*. Massachusetts Historical Society.

<sup>11</sup> McCullough, 62.

<sup>12</sup> Autobiography part 1, "John Adams," through 1776, sheet 7 of 53 [electronic edition]. *Adams Family Papers: An Electronic Archive*. Massachusetts Historical Society.

years later, the event now known as the Boston Massacre transpired. In this instance, Adams used his courtroom talents and came to the defense of the British soldiers being prosecuted by the colonists. Adams encouraged the soldiers' trial and agreed to defend them because he believed in the right to a free trial – a right that every Englishman was entitled to. Furthermore, in 1775 and 1776 Adams both supported and helped formulate a declaration of independence from Great Britain. Adams believed that the British government had not only committed illegal acts of taxation (and others) against the colonies, but by doing so the Crown was no longer protecting the rights of its citizens in the colonies. Thus, Adams believed that the colonies must sever their ties with Great Britain in order to preserve law in their own land.

For John Adams, the rule of law had two components. The first was the external relationship between the British government and the colonies. Adams believed in the protection of the every Englishman's natural rights under the law. Thus, Great Britain was assigned the task of preserving the law and protecting such rights. His opposition against the Stamp Act and his involvement in the Declaration of Independence proved his belief that the British government failed in its duties to protect the colonies under the constitutional law. The second part of the rule of law for Adams was the internal relationship between the colonies' government and their own people. Adams demonstrates his views on internal government in both his response to Thomas Paine's pamphlet, *Common Sense*, and Adams' own pamphlet: *Thoughts on Government*. During the events of the Boston Massacre and the Stamp Act riots, Adams demonstrated his fear that the colonists were capable of undermining their own government, if it was not properly constructed, centering on the rule of law. Through his involvement in these revolutionary events, Adams demonstrated his unwavering belief in the law above all else.



Throughout his life, John Adams held a “spirited determination and eloquence in the cause of American rights and liberties.”<sup>13</sup> Adams’ support for natural rights and desire for a government that would protect such rights fueled his decisions during the events of the American Revolution. Adams strongly believed that in order to protect the rights and liberties of the American people, the law must be firmly upheld. In just the two decades since his revelation at Harvard College to become a lawyer, John Adams had begun to live the remainder of his life as a man of the law.

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<sup>13</sup> McCullough, 19.

## Chapter I

### **Laws and Liberties: The role of the 1765 Stamp Act**

1765 marked the beginning of the independence movement. In a December 1765 diary entry, John Adams identified 1765 as “the most remarkable Year of [his] Life.”<sup>14</sup> This year saw the institution of the Stamp Act by the British Parliament – an act that played a major role in defining colonial grievances against the Crown. It was during this time that the Sons of Liberty were formed in resistance to the taxation of the colonies. The Sons of Liberty were just one voice of the revolutionary movement that was beginning to grow louder. John Adams was a critical figure who resisted the Stamp Act by exercising his skill for the written word, thus giving a voice to the masses. By publicly denouncing the Stamp Act and revealing its unconstitutionality, Adams was able to clearly express the importance of the law and its necessity for the promotion of liberty in the colonies.

The Stamp Act was not the first order of taxation that the colonies had received from Great Britain – it was a continuation of a taxation struggle that had begun almost a year previously. The Sugar Act of 1764 was formally presented as an act that simply revised the regulations of trade in the colonies; however, this concealed its main purpose: a revenue act for the British Crown. The Sugar Act was enacted by the British Parliament and assigned a three-penny tax on all molasses bought and sold within the thirteen colonies. “The colonists were at last to be taxed” to raise revenue for the British Crown.<sup>15</sup> The terms of this act were causing “genuine distress” among colonial merchants and many colonists began to question the basis and

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<sup>14</sup> John Adams, “Braintree, Decr. 18, 1765,” *Diary of John Adams, vol. 1* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>15</sup> Edmund S. Morgan, Helen M. Morgan, *The Stamp Act Crisis: Prologue to Revolution*, Chapel Hill: Published for the Institute of Early American History and Culture by the University of North Carolina Press, 1995, 27.

legality of this matter.<sup>16</sup> The Sugar Act not only authorized the British Parliament to tax the colonists, but it also forced the colonies to forfeit their right to trial by jury. As these Parliamentary policies began to spread throughout America, the colonies were reminded of their rights as Englishmen. The city of Boston, which played a crucial role in the revolution, detected “the entering wedge of a movement to deprive colonists of all their rights.”<sup>17</sup> James Otis, an assemblyman from Boston, argued that colonists were entitled to the same rights as Englishmen in England and it was beyond the power of Parliament to “abridge those rights.”<sup>18</sup> Through the Sugar Act, Otis and others aimed to demonstrate the unconstitutionality of Parliamentary taxation, which would again be seen with the Stamp Act of 1765. Both of these acts would help plunge Great Britain and the colonies into a discussion of colonial rights.

The origin of the Stamp Act stemmed from the mind of George Grenville, who thought the colonies could (and should) contribute more to the cost of their defense.<sup>19</sup> George Grenville, a British statesman and Prime Minister to the British Crown, authored and introduced the act to the American colonies. While Grenville worried about the colonial (and Parliamentary) reaction to a stamp tax, he tried to display it in a way that would leave the colonists no choice but to accept it. He presented the order of taxation to the colonies as “a result of their own failure to come to the assistance of the mother country in an hour of need.”<sup>20</sup> The colonies would then be perceived as bowing to the request of British authority. Grenville did, on the other hand, offer the colonies an alternative of raising the money themselves “in any way they saw fit;” however this proposition proved to be problematic.<sup>21</sup> Governor Bernard of Massachusetts did not agree

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<sup>16</sup> Morgan and Morgan, 29.

<sup>17</sup> Ibid, 35.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid, 54.

<sup>20</sup> Ibid, 55.

<sup>21</sup> Ibid, 56.

with Grenville's alternative method because, Bernard claimed, the provinces would not be able to handle raising revenue on their own without a voice of authority.<sup>22</sup> Regardless of the opposition to this "alternative" clause in the Stamp Act, the colonists were never fully able to take advantage of this offer. The colonists could not take the offer because "the offer never [was] made [to] them in a regular manner by letters from the Secretary of State" and it was never presented in terms "definite enough" to permit action.<sup>23</sup> Not only were the colonists not fully informed of this option to raise revenue themselves but they also needed a request of a specific sum they would need to raise, of which none was given. The colonists were thus forced to obey the terms of the Stamp Act and pay the tax that Parliament levied.

There was one provision in the Stamp Act that particularly caught the attention of the colonists. The Stamp Act bill stated that "the proceeds of the tax were to be expended in America in procurement of supplies for the troops stationed there."<sup>24</sup> Every paper document, including items such as playing cards and court documents, was now required to have a stamp purchased and placed upon it. The one clause in question referred to stamps on documents found in courts "exercising ecclesiastical jurisdiction."<sup>25</sup> This provision alluded to the fact that the councilmen in England wanted to establish Bishops in America and an ecclesiastical justice system. This idea of Bishops in America was "anything but welcome" in the eyes of the American colonists.<sup>26</sup> With the institution of the Stamp Act, the colonists would find themselves taxed without consent for purposes of revenue, their rights to common-law trial abridged, the authority of one prerogative court (admiralty) enlarged, and the establishment of another

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<sup>22</sup> Ibid, 62-63.

<sup>23</sup> Ibid, 63.

<sup>24</sup> Ibid, 72.

<sup>25</sup> Ibid, 73.

<sup>26</sup> Ibid.

(ecclesiastical) hinted at.<sup>27</sup> The colonists were becoming increasingly skeptical of the British government's intentions for the colonies.

Colonial opposition to the Stamp Act grew with the help of publications and figures speaking out against the British Parliament. Daniel Dulany, a Maryland Loyalist politician, wrote a pamphlet in 1765 entitled, *Considerations on the Propriety of imposing Taxes in the British colonies, for the purpose of raising a Revenue, by Act of Parliament*. This pamphlet claimed that the colonial rights involved with the Stamp Act “could not be overthrown simply by the fiat of Parliament.”<sup>28</sup> Dulany's main purpose was to convince his fellow-Americans that they were not virtually represented in Parliament. He also argued that taxation “formed no part of the authority which Parliament enjoyed as the supreme power in the empire.”<sup>29</sup> In his pamphlet, he encouraged “Sprit and Vigour [sic]” and to defy tyranny as it existed within the British's form of taxation without representation.<sup>30</sup>

Additionally, Patrick Henry, of the House of Burgesses, proposed a series of resolutions against the Stamp Act. These resolutions were published in newspapers throughout the colonies and they stated their rights as Englishmen: “the Colonists...are declared entitled to all Liberties, Privileges, and Immunities of Denizens and natural Subjects...as if they had been abiding and born within the Realm of England.”<sup>31</sup> The House of Burgesses stated that Parliament did not have the power to tax the colonies in this way and infringe on their rights as Englishmen. While some colonies differed in their approach to resistance (i.e. Virginia did not endorse it, while Rhode Island did), none of the colonies had yet to refer to supporters of the Stamp Act as committing treason. Most of the colonies which would later participate in the Revolution

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<sup>27</sup> Ibid, 74.

<sup>28</sup> Ibid, 77.

<sup>29</sup> Ibid, 90.

<sup>30</sup> Ibid, 91.

<sup>31</sup> John Pendleton Kennedy, ed., *Journals of the House of Burgesses of Virginia, 1761-1765*, Richmond: 1907, 360.

(except Georgia, North Carolina, Delaware, and New Hampshire) eventually passed resolutions defining their rights and denying Parliament's authority to tax them. In the early fall of 1765, after it became apparent that a peaceful submission to the Stamp Act was unlikely, the Stamp Act Congress was formed to address and devise a formal protest against the British taxation.

The Stamp Act Congress, or First Congress of the American Colonies, was a meeting held on October 7, 1765. Governor Bernard appointed Timothy Ruggles to serve as chairman and thus represent British interests. Ruggles' task was to convince Congress to recommend submission to the Stamp Act until Parliament could be persuaded to repeal it. Despite Ruggles' efforts, the Congress began to draw up a statement of the "rights and privileges of the British American Colonists."<sup>32</sup> The Congress eventually decided: for Great Britain, Parliament may levy taxes and make laws but for the colonies, Parliament could only make laws. This was the great distinction between Great Britain and the colonies, as laid out by the Stamp Act Congress. The resolve at the adjournment of Congress stated, "That there are certain essential rights of the British constitution of government, which are founded in the law of God and nature, and are common rights of mankind," and "that the inhabitants of this province are unalienably entitled to these essential rights, in common with all men; and that no law of society can, consistent with the law of God and nature, divest them of those rights."<sup>33</sup> The concept of "natural" and "unalienable" rights would become a principal concept on the road to revolution. Colonial protests and public opposition to the Stamp Act would grow from these proposed notions of the rights of man.

John Adams was a chief figure of opposition to the Stamp Act. Throughout his personal papers and diary entries, as well as his published documents, he demonstrated his great

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<sup>32</sup> Morgan and Morgan, 110.

<sup>33</sup> Ibid, 118.

disapproval for these new Parliamentary taxations. Adams argued that it was not within the rights of the British Parliament to tax the American colonists since they did not have a person representing the British colonies in Parliament. He claimed the act to be unlawful and described it as an “enormous Engine, fabricated by the British Parliament...,” and he believed, guilty of “battering down all the Rights and Liberties of America.”<sup>34</sup> Adams constantly expressed his dismay for the unlawfulness of the British government and stated that this betrayal of the law was detrimental to the rights of the American colonists. He believed that the practice of equality under the law was essential to men’s rights and liberties in the colonies. His responses to the events of 1765 exposed his innate belief that law comes above all else.

John Adams once referred to the Stamp Act as a “hideous Taxation, more cruel and ruinous than Danegeld of old...”<sup>35</sup> The Stamp Act was a “frightful dream” placed on the American colonies by the British Parliament to help pay for troops stationed in North America after Britain’s victory in the Seven Years’ War.<sup>36</sup> This act “levied stamp duties on a wide range of colonial legal and commercial documents;” thus, it affected every person in the colonies who wished to produce a deed, procure a license, read a newspaper, or even purchase a deck of cards.<sup>37</sup> From its inception in March 1765 (effective November 1765), this act was unpopular amongst colonists as they felt it was a breach of their rights as English subjects. It was unlawful, they believed, to be taxed without their consent and without representation in the British Parliament. John Adams stated, “In every Colony, from Georgia to New Hampshire inclusively, the Stamp Distributors and Inspectors have been compelled, by the unconquerable Rage of the

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<sup>34</sup> John Adams, “Braintree, Decr. 18, 1765,” *Diary of John Adams, vol. 1* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>35</sup> John Adams, “Dec. 25, 1765, listed under ‘Clarendon’s second letter to Pym, Boston Gazette’,” *Diary of John Adams, vol. 1* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>36</sup> Pauline Maier, *From Resistance to Revolution; Colonial Radicals and the Development of American Opposition to Britain, 1765-177*, New York: Knopf, 1972, 53.

<sup>37</sup> Bernhard Knollenberg, *Origin of the American Revolution: 1759-1766*, New York: Macmillan, 1960, 208.

People, to renounce their offices.”<sup>38</sup> The colonists’ famous slogan was “No taxation without representation,” echoed in the Braintree Instructions of 1765, a response against the Stamp Act.<sup>39</sup> Many protests and documents, such as the Braintree Instructions, denounced the Stamp Act in the following months until its repeal in March of 1766. During the Stamp Act Crisis, the Sons of Liberty were formed. This group became a fundamental player in driving the opposition to the Stamp Act and on the road to the American Revolution.

The Stamp Act saw much public backlash and some of the most unforgettable events were executed by the Sons of Liberty. “Colonial resistance to the Stamp Act seems to have been natural, even predictable.”<sup>40</sup> The Sons of Liberty demonstrated their opposition to the Stamp Act through various legislative resolutions, public demonstrations, threats, and other actions (which often ended in violence). Their methods gained attention by shedding light on the wrongdoings and unlawfulness of the British Crown. These groups, found throughout the colonies, were made up of mostly middle-class merchants, artisans, local politicians, etc. In August of 1765, the Sons of Liberty were formed in Boston to protect the rights of the colonists and fight the abuses of taxation found in the Stamp Act. The first public protest exhibited by the Sons of Liberty was on August 14, 1765. In response to the Stamp Act, the Sons of Liberty hanged an effigy of Andrew Oliver, the distributor of stamps for Massachusetts. The following issue of the *Boston Gazette* read:

Early on Wednesday morning last the Effigy of a Gentleman sustaining a very unpopular office... was found hanging on a Tree in the most public Part of the Town...on the Breast of the Effigy was a Label, in Praise of Liberty, and denouncing Vengeance on the Supporters of it – and underneath were the following Words, “He that takes this down is an enemy to his country.”<sup>41</sup>

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<sup>38</sup> Adams, “Decr. 18, 1765,” *Diary of John Adams, vol. 1*.

<sup>39</sup> McCullough, 61.

<sup>40</sup> Maier, *From Resistance to Revolution*, 51.

<sup>41</sup> “August 19,” *Boston Gazette*, August 19, 1765.



Also hung on the effigy was a boot painted green on the bottom, a pun on both George Grenville and the Earl of Bute, the two figures most blamed by the colonists for the taxation regulations. The article then says that the owner of the tree was not to take the effigy down, lest his home and property would be damaged.

Throughout the day, crowds gathered to view the spectacle. Eventually, Oliver was paraded through the streets and forced to publicly resign his duties under the Liberty Tree.<sup>42</sup> Oliver was to “renounce his Office of Distributor of Stamps, by a Declaration under his Hand, and under his Oath... under the very Tree of Liberty, nay under the very Limb where he had been hanged in Effigy, Aug. 14th. 1765.”<sup>43</sup> As news spread of Oliver’s resignation, threats of violence and aggressive acts spread throughout the colonies and groups of opposition were formed. In the days following the demonstration of August 15<sup>th</sup>, the Sons of Liberty planned another protest against the Stamp Acts. On August 26<sup>th</sup>, the Sons of Liberty attacked the mansion of Lieutenant Governor Thomas Hutchinson, evicting the family and destroying their belongings. At the time of these August protests, the Sons of Liberty were born and by December of 1765 they began issuing statements by that name.<sup>44</sup>

While Adams shared the Sons of Liberty’s opposition to the Stamp Act, he criticized their use of public violence. Colonists’ opposition to the Stamp Act was “highly approved” among Englishmen, except the acts of violence.<sup>45</sup> In his diary entry of August 15, 1765, Adams wrote about the events of the previous day and the effigy of Andrew Oliver. While Adams did oppose the Stamp Act, he was not in full agreement with the Sons of Liberty’s public actions against Oliver. “Members of a mob clearly acted without the sanction of law” and thus John

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<sup>42</sup> Gary B. Nash, *The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America*, New York: Viking, 2005, 45-47.

<sup>43</sup> Adams, “Dec. 19, 1765,” *Diary of John Adams, vol.1.*

<sup>44</sup> Maier, *From Resistance to Revolution*, 85.

<sup>45</sup> *Ibid*, 61-62.

Adams could not condone such violent acts of the mob.<sup>46</sup> Great Britain's policies and laws for the colonies were the causation of violent and lawless acts, such as the Stamp Act riots and mob protestations. Thus, the British government was at fault for failing to enforce their rule of law and preserve liberty in the colonies.

It is clear that Adams did not fully agree with these public threats against Oliver. Adams also seemed to claim that Oliver was not necessarily the figure to blame for the Stamp Act crisis. In his diary, Adams asks, "Is it known that he [Oliver] ever advised the Ministry to lay internal Taxes upon Us? That he ever solicited the office of Distributer of Stamps? Or that he has ever done any Thing to injure the People, or to incur their Displeasure, besides barely accepting of that office?"<sup>47</sup> Adams instead believed that the Stamp Act was unlawful and the British Parliament was at fault for enacting the new taxation rules. In 1765 Adams stated, "We have always understood it to be a grand and fundamental Principle of the British Constitution that no Freeman should be subjected to any Tax to which he has not given his own Consent in Person or by Proxy."<sup>48</sup>

During the Stamp Act crisis, Adams and the Sons of Liberty shared some concerns over the rights of American colonists. In February 1766, after the official institution of the Stamp Act, the Sons of Liberty wrote to Adams asking for assistance. In their letter they stated, "We address ourselves to you...to Oppose all Measures Detrimental to the Welfare of it [the Stamp Act], and we should be Glad if you would inform Us as Soon as possible of your Sentiments on the Above and the Dispositions of the People in Your Town."<sup>49</sup> There is no documented reply from Adams but one can infer from Adams's later writings that he would have in fact agreed

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<sup>46</sup> Maier, *From Resistance to Revolution*, 21.

<sup>47</sup> Adams, "Aug. 15th, 1765," *Diary of John Adams, vol. I*.

<sup>48</sup> John Adams, "Adams' Original Draft [ante Sept. 24, 1765]," *John Adams Papers, vol. I* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>49</sup> Adams, "From the Sons of Liberty, Feb. 5, 1766" *John Adams Papers, vol. I*.

with what the Sons of Liberty were proposing, as Adams did oppose the Stamp Act and felt it was “detrimental” to the colonists’ liberties. The Sons of Liberty wrote to Adams that where there is a union, “we Should Endeavor to Support it by all Means [especially when the grand Object in View is the Preservation of our Invaluable Rights and Priveledges [sic].”<sup>50</sup> Adams also mentioned the importance of preserving the colonists’ rights in his “Dissertation on the Cannon and the Feudal Law,” a 1765 document written in opposition to the Stamp Act. He wrote, “And liberty cannot be preserved without a general knowledge among the people, who...have a right, an indisputable, unalienable, indefeasible divine right.”<sup>51</sup> Both John Adams and the Sons of Liberty believed that the Stamp Act was infringing on their natural rights as British citizens.

In Adams’s personal papers and diaries, during the years 1765-1766, he often wrote about his responses and reactions to the Stamp Act. His writings allow us to determine his thoughts and feelings towards this moment in history. In one of his diary entries from January 1, 1766, Adams drew parallels to the Ipswich Instructions of 1687 when referring to the injustice of the Stamp Act. Adams states, “that the first Settlers of America, were driven by Oppression from the Realm...till at last they offered to make a Contract with the Nation, or the Crown, and to become subject to the Crown upon certain Conditions...which give them a Right to tax themselves.”<sup>52</sup> The Ipswich Instructions were a result of a 1687 tax which the governor of Massachusetts had imposed on Ipswich Residents. The citizens of Ipswich protested the lack of representation in the British government. Adams stated, “This is a Principle which has been advanced long ago.”<sup>53</sup> Adams concluded that the Stamp Act and the Ipswich Instructions were both an injustice demonstrating taxation without proper representation. Adams states, “I

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<sup>50</sup> Ibid.

<sup>51</sup> John Adams, “‘A Dissertation on the Canon and the Feudal Law,’ No.3”, *John Adams Papers, vol. 1*. Originally published in *Boston Gazette*, Sept. 30, 1765.

<sup>52</sup> Adams, “Jan 1, 1766,” *Diary of John Adams*.

<sup>53</sup> Ibid.

grounded my Argument on the Invalidity of the Stamp Act, it not being in any sense our Act, having never consented to it.”<sup>54</sup> The Ipswich Instructions provided a basis for his argument that the British Parliament taxed the colonies unlawfully and without consent in 1765 with the institution of the Stamp Act.

John Adams wrote and published many famous works in response to the Stamp Act, one of which were the Braintree Instructions. The Braintree Instructions were presented in September 1765 and they instructed the representative of Braintree, Massachusetts to oppose the Stamp Act. Adams’s first draft of the Instructions said, “By this Act a very burdensome, and in our apprehension, unconstitutional Tax is to be laid upon us all.”<sup>55</sup> The Instructions state that the taxations enacted by British Parliament were unconstitutional and unlawful. The final draft that was presented at the town meeting in Braintree read:

We further apprehend this Tax to be unconstitutional, By the great Charter no americament [sic] shall be assessed but by the oath of Honest and Lawfull [sic] men of the Vicinage. And by the Same Charter no Freeman shall be taken or imprisoned or be disseised [sic] of his Freehold or Liberties or Free Customs nor passed upon nor Condemned but by Lawfull [sic] Judgment of his Peers or by the Law of the Land.<sup>56</sup>

The Braintree Instructions present the argument that the Stamp Act was against the “Law of the Land” and therefore must be repealed. They further state that the act infringes on the colonists’ liberties and freedoms. Adams was both a proponent of the law and of natural rights and freedoms. He once stated, “Be it remembered that liberty must at all hazards be supported. We have a right to it...”<sup>57</sup> Adams’s involvement in drafting the Braintree Instructions also demonstrates his strong belief in the power of the law. He publicly denounced a law set forth by his own country, Great Britain, because he believed it to be against the laws written in the British

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<sup>54</sup> Adams, “Dec. 20, 1765,” *Diary of John Adams*.

<sup>55</sup> Adams, “Adams’ Original Draft [ante Sept. 24, 1765],” *John Adams Papers, vol.1*.

<sup>56</sup> John Adams, “Instructions Adopted by the Braintree Town Meeting (Sept. 24, 1765),” *John Adams Papers, vol.1*.

<sup>57</sup> John Adams as quoted in McCullough, 60.

constitution. Adams could not support the Stamp Act because he firmly believed that it was not within the legal right of the British Parliament to tax the colonies in this way. This was the first of many steps that Adams took in opposing the Stamp Act and stressing the importance of the law's role in the American colonies.

In December of 1765, Adams was appointed Council to appear in front of the Governor concerning the "Courts of Law" in the Massachusetts province. Adams writes in his diary: "The Reasons which induced Boston to choose me, at a distance, and unknown as I am. . . . I am wholly at a loss to conjecture: as I am, what the future Effects and Consequences will be both with Regard to myself and the Public."<sup>58</sup> Adams agreed to represent this "important cause," to deliver a speech in front of the governor denouncing the Stamp Act, because he supported the claims of the act's invalidity.<sup>59</sup> In his speech, he pronounced the act invalid on the grounds that Massachusetts did not have proper representation in the British Parliament, thus it was not legal to be taxed by them. Adams stated that it was not "our" act, since the province had never consented to it. Adams asked, "Shall we contend that the Stamp-Act is void? That the Parliament have no legal Authority to impose Internal Taxes upon Us?-Because We are not represented in it?"<sup>60</sup> He further states that "protection and allegiance" are reciprocal.<sup>61</sup> In other words, he made the argument that Great Britain was no longer protecting the interests of its citizens by taxing the colonies without their consent. "And if We are out of the Kings Protection, are we not discharged from our Allegiance."<sup>62</sup> Adams begins to make some early revolutionary claims against Great Britain in these proceedings with the colonial government. By accepting

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<sup>58</sup> Adams, "Dec. 19, 1765," *Diary of John Adams*.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

the position of legal counsel against the Stamp Act, Adams proved that he would not hesitate to seize an opportunity to bring the rule of law into the colonies.

Adams published another document in the form of four articles that also addressed his opposition to the Stamp Act and support of the law. These articles were eventually given the title, “A Dissertation on the Canon and the Feudal Law” and were published in the *Boston Gazette* in August 1765. In this document, Adams explains that the colonies’ opposition to the Stamp Act was derived from Britain failing to award them their natural rights as Englishmen. The two basic rights that all free Englishmen were entitled to were the right to be taxed only by consent and the right to be tried only by a jury of one’s peers. Adams stated, “I say RIGHTS, for such they have, undoubtedly, antecedent to all earthly government—Rights that cannot be repealed or restrained by human laws—Rights derived from the great legislator of the universe.”<sup>63</sup> Adams includes the discussion of natural rights throughout his Dissertation, stressing their necessity and importance for the people in the American colonies. As a supporter of men’s natural and “inalienable” rights, he also states that the feudal system cannot be inconsistent with the “liberty and the rights of mankind.”<sup>64</sup> Therefore, it is unlawful if the British government failed to extend the natural rights of British citizens to the colonists. Adams later reprimands Britain for its actions:

We have been told that “the word 'Rights' is an offensive expression.” That “the King his ministry and parliament will not endure to hear Americans talk of their Rights.” That “Britain is the mother and we the children, that a filial duty and submission is due from us to her,” and that “we ought to doubt our own judgment, and presume that she is right, even when she seems to us to shake the foundations of government.” That “Britain...will force her own judgment into execution, right or wrong.”<sup>65</sup>

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<sup>63</sup> John Adams, “‘A Dissertation on the Canon and the Feudal Law,’ No.1”, *John Adams Papers, vol. 1*. Originally published in *Boston Gazette*, Aug. 12, 1765.

<sup>64</sup> John Adams, “‘A Dissertation on the Canon and the Feudal Law,’ No.2”, *John Adams Papers, vol. 1*. Originally published in *Boston Gazette*, Aug. 19, 1765.

<sup>65</sup> John Adams, “‘A Dissertation on the Canon and the Feudal Law,’ No.4”, *John Adams Papers, vol. 1*. Originally published in *Boston Gazette*, Oct. 21, 1765.

Here, Adams clearly voices his disdain for the controlling demeanor that the British government embraces. He also questions the British government by saying the colonists must “presume that she is right,” insinuating that the mother country was *not* always correct or lawful in her actions. Not only was his “Dissertation on the Canon and the Feudal Law” a forceful opposition to the Stamp Act, it was a declaration of the colonists’ natural rights and an insult to the integrity of the British government.

During the last months of 1765, Adams drafted letters to William Pym in response to the Stamp Act. The letters signed “Pym” were originally published in the *London Public Ledger*, denouncing the colonists’ outrage to the institution of the Stamp Act. Pym made the point that the rights of the colonies were at the mercy of Great Britain. The second of Pym’s letters was published in the *Boston Gazette* and received a reply from “Hampden” (a pseudonym for James Otis Jr.). After writing several drafts in response to these writings, Adams had three of his letters to Pym published in the *Boston Gazette* in January 1766. Adams’s writings seemed to be reflection of the debate between Pym and Hampden with Adams adding his own thoughts on the matters at hand, signing the published letters as “Clarendon.”<sup>66</sup>

Adams wrote the letters to Pym to share his ideas regarding the “glorious cause of liberty and law” and the new taxations and restrictions declared by Britain.<sup>67</sup> In one of his early drafts to Pym, Adams writes, “The gallant Struggle in America, is founded in Principles so indisputable, in the moral Law, in the revealed Law of God, in the true Constitution of great Britain, and in the most apparent Welfare of the Nation as well as the People in America.”<sup>68</sup> This statement encompasses Adams’s belief in law above all else, stating “Law” is at the heart of

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<sup>66</sup> Editorial Note, Papers of JA, vol.1

<sup>67</sup> John Adams, “The Earl of Clarendon to Wm. Pym,” *Boston Gazette*, Jan. 13, 1765.

<sup>68</sup> Adams, “Second letter to Pym, Dec. 26, 1765,” *Diary of John Adams*.

America and responsible for its “apparent Welfare.” In his second published letter to Pym, Adams still weaves in his ideas and passion for the law. He consistently argues the unconstitutionality of the courts without juries and taxation without consent. Adams argues that the courts should thus be opened without stamps. He writes, “I never defended what could be proved to be real Infringements on the Constitution...I was...procuring still further Security of Freedom.”<sup>69</sup>

Additionally, in his third published letter to Pym, Adams asserts that liberty is the noble end of the British government. Adams writes that the British Constitution “stands not on the supposition that kings are the favourites [sic] of heaven; that their power is more divine than the power of the people...it is not built on the doctrine that a few nobles or rich commons have a right to inherit the earth.”<sup>70</sup> It is here that Adams demonstrates his support for the common people, to provide liberty for them under the rule of law, stating that it is supported by the British Constitution. He also says “all men are born equal” in his last letter to Pym, a statement that would come into use with the creation of the Declaration of Independence. Adams was becoming a public voice for the rights of the colonies, supporting his claim with evidence of the law.

Combating the Stamp Act and revealing its invalidity was one way John Adams worked to demonstrate his innate belief of the importance of the rule of law in the colonies. The British Parliament’s institution of the Stamp Act was proven to be unconstitutional and unlawful. Adams claimed, “A Parliament of Great Britain can have no more right to tax the colonies, than a Parliament of Paris.”<sup>71</sup> Adams saw The Stamp Act, the beginning of a long “train of abuses” by

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<sup>69</sup> John Adams, “The Earl of Clarendon to Wm. Pym,” *Boston Gazette*, Jan. 20, 1765.

<sup>70</sup> John Adams, “The Earl of Clarendon to Wm. Pym,” *Boston Gazette*, Jan. 27, 1765.

<sup>71</sup> Adams, “Argument before Governor Bernard and the Council in Favor of Opening the Courts, Dec. 20, 1765,” *John Adams Papers, vol. I.*



the British government, as the causation of violent, lawless acts amongst the colonists, such as the Stamp Act riots and mob protestations. To Adams, the British government was failing to preserve their rule of law in the colonies. By voicing his belief that the rule of law should be a principle factor in Britain's relations with the colonies, John Adams was able to demonstrate that the Stamp Act was indeed against the natural rights and liberties given to English citizens. The Stamp Act was repealed in March 1766, just a year after its inception. During the years 1765-1766, John Adams revealed the significance and need for liberty and law in the American colonies. John Adams stated, "It is commonly Said that these Colonies were peopled by Religion—But I should rather say that the Love of Liberty, projected conducted and accomplished the settlement of America."<sup>72</sup>

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<sup>72</sup> Adams, "Draft of 'A Dissertation on the Canon and the Feudal Law [August? 1765]," *John Adams Papers, vol. I.*

## Chapter II

### **The Trials and Tribulations on King Street: John Adams and the Boston Massacre Trials**

Five years after the Stamp Act Crisis, the independence movement in the colonies took another violent turn. On the night of March 5, 1770, a man was walking by King Street and stopped to help put out a fire that had started. After responding to the “Signal of Fire,” this man, who was indeed John Adams, continued his journey home after briefly hearing of an upheaval between Boston civilians and British soldiers on King Street – an event eventually labelled as the Boston “Massacre.” After the British soldiers were arrested on criminal charges, John Adams was asked to come to their defense in the Boston Massacre Trials. John Adams was a Patriot – so why did he choose to defend the Kings’ soldiers in a court of law? Adams practiced equality under the law and in his personal diary, Adams stated, “Persons whose Lives were at Stake ought to have the Council they preferred.”<sup>73</sup> He was also a firm believer in “Fact, Evidence and Law” and he used these as justification for defending Captain Preston and the British soldiers.<sup>74</sup> Additionally, the right to a fair trial was one of the rights of every Englishman, and no citizen should be denied these rights. Three years after the trials that acquitted Captain Preston and six of his men, John Adams made a remarkable statement about his defense position in the trial. According to Adams, his defense of Captain Preston and the soldiers was one of the “best pieces of service [he] ever rendered [his] country,” at least up to this point in his life.<sup>75</sup>

Since 1768, Bostonians had been living with the presence of British soldiers in their city.

Governor Bernard of Massachusetts made the decision to bring British soldiers into Boston,

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<sup>73</sup> John Adams, L. Kinvin Wroth, and Hiller B. Zobel, *Legal papers of John Adams, vol.3* (Cambridge, MA: Belknap Press of Harvard University Press), pp.6.

<sup>74</sup> Ibid.

<sup>75</sup> John Adams, “Friday, March 5, 1773,” *Diary of John Adams, vol. 2* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

much to the dismay of the colony. After the violence and outrage in Boston over Parliament's Stamp Act and Quartering Act of 1765, Bernard thought he had no choice but to allow troops in Boston to protect British interests and muffle civilian riots and violence. In a letter to General Gage, Bernard states that a "timely Exertion of Force" was needed in the city of Boston.<sup>76</sup> As Bernard told Lord Barrington, a British politician, there was a "need" for British troops in the colonies. "Troops," he told Barrington, "are not wanted [needed] here to quell a Riot or a Tumult, but to rescue the Government out of the hands of a trained mob, and to restore the Activity of the Civil Power, which is now entirely obstructed."<sup>77</sup> Still, Governor Bernard would not directly ask for troops to come to Boston. Perhaps he did not take this responsibility because he feared the backlash from the Sons of Liberty or was worried that the troops would settle there permanently. Regardless of his reasoning, Bernard had to accept the inevitable presence of soldiers in Boston. Bernard justified the quartering of troops by stating that Boston needed the troops to maintain order and decrease mob riots. Others feared a standing army in the colonies when it was not a time of war. Bernard needed to ensure the military presence in Boston would result in "peace and security," not "bloodshed and insurrection."<sup>78</sup>

Before the 29<sup>th</sup> Regiment landed in Boston in 1768, relations between the colonists and the existing British soldiers (left over from the Seven Years' War) were relatively peaceful. John Shy, a Revolutionary historian, even goes so far as to say the British army may have been becoming "Americanized."<sup>79</sup> Many British soldiers seemed to prefer life in the colonies to that of life in England or Ireland. Another reason for the "lack of friction" between soldiers and colonists before 1768 were the fears of British local commanders over antagonizing the

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<sup>76</sup> Hiller B. Zobel, *The Boston massacre* (New York, NY: W.W. Norton & Company), pp.80.

<sup>77</sup> *Ibid*, 81.

<sup>78</sup> *Ibid*.

<sup>79</sup> John W. Shy, *Toward Lexington; the role of the British Army in the coming of the American Revolution* (Princeton, N.J.: Princeton University Press), pp.278.

Americans.<sup>80</sup> No British commander wished to see their soldiers in trouble with the local inhabitants and authorities. Therefore, British commanders ruled their men with a “hand of iron” in hostile situations and tried hard to keep the civilian authorities happy.<sup>81</sup> One example of this was in 1766 when the people of New York City erected a Liberty pole to rejoice in the repeal of the Stamp Act. When British soldiers cut it down, fights broke out among the civilians and soldiers; however, regimental officers quickly met with the governor and magistrates and sorted it out accordingly. Furthermore, when the British army arrived in Boston in 1768, the commanders kept their punishments harsh on their soldiers, lest they start trouble with civilians. Andrew Eliot, a Boston clergyman “not at all sympathetic to the British army,” reported in early 1769 that “the Town is surprisingly quiet. The discipline is so shockingly severe, that the common men [soldiers] are afraid to offer the least insult.”<sup>82</sup> The threat of punishment helped keep the British troops away from violent interactions with civilians.

At the same time, the colonists were worried about a standing army during a time of peace. Americans had no specific objection to the British soldiers, as many colonists had enlisted in the redcoat army during the war. But they did not like the fact that British had a standing army present during peacetime. The soldiers were brought to Boston to maintain law and order – they were purely an enforcement tactic. However, the colonists were insulted that they were assigned a British police force to look after them. This viewpoint caused Governor Bernard to seriously consider for the first time the “real possibility of a bloody opposition to the soldiers’ arrival.”<sup>83</sup> Bernard feared that the Bostonians would act harshly against official,

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<sup>80</sup> Ibid, 279.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid, 89.

uniformed law enforcers. Although soldier-civilian relations were not always unfriendly in the streets of the colonies, hostilities soon arose.

All the “dinners and concerts” could not hide the rising friction between the Boston people and the British soldiers.<sup>84</sup> The Boston population became quickly infuriated with the British presence in their city. The civilians were constantly robbing or fighting the soldiers or enticing them to be deserters. Many soldiers did indeed choose to desert because of the constant taunting and violence; however many made their decision based on the courts. Soldiers quickly learned that “in the courts and laws they would find only resourceful, implacable enemies.”<sup>85</sup> The colonists who filled the jury were not in favor of the British presence in Boston and therefore often ruled against their cases. Thus, the soldiers held a growing contempt towards Massachusetts law because they were being tried “without reason Law or Justice.”<sup>86</sup> Not only were the soldiers being treated poorly by the civilians, but they were being unfairly represented by the state as well. Too much friction was developing between the soldiers and the city of Boston – a direct clash was inevitable.

On the night of March 5<sup>th</sup>, 1770, the fatal confrontation transpired. In the words of a Bostonian, “We were, in aggravation of our other embarrassments, embarrassed with troops, forced upon us contrary to our inclination...that the raising or keeping of a standing army within the kingdom, in a time of peace...is against the law.”<sup>87</sup> The incident started outside of the Custom House on King Street, while Private Hugh White, a British guard, was on duty. An argument began that resulted in Private White striking the civilian on the head with his musket,

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<sup>84</sup> Ibid, 134.

<sup>85</sup> Ibid, 135.

<sup>86</sup> Ibid, 136.

<sup>87</sup> James Bowdoin, Joseph Warren, and Samuel Pemberton, *A letter from the town of Boston...inclosing a short narrative of the massacre perpetrated there, In the Evening of the fifth day of March, 1770...* in Eighteenth Century Collections Online. Gale. University of New Hampshire. Boston: [1770?], pp. 9.

attracting a larger crowd. Several people began to gather around Private White and threw objects and insults at him, thus Private White sought assistance and Captain Thomas Preston and seven additional members of the 29<sup>th</sup> Regiment came to his assistance. At this point, there was a very large crowd forming outside the Custom House, many carrying clubs and pelting the soldiers with snowballs (many, it later emerged, with ice and rocks) and other objects. The crowd was also taunting the soldiers by shouting, "Fire!" Then a period of uncertainty followed where the first shot was fired into the crowd. After the first shot, more were fired and instantly killed three civilians, Samuel Gray, James Caldwell, and Crispus Attucks. Samuel Maverick, a boy of seventeen, was killed soon after, as well as Patrick Carr, who died two weeks later. Captain Preston and the eight soldiers were immediately taken into custody.

This event soon carried the popular label of "Massacre" after Paul Revere released his famous engraving. He entitled it, "The Bloody Massacre in King-Street, March 5, 1770." Revere produced this piece just three short weeks after the event took place; he intended this carving to be used as anti-British propaganda. In the engraving, Revere depicts the British soldiers in a straight line, as if they were lined up for field combat – Revere is presenting the soldiers as the aggressors. He also made the sky blue, with just a hint of the moon, falsely depicting the time of day the event took place. Revere made it seem as though the soldiers attacked in broad daylight when in fact it was deep into the night on a chilly winter evening. Although this piece of artwork served a great purpose as American war propaganda, it was not an accurate depiction. It does, however, demonstrate how most Boston inhabitants felt towards the "Bloody Massacre."

Several Bostonians began to passionately express their views of opposition to the proceedings on King Street. A few weeks after the "Massacre," three Boston civilians

constructed a document detailing the events of March 5. The three Bostonians were James Bowdoin, Samuel Pemberton, and Joseph Warren. These men wrote a document that discussed a “the horrid Massacre in Boston.” This account was used to express civilian outrage over the “Massacre” and was later used by Robert Treat Paine in the prosecution of the British soldiers. In this document, they claimed, “By the foregoing depositions it appears very clearly, there was a general combination among the soldiers of the 29<sup>th</sup> regiment at least, to commit some extraordinary act of violence upon the town...”<sup>88</sup> On that same evening, many Bostonians claimed to be “insulted and abused” by bands of soldiers patrolling the streets in various parts of the city.<sup>89</sup> This document showed how the general populace felt and helped shape popular memory of the event; however, both sides of the events on King Street would be later fully investigated in court.

When John Adams passed by the scene on King Street on March 5<sup>th</sup>, he did not know that he would soon become one of the most influential individuals in the trial to follow. John Adams discussed how the months of “Endeavours [sic]” preceding the “Massacre” were pursued by certain “busy Characters, to excite Quarrells, Rencounters [sic] and Combats single or compound in the night” between the civilians and the British soldiers to “inkindle [sic] an immortal hatred between them.”<sup>90</sup> It is in his personal papers of 1770 that he first states how the soldiers’ cause should be treated. “If these poor Tools should be prosecuted for any of their illegal Conduct” he wrote, “they must be punished. If the Soldiers in self defence should kill any of them they must be tryed [sic] and if Truth was respected and the Law prevailed must be

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<sup>88</sup> Ibid, 16.

<sup>89</sup> Ibid, 16.

<sup>90</sup> John Adams, “1770,” *John Adams Papers* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society, pp. 292.

acquitted.”<sup>91</sup> Here, the first seeds of John Adams’ defense can be seen. In the trials, as the soldiers’ attorney, he presents the soldiers as acting in self-defense. This statement is crucial in understanding Adams’ views of law and justice. He believes in the law above everything else, and he further proves that by taking the position of defense attorney in the Boston Massacre Trials and providing each British soldier with their right to a fair trial.

The trials themselves were delayed until the autumn of 1770. The government of Massachusetts was determined to give the soldiers a fair trial so there would be no retaliation from the British; however, this decision was controversial. The Boston civilians believed that the event on King Street had been a “cruel, wanton massacre of innocent and unoffending citizens.”<sup>92</sup> Thus, it was a popular belief believed the perpetrators should know the harsh punishment of the law. The captain who had ordered the volley and the soldiers who fired the fatal shots “should meet with condign punishment.”<sup>93</sup> The soldiers’ right to a fair trial was therefore debated. The soldiers were responsible for the death of five civilians so it was the reaction of the angry colonists to punish the soldiers without a trial; however, it was decided that the soldiers would indeed receive a trial, lest it upset the British. Boston must continue on with a trial of British soldiers.

Captain Preston and his men had trouble finding council for their defense. The soldiers, after being refused by Loyalist lawyers, sought council from Mr. John Adams and Josiah Quincy Jr. Both of these men were successful lawyers and part of the Patriot cause; however, John Adams, in particular, did not let a riot get in the way of his political principles.<sup>94</sup> Mr. Adams framed his answer “solely upon professional grounds,” and decided it was enough that the

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<sup>91</sup> Ibid.

<sup>92</sup> John Adams and Charles Francis Adams, *The works of John Adams, second president of the United States with a life of the author : notes and illustrations, vol.1* (Boston: Little, Brown and Co.), pp.103.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid, 105.



soldiers had “reasonable grounds of justification,” and determined this should not be withheld.<sup>95</sup> When Adams was asked to defend Captain Preston and the soldiers, John Adams answered with, “Counsel ought to be the very last thing that an accused person should want in a free country...the bar ought, in my opinion, to be independent and impartial...and that persons whose lives were at stake ought to have the counsel they preferred.”<sup>96</sup> Adams was determined to give nothing more than “fact, evidence, and law” in the defense of the soldiers and Captain Preston “requested and desired no more.”<sup>97</sup> With these truths in mind, John Adams was ready to take on the prosecution and come out of the trials victorious.

The first trial was that of Captain Thomas Preston, entitled *Rex v. Preston* which began on October 24, 1770. Captain Preston had been held in jail for seven months prior to the trial and now his attorneys, John Adams included, had to prove that he did not give the order to fire on the crowd of civilians on the night of March 5<sup>th</sup>. Although the exact transcription of this trial has not survived, we can gather information for personal accounts of the attorneys and people involved in the trial. In the papers of Robert Treat Paine, it was recorded that Preston claimed,

On the examination before the Justices, two witnesses swore, that I gave the men orders to fire, the one testified he was within two feet of me, the other, that I swore at the men for not firing at the first word. Others swore they heard me use the word 'fire,' but whether do or do not fire, they could not say; others that they heard the word fire, but could not say if it came from me.<sup>98</sup>

The prosecution, led by Robert Treat Paine, made their case that Captain Preston *did* give the command to fire and thus was responsible for the deaths of five civilians and the injuries of several others. The defense pled Captain Preston’s case, as he was not allowed to take the stand

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<sup>95</sup> Ibid.

<sup>96</sup> John Adams and Charles Francis Adams, *The works of John Adams, vol. 2* (Boston: Little, Brown and Co.), pp. 203.

<sup>97</sup> Ibid.

<sup>98</sup> “Case of Captain Thomas Preston of the 29th Regiment,” National Archives of the United Kingdom, C.O. 5:759, fol. 252. [DLC](#): British Reproductions.

himself. Adams and the other attorneys claimed that Captain Preston did not give the order to fire and they carefully examined the hostilities between the soldiers and the civilians that night. There was a great deal of witness uncertainty, as many were unsure of who actually gave the order to fire. One witness, James Brewer, claimed that he heard the people around him cry, “fire!” He was asked, “Did you take that to be the cry of fire or, or bidding the soldiers fire?” Brewer answered, “I cannot know now what I thought then.”<sup>99</sup> Many witnesses, like Brewer, were unsure of the events that occurred on March 5<sup>th</sup>. Both the defense and prosecution tried to use the uncertainty to their advantage. The defense made their case off the confusion of that dark, winter evening. Also, the jury was stacked in favor of Captain Preston, as only two members of the jury were Bostonians and harbored personal grievances towards the British presence in Boston. Eventually the defense was able to convince the jury that Captain Preston did not give the order to fire and he was acquitted of his crimes. Judge Lynde, after five days on trial, concluded the case after Captain Preston was found not-guilty. He spoke at length and shared the same opinion as the other judges. Towards the close of his speech he said,

Happy I am to find, that, after such strict examination, the conduct of the prisoner appears in so fair a light; yet I feel myself, at the same time, deeply affected, that this affair turns out so much to the disgrace of every person concerned against him, and so much to the shame of the town in general.<sup>100</sup>

After his acquittal, Captain Preston fled Boston and arrived in Castle Island, Massachusetts. Not much else is known about what happened to Captain Thomas Preston, or where he spent the remainder of his life, as no personal written records were kept. A month after Captain Preston was acquitted the remaining eight soldiers of the 29<sup>th</sup> Regiment were put on trial.

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<sup>99</sup> John Hodgson, *The Trial of William Wemms et al...*, in *Early American Imprints*, Series 1, no.11683 (filmed) (Boston: J. Fleeming), pp. 23.

<sup>100</sup> “Charges to the Jury as Printed in the Annual Register,” *Rex v. Preston*, Document XIV, Papers of John Adams, pp. 218-219.

Although the charged soldiers of the 29<sup>th</sup> Regiment petitioned to be tried with their captain, they were turned down and had a separate trial beginning November 27, 1770. The main concern in *Rex v. Wemms, et al.*...was whether the victims of the “Massacre” were murdered or killed in self-defense. Common law justified taking a life in self-defense but without “excusable” reason was illegal, especially when the issue was between British soldiers and civilians.<sup>101</sup> Thus, the defense made their case that the soldiers fired purely in self-defense. The prosecution argued that the soldiers became violent out of their hatred of the townspeople. The prosecution already had a vast support group for their case, as many civilians, especially the radicals and Sons of Liberty, very much wanted to see the British soldiers hanged. Thus, John Adams and the defense team had a tough case to plead.

When Adams and his team argued “self-defense” as the cause for the soldiers’ actions, the prosecution continuously deflected these claims. Witnesses of the events on King Street all came to the basic conclusion that there was a fight between the soldiers and the civilians, objects were thrown at the soldiers, someone yelled, “fire!” and shots ensued. The prosecution claimed that the objects thrown at the soldiers were simply snowballs, nothing to merit the involvement of loaded bayonets. One witness claimed that, “some snow-balls [were] thrown at them, which seems to have been the only provocation that was given.”<sup>102</sup> However, the defense disputed this claim and argued that the objects being thrown were really balls of ice, rocks, and other dangerous items being used as weapons against the soldiers. Witnesses for the prosecution also claimed that they heard Captain Preston yell, “fire!” and that was why the soldiers opened fire onto the crowd. One witness, Richard Palmes, claimed he saw someone talking with Captain Preston before the shots had been fired. Palmes said,

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<sup>101</sup> Neil Longley York, “Rival Truths, Political Accommodation, and the Boston ‘Massacre,’” *Massachusetts Historical Review* 11 (2009): 57-95, 60.

<sup>102</sup> Bowdoin, 21.

I went to Captain Preston, and saw Mr. Theodore Bliss talking with him, who said to Capt. Preston, 'Why do you not fire, God damn you fire.' I stept betwixt them and asked Capt. Preston if the soldiers were loaded, he said yes...I said, 'I hope Sir you are not going to fire upon the inhabitants, he said by no means : That instant I saw a piece of ice strike Montgomery's gun...he fired immediately.<sup>103</sup>

Palmer was later asked if he was certain Montgomery was struck before he fired, to which Palmer replied, "Yes." The defense used this testimony and others like it to solidify and credit their argument. If the soldiers were violently provoked, as was Montgomery, they were in their right to fire into the crowd as a self-defense tactic. The implicit question of this case was could imperial differences be put aside and a sense of transatlantic community be restored?<sup>104</sup>

Now the question of the jury's decision hung over the heads of both parties. Each side had stated their case and brought their witnesses forth, but would the soldiers be acquitted? During the trials, Adams said, "If any reasonable man, in the situation of one of these soldiers, would have had reason to believe in the time of it, that the people came with an intention to kill him, whether you have this satisfaction now, or not in your minds, they were justifiable, at least excusable in firing."<sup>105</sup> The jury ended up ruling in favor of the defense, leaving John Adams and Josiah Quincy with a victory. Six of the eight soldiers were fully acquitted, while two were charged with manslaughter (Kilroy for killing Samuel Gray and Montgomery for Crispus Attucks. The trials ended quietly, with no violent uproars on the streets of Boston; however, the Patriots and Sons of Liberty were still angry, claiming that the soldiers escaped with blood on their hands.

The trial resulted in a great judicial victory for Adams. Years after reading the manuscript of the trial, Adams himself said that it held many inaccuracies. He claimed, "I found

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<sup>103</sup> Hodgson, 29.

<sup>104</sup> Bowdoin, 58.

<sup>105</sup> York, 82.

so much inaccuracy, and so many errors...”<sup>106</sup> We must therefore be speculative when examining these sources, although we have no way to gauge Adams’ own accuracy. Adams’ sources give much insight into the trials themselves; however, there is a lack of diary entries for John Adams between February 26 and June 19, 1770. Most of our understanding of John Adams’ thoughts on the Boston Massacre and the subsequent trials come from his autobiography, written decades later. One thing we know for sure is the stance John Adams took while partaking in the trials: he believed he was doing his country a great service by upholding the law and giving everyone the right to a fair trial.

So why did John Adams agree to defend men charged with killing five Bostonians? It was simply John Adams’ belief that all men are entitled to a fair trial. He was aware, however, of the dangers he faced from taking this case. While he believed Captain Preston and his men deserved equal justice, he knew that his income and reputation might suffer. Adams also risked himself and his family being verbally and physically attacked. In a post-trials diary entry, Adams described how fearful he was at times during the trials. “I could scarce perceive a possibility that I should ever go through the thorns and leap all the precipices before me and escape with my life.”<sup>107</sup> Adams was worried for himself and his family. He also felt as though he was “throwing away as bright prospects as any man ever had before him;” he gave up these “bright prospects” for “endless labor and anxiety, if not to infamy and to death.”<sup>108</sup> Even Mrs. Abigail Adams was worried for John; however, she agreed that he “had done as [he] ought.”<sup>109</sup>

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<sup>106</sup> Adams, *Legal papers of John Adams*, 28.

<sup>107</sup> Adams, *Works vol.2*, pp. 232.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

Despite the dangers and fears he felt, Adams still chose what he thought of as the right thing. Adams found that the gain would be greater for those who put the “law above hate.”<sup>110</sup>

Adams believed that by providing all men with a fair trial, he was doing his country a service. In the eyes of Adams, one factor that must be preserved in the colonial (and soon, American) government was the right to a fair trial. He said, “Every lawyer must hold himself responsible not only to his country, but to the highest and most infallible of all tribunals, for the part he should act.”<sup>111</sup> Without the prospect of a fair trial, the government is not doing its duty of providing legal equality for its citizens. John Adams believed that the government stood on “the principles of nature and eternal reason.”<sup>112</sup> Thus, the prospect of a fair trial should be available to all men. This idea gained widespread acceptance and carried into the Constitution of the United States.

Adams never revoked his original feelings of doing the right thing by taking on the defense of the British soldiers. “I begin to suspect,” he wrote in 1787, “that some Gentlemen who had more Zeal than Knowledge in the year 1770 will soon discover that I had good Policy, as well as sound Law on my side, when I ventured to lay open before our People the Laws against Riots, Routs, and unlawful assemblies...I was as sensible of it in 70 as I am in 87. To talk of Liberty in such a state of things – !”<sup>113</sup> Long after the trials took place, Adams’ political position never faltered. He risked dangers and opposition from many of his peers, all to prove that the law stood strong above everything else. “Although the clamor was very loud among some sorts of people, it had been a great consolation to me, through life, that I acted in this

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<sup>110</sup> John E. Ferling, *John Adams: a life* (Knoxville: University of Tennessee Press), pp.67.

<sup>111</sup> Adams, *Works vol.2*, pp. 230-231.

<sup>112</sup> John Adams and Charles Francis Adams, *The works of John Adams, vol.4* (Boston: Little, Brown and Co.), 15.

<sup>113</sup> John Adams, “John Adams to Benjamin Hichborn, 27 Jan. 1787,” *Works vol. 2*, 550, 551.

business with steady impartiality, and conducted it to so happy an issue.”<sup>114</sup> Adams had every right to be pleased with his performance during the trials. He proved that even as a Patriot he could win a case for the “other” side – not because he was a British sympathizer, but because the soldiers deserved equality and justice under the law. He proved that in this case, there was no right or wrong side, regarding the Patriots and Loyalists. Adams took what he believed was the right side – the side of the law. Adams was a fervent advocate for maintaining order and stability in American society, thus he chose to uphold and endorse the law.

Not everyone felt that Adams rendered their country a great service. For one thing, the Sons of Liberty were up in arms about the acquittal of the British soldiers. In the night, handbills were secretly posted on the State House door: *The Court hath cheated the injur'd people with a meer Shew of Justice. Let us rise up at the great call of Nature and free the world from Domestic Tyrants!*<sup>115</sup> Sam Adams wrote a series of articles in the *Boston Gazette*, signed under “Vindex.” These venomous articles portrayed Sam Adams as the judge, jury, and council for the prosecution. Vindex constantly asked, why were there no Boston men on the jury? In response to Captain Preston, Vindex stated, “He would not so luckily have escaped.”<sup>116</sup> Furthermore, the British “blandly took it for granted” that he had helped their cause.<sup>117</sup> Not only were the Bostonians unhappy with Adams, but the British were also not helping him. Thus, Adams felt himself misunderstood by both sides. The harsh words of the people tormented John until the first anniversary of the Boston Massacre. It was on this day that John went to his wife and exclaimed, “We can’t stay here. We can’t live here. I can’t endure it.”<sup>118</sup> It was then decided that

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<sup>114</sup> Adams, *Works vol.2*, pp. 236.

<sup>115</sup> Catherine Drinker Bowen, *John Adams and the American Revolution* (Boston, MA.: Little, Brown & Company), 406-407.

<sup>116</sup> *Ibid*, 410

<sup>117</sup> *Ibid*, 407

<sup>118</sup> *Ibid*, 413

the Adams family would return home to Braintree. By joining the defense for the Boston Massacre Trials, John Adams chose to be a friend of the law over being a friend of the people.

Regardless of the aftermath of the trials, Adams believed in equality and justice under the law and thus he saw his defense of the soldiers as one of the “best pieces of service [he] ever rendered [his] country.”<sup>119</sup> Adams agreed to be the defense attorney to the British soldiers in the Boston Massacre Trials so he could carry out his belief that all men hold the right to a fair trial. Adams and Josiah Quincy made a valiant case for the defense of Captain Preston and the soldiers of the 29<sup>th</sup> Regiment. Although the British soldiers were not seen as a direct threat to the inhabitants of Boston, hostilities soon arose that resulted in the Boston Massacre and the subsequent trials. The Boston Massacre Trials proved to be a huge judicial victory for Adams and an example of his political thought in action.

Adams was a bold supporter government that would protect its citizens’ natural rights, like the right to a fair trial. He believed that Great Britain was failing to uphold the law in the colonies by not recognizing its citizens’ rights. Thus, Adams chose to defend these rights both in his opposition of the Stamp Act and in his involvement in the Boston Massacre Trials. Furthermore, Adams was concerned with the popular violence ensuing in the colonies from the Boston Massacre (as well as the previous Stamp Act riots). Adams believed this violence was a source of lawlessness within the colonies which must be addressed. Adams feared that, like the British, the colonists were prone to undermining their own government. The rule of law *must* be preserved within the new American government to keep order and citizens’ natural rights intact. John Adams formed his politics from his leading idea of law above all else.

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<sup>119</sup> John Adams, “Fryday, March 5, 1773,” *Diary of John Adams*, vol. 2.



## **Chapter III**

### **“Blood and Treasure...Light and Glory:” The birth of the Declaration of Independence**

In 1776, more than a decade had passed since the murmurs of revolution began in the American colonies. The Declaration of Independence was a response to the war that had been raging between the colonists and Great Britain culminating in the Battle of Lexington and Concord and the start of the Revolutionary War in April 1775. The Declaration declared 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.”<sup>120</sup> The day after the Continental Congress voted for independence, John Adams wrote of this day, “The Second Day of July 1776, will be the most memorable Epoque, in the History of America.”<sup>121</sup>

John Adams was an essential figure in the months leading up to and during the drafting of the Declaration of Independence. During the years 1775 and 1776, Adams wrote down his thoughts on government, freedom, and independence in his correspondence, published documents, and even in his diary. Although not always explicitly stated, Adams’ belief in the importance and necessity of the law was demonstrated in his personal writings. Adams, while technically breaking the law and committing treason by signing the Declaration, justified the country’s journey for independence by stating, “Britain has been fill’d [sic] with Folly, and America with Wisdom, at least this is my Judgment.”<sup>122</sup> Adams’ support for independence developed from ideas that Great Britain was unlawful in their dealings with the colonies (like the unconstitutional taxations, such as the Stamp Act). Thus, liberty could only be preserved if the

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<sup>120</sup> "The Declaration of Independence: A Transcription," *National Archives and Records Administration*, Accessed April 20, 2015.

<sup>121</sup> John Adams, “To Abigail Adams, July 3, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>122</sup> *Ibid.*

“two countries should be sundered forever.”<sup>123</sup> Adams believed that in this new country, independent from Great Britain, the rule of law should be paramount. Furthermore, Adams felt that the imperial crisis with Great Britain undermined the rule of law within the colonies and thus he hoped independence from British authority would secure the rule of law at home. Adams demonstrated his commitment to the power of law above all else throughout his time writing and his support of the Declaration of Independence.

The tensions between the colonies and Great Britain had been building for quite some time, as the colonists argued against the legality of Great Britain’s actions. The laws of the British government stated that the rights of Englishmen were required by law to be protected under the British constitution. Some of these rights included: access to a fair trial, restrictions on non-Parliamentary taxation and quartering of soldiers, and consent of the people as represented in Parliament. These are just some of the rights laid out in the Magna Carta, the Petition of Right, and the 1689 Bill of Rights. The colonists claimed that the acts of taxation (i.e. Stamp Act, Sugar Act, and Tea Act) went against their rights of Englishmen because Parliament did not receive consent from the colonists to be taxed, nor were the colonists represented in Parliament. Furthermore, the Quartering Act failed to uphold their right of protection against forced billeting of British soldiers. The placement of British soldiers in the colonies during peacetime also angered the colonists and this eventually transpired into the events of the Boston Massacre. These acts are just a few of the many laws set upon the colonies by the British, instated solely for the gain of the country across the Atlantic. Voices of the people, such as John Adams, realized that the British were taking advantage of their authority over the American colonies. The colonies were still British by name and by law; however, Great Britain was undermining this authority.

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<sup>123</sup> Ibid.

The Second Continental Congress was called to order in May 1775 because the British had yet to redress the American grievances laid out by the First Continental Congress in 1774 and the delegates were getting impatient with the British for ignoring their requests. The First Continental Congress “commended the people of Massachusetts for resisting Parliament’s ‘Intolerable Acts’” and declared that if Britain “tried to execute those laws by force, ‘all America ought to support them in their opposition.’”<sup>124</sup> The Congress assured King George III that peace and harmony would return to the colonies if the colonies were returned to their situation in 1763, after the conclusion of the French and Indian War.<sup>125</sup> At the conclusion of the first congress, the British still had not addressed the colonies’ concerns and war broke out in the towns of Lexington and Concord three weeks before the first meeting of the Second Continental Congress.

Delegates from Massachusetts and other colonies made their way down to Philadelphia in the coming weeks, eager to address the newest problems created by the British. When Congress assembled on May 10<sup>th</sup>, they were charged with taking control of the war effort. John Adams spoke of the issues that Congress was expected to address as being “such a vast Multitude of Objects, civil, political, commercial and military...that We know not what to do first.”<sup>126</sup> On May 16, Congress resolved itself into a Committee of the Whole to discuss “the state of America.”<sup>127</sup> Additionally, according to private notes (kept by Silas Deane), South Carolina’s John Rutledge asked, “do We aim at independency? Or do We only ask for a Restoration of Rights & putting of Us on Our old footing?”<sup>128</sup> This question did not go away and Congress kept confronting it until a decision was made in 1776 to draft a document claiming independence.

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<sup>124</sup> Pauline Maier, *American Scripture: Making the Declaration of Independence*, New York: Knopf : 1997, 3.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid, 13.

<sup>127</sup> Ibid, 18.

<sup>128</sup> Ibid.

The year 1776 witnessed grand steps towards independence as a way to bring about law in the colonies. On May 10, 1776, Congress passed a resolution recommending that any colony that lacked a proper (revolutionary) government should form one immediately. On May 15, John Adams himself added a preamble to this resolution, which advised suppression of the crown's authority in such governments. Adams wrote,

... it is necessary that the Exercise of every Kind of Authority under the Said Crown should be totally Suppressed, and all the Powers of Government under the Authority of the People of the Colonies, exerted for the Preservation of internal Peace, Virtue and good order, as well as to defend our Lives, Liberties, and Properties, from the hostile Invasions, and cruel Depredations of our Enemies.<sup>129</sup>

Adams wrote that this resolution was “the most important Resolution...that ever was taken in America.”<sup>130</sup> Adams believed that by failing to uphold the rights of its citizens, the British government was subverting their own rule of law to suit their needs. This resolution demonstrated the Congress's desire to promote the idea of independence from Britain and to bring forth law into the colonies. In a letter to John Adams, Richard Henry Lee asked of this resolution, “Would not a Uniform plan of Government prepared for America by the Congress and approved by the Colonies be a surer foundation of Unceasing Harmony to the whole?”<sup>131</sup> This early resolution was one of the stepping stones to a detachment from Great Britain.

Additionally, on June 7, 1776, another resolution to promote independence came to the floor of the Second Continental Congress. This resolution, proposed by Richard Henry Lee, stated, “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

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<sup>129</sup> John Adams, “To James Warren, May 15, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>130</sup> *Ibid.*

<sup>131</sup> Richard Lee, “To John Adams, May 18, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

between them and the State of Great Britain is, and ought to be, totally dissolved.”<sup>132</sup> This act, also known as the resolution for independence, called for colonial independence from British authority. Lee’s resolution was the first formal proposal for a declaration of independence from Great Britain. It called for the composition of a document that would address the mother land, list the grievances of the colonies, and demand to be separated into their own country because the British were failing to provide any legal ground for their subjects. The drafting of this document was assigned to none other than Thomas Jefferson.

After Lee’s proposal, the Continental Congress called forth a drafting committee for a formal document stating their proposal for independence from the British tyrants. On June 11, Congress declared, “Resolved, That the committee, to prepare the declaration, consist of five members: The members chosen, Mr. [Thomas] Jefferson, Mr. J[ohn] Adams, Mr. [Benjamin] Franklin, Mr. [Roger] Sherman, and Mr. R[obert] R. Livingston.”<sup>133</sup> During the drafting period, John Adams addressed some of the concerns that would be sure to arise amongst the public concerning a document demanding independence. One argument against a declaratory act against the Crown “is that it will unite all the Inhabitants of G. Britain against Us. The other, that it will put us too much in the Power of foreign States.”<sup>134</sup> John Adams then continued to assure his recipient by responding to his concerns. Adams said, “The first has little Weight in it, because the People of Great Britain, are already as much united against Us, as they ever are in any Thing, and the Probability is, that such a Declaration would excite still greater Divisions and Distractions among them.”<sup>135</sup>

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<sup>132</sup> Worthington C. Ford, et al, “June 7, 1776,” *Journals of the Continental Congress, 1774-1789*, Washington, DC: 1904-1907, [Electronic edition], Library of Congress.

<sup>133</sup> Worthington C. Ford, et al, “June 11, 1776,” *Journals of the Continental Congress, 1774-1789*, Washington, DC: 1904-1907, [Electronic edition], Library of Congress.

<sup>134</sup> John Adams, “To Zabdiel Adams, June 21, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>135</sup> *Ibid.*

When the question came to who would head the committee and write the Declaration, the task fell “almost automatically” to Jefferson.<sup>136</sup> While Benjamin Franklin was present (mostly) in name, the other four convened within a day or two of their appointment. The presence of the five delegates on the committee demonstrated the strength and support in Congress for “immediate independence.”<sup>137</sup> The addition of Robert R. Livingston (of New York) on the committee meant that he would make sure the document contained nothing to offend the more conservative delegates. The men met and discussed the potential form and content of the Declaration. Jefferson’s task was to “find arguments that not only would justify to the world the step America was about to take but also would prevent the loose union of thirteen colonies from splintering apart.”<sup>138</sup> Jefferson’s draft, read and edited by the other committee members, was presented to the Congress on June 28<sup>th</sup>.

A more final draft of the Declaration was brought to Congress on July 2<sup>nd</sup> for a vote – a final vote for independence. Jefferson’s Declaration reflected American thought in its optimism and confidence. “No hint of doubt nor sense of failure had insinuated its way into his sentences.”<sup>139</sup> The formal adoption of the final draft of the Declaration took place two days after the unanimous vote, on July 4<sup>th</sup>. The next day, copies were distributed throughout the colonies on horseback. On this day, John Adams wrote to Joseph Ward, “I hope your Appetite will now be Satisfyed [sic]. Such a Declaration passed Congress Yesterday and this Morning will be printed.”<sup>140</sup> In the coming days, the document appeared in newspapers and was read aloud in the city streets. General George Washington even had the Declaration read to the Continental

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<sup>136</sup> David Freeman Hawke, *A Transaction of Free Men: The Birth and Course of the Declaration of Independence*, New York: Charles Scribner's Sons, 1964, 141.

<sup>137</sup> *Ibid*, 142.

<sup>138</sup> *Ibid*, 143.

<sup>139</sup> *Ibid*, 170.

<sup>140</sup> John Adams, “To Joseph Ward, July 5, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

Armies on July 9<sup>th</sup>, showing that the ideas of independence should reach every corner of the colonies. Washington especially wanted the American militia to be aware of the delegations happening against Great Britain – the Americans truly had a cause worth fighting for. The official copy of the Declaration was signed into order on August 2<sup>nd</sup>, 1776.

This Declaration was the first document of the thirteen colonies to set forth the great principles that founded their new country, separate from Great Britain. The main thing that the Declaration focused on were the rights of the colonies and the people who resided in them – rights that the Declaration and the government of America promised to uphold. The Declaration spoke of liberty and the colonists’ right to revolution. It stated, “The Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.”<sup>141</sup> This document assured colonists that they were entitled to want to be free and separate from British rule. It also encouraged the colonists to take their liberty that they well-deserved and was lacking from the British government, which failed to protect their basic, legal rights as Englishmen. The preamble included these ideas, as well as outlined the general philosophy of government that justified revolution when natural rights were harmed or threatened.

Additionally, the authors of the Declaration demonstrated the Crown’s (specifically, the King’s) wrongdoings and acts of illegality against the American colonies. The Indictment section of the document, following the preamble, listed a set of grievances against the King, whose history of “repeated injuries and usurpations” demonstrated “absolute Tyranny” over the American states.<sup>142</sup> The authors of the Declaration included these accusations against the King not only to justify their demand of independence but also denounce the King as a Tyrant.

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<sup>141</sup> “The Declaration of Independence: A Transcription.”

<sup>142</sup> Ibid.

Tyranny is something the British could understand as an act against government and law. In other words, the writers wanted to articulate that King George III and the British government had undermined the rule of law in the colonies by committing illegal acts against the colonies and failing to protect their “natural rights.” Thus, the colonists presented King George III as a tyrant in a way to get their message directly to the British. The document concludes with a denunciation and conclusion, stating independence from British authority. It states, “Enemies in War, in Peace Friends.”<sup>143</sup> This demonstrates that the American colonies were dedicated to fighting with Britain to accomplish their goal. The Congress that began construction of the Declaration wanted to express their determination to become “free and independent states,” able to produce their own commerce, levy acts of war, and contract their own alliances.<sup>144</sup> The Declaration was a pronouncement of the right of the colonies, and the people who resided in them, to revolution, liberties, and freedom.

While the Declaration does put a large emphasis on the colonists’ right to revolution, it also includes some other important concepts of men’s rights that the new country would be founded on. The right to revolution was not the only “principle of liberty’ in the Declaration of Independence, or even the most important for the guidance of posterity.”<sup>145</sup> The preambles states, “All men are created equal, that they are endowed by their Creator with certain unalienable Rights.”<sup>146</sup> John Sergeant in Philadelphia claimed that these lines were the “text of the revolution – the ruling vital principle – the hope that animated the patriot’s heart and nerved the patriot’s arm.”<sup>147</sup> The statement and recognition of natural and “unalienable” rights was arguably the most influential part of this document. This idea of “natural rights” parallels the

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<sup>143</sup> Ibid.

<sup>144</sup> Ibid.

<sup>145</sup> Maier, *American Scripture*, 191.

<sup>146</sup> “The Declaration of Independence: A Transcription.”

<sup>147</sup> Maier, *American Scripture*, 191.



rights of Englishmen that the colonists clung to while still considered English subjects, the rights of Englishmen that were not protected under British authority. This idea of “natural rights” in the colonies, it was hoped, would champion the previous British model and set the stage for the basis and governing of a country that would be ruled under the power of law.

These ideas of natural rights were neither new to the colonies, nor to John Adams. Only a decade previously, Adams had published his “Dissertation on the Cannon and Feudal Law” which discussed similar ideas of natural rights. He described them as “Rights, that cannot be repealed or restrained by human laws.”<sup>148</sup> These rights were to be protected legally under the government. The statement of “unalienable rights” found in the Declaration was likely to have formed from the contemporary ideas of John Locke but also echoed John Adams. The Declaration was to demonstrate the ideas of the Continental Congress and the colonies as a whole. The idea that “all men are created equal” was a revolutionary idea that encouraged people to not only fight for the disgrace done to them by Great Britain, but to fight for their natural rights as citizens and as humans.

John Adams’ mind had been filled with revolutionary ideas and grievances against the British government long before the Declaration was written and adopted in the colonies. Adams had been demonstrating his more radical thoughts since 1765, when he began publicly opposing the Stamp Act. He continued to support the Patriots’ cause throughout the next eleven years, through the Boston Massacre, the Tea Act and the Boston Tea Party – straight until the Declaration of Independence was signed (and he continued to afterwards as well). Throughout the times of turmoil in the colonies and revolutionary ideas spread, John Adams was often involved. He spoke publicly about the British acts against the colonies (i.e., taxing) and argued

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<sup>148</sup> John Adams, “‘A Dissertation on the Canon and the Feudal Law,’ No.1”, *John Adams Papers, vol. 1*. Originally published in *Boston Gazette*, Aug. 12, 1765.

that by committing unconstitutional acts against its subjects in the colonies, the British government was threatening their own rule of law. Adams also published many documents opposing Parliament's ideas on the colonies' governance. The Novanglus essays, written by John Adams in 1775, were yet another example of Adams' support for revolutionary thoughts and ideas.

The Novanglus essays are an example of Adams' thoughts on the importance and role of government that preceded the Declaration of Independence. The essays were presented as a series of thirteen letters written to the *Boston Gazette* between the months of January and April 1775. These letters examined the letters of Masseurhettensis (a pseudonym for Daniel Leonard), refuting his facts and grasping at unwarranted assumptions. The pseudonym that Adams took, Novanglus, literally meant "New Englander." In these essays, Adams revealed the American position on the natural rights of the individual and the rights enjoyed by all colonial subjects under British law. He does, at some points, go on long discussions and forgets to address the questions that Masseurhettensis brought up. Adams, as Novanglus, chiefly argues that the colonies are not truly part of the British realm and are therefore not subject to Parliament's laws and authority. For the common law, he stated, and the authority of parliament founded on it, never extended beyond the four seas.<sup>149</sup> Adams was still the man who believed in the rule of law above all else. Thus, the fact that Adams denounced British authority meant that he believed it was within his right, and that of the law, to do so.

One of the main points that Adams presents in his Novanglus essays is the role of the "imperial crown." In his early Novanglus letters, he first states the definition of a freeman as

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<sup>149</sup> Novanglus (John Adams), "III. To the Inhabitants of the colony of Massachusetts Bay, February 6, 1775," *Papers of John Adams*, vol. 2, [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

“one who is bound by no law to which he has not consented.”<sup>150</sup> He rejects the notion of Britain as an empire and that the colonies owed obedience to the crown. Novanglus writes, “The colonies owe ‘no allegiance’ to any imperial crown, provided such a crown involves in it a house of lords and a house of commons, is certain. Indeed we owe no allegiance to any crown at all.”<sup>151</sup> This Novanglus essay (the seventh, to be exact) particularly focuses on some of Adams’ background knowledge and thoughts on government. He not only defines “republic” but goes into the history of such government, even going so far back as ancients like Aristotle and Livy. Adams also brings up the role of Parliament as a way to register and put forth the monarch’s laws. He further states that Britain’s government is actually closer to a republic than any other form of government, as Adams defines a republic as “a government of laws, and not of men.”<sup>152</sup> He thus concludes that the allegiance from the colonies is owed towards the capacity to the person, and not political capacity of the King. Adams again begs the question of whether or not the thirteen American colonies are part of the kingdom of Great Britain. Adams clearly states that the colonies are *not* within the realm of the British Crown and thus should not be subjected to its authority.

Another point that Adams covers in his Novanglus letters is the important concept of natural rights and how they were represented under British authority. This idea, as previously stated, was not new to Adams, as he wrote extensively on this topic in his 1765 “Dissertation on the Canon and Feudal Law.” Adams wrote to Masseurhettensis that the rights of Englishmen were rooted in the laws of nature and these natural rights were the ultimate source of liberties. Novanglus wrote of how one right that should be granted to the colonies was the right to tax themselves. He wrote widely of how the Parliament had no legal right to tax the colonists, since

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<sup>150</sup> Novanglus, II, January 30, 1775.

<sup>151</sup> Novanglus VII, March 6, 1775.

<sup>152</sup> Ibid.

they fell outside the British realm. Novanglus even made a reference to the “first Charter to this colony [Massachusetts],” granting the people the power to levy taxes. He said it “granted all the rights and liberties of Englishmen, which include the power of taxing the people.”<sup>153</sup> Novanglus did not fail to mention the Stamp Act when discussing the power of the people versus Parliament to levy taxes. Furthermore, Novanglus wrote about the Boston Massacre. He described the incident as demonstrating “resentment against an [sic] hostile administration.”<sup>154</sup> While Adams makes yet another demand for natural rights and proper government, he does not get caught up in the issue of independence. The question of independence had not yet become a serious topic of interest in the colonies, although it would gain popularity in the coming year and Adams would use these arguments found in his Novanglus essays. Adams would later argue in favor of independence in order to preserve the law in the colonies – the law that the British government had subverted when they failed to protect the colonists’ natural rights, or rights as Englishmen, which they were required to by law. Natural rights, a new government based on the recognition of such natural rights, and independence from the old government would soon become the biggest concerns in the colonies.

In January 1776, the pamphlet *Common Sense* was published in the American colonies as an argument scolding British authority and calling for independence of the colonies. This pamphlet would become one of the most influential published works in the history of the United States. Although it was originally published anonymously, before long it became known that the author was Thomas Paine. Paine was an Englishman who settled in America just a year or so before in 1774. In his pamphlet, Paine addressed concerns about the move towards independence, which was gaining momentum in 1776. Paine sketched a model for a new

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<sup>153</sup> Novanglus, VII. March 6, 1775.

<sup>154</sup> Novanglus, III. February 6, 1775.

government plan for the colonies. He wrote that by eliminating monarchy and hereditary rule and founding government entirely on popular choice, Americans could “form the nobles, purest constitution on the face of the earth.”<sup>155</sup> Paine also wrote that Americans were afraid to embrace independence because they “thought better of the Old Regime than it deserved” and because, he claimed, “they had no plans for a new one.”<sup>156</sup>

Paine dedicated the majority of his pamphlet to confronting the fears that kept many colonists from accepting independence. For example, the people of Portsmouth, New Hampshire were very against the idea of independence. Paine hoped his pamphlet would show those colonists that independence would not perhaps be so bad as they feared.<sup>157</sup> Through his writing, he assured the colonists that the colonies could hold out against British forces if it came to it. He explained that the economy could also survive – the colonies could be self-sufficient enough to protect itself if need be. Paine also wrote that foreign alliances could not be confirmed or guaranteed unless the colonies became a free and independent state. In other words, the colonists feared that France and Spain would support the colonies (now that they were in a time of war) if they reconciled with Great Britain. Until this point, the Continental Congress had begun to think of moving towards independence and away from British rule but their main hesitation was the uncertainty of how to get the colonists on board. Paine helped remedy this problem by using the written word to persuade the general public to move towards independence.

By Spring of 1776, most people within the colonies had become supporters of Paine’s pamphlet and approving of the arguments against the British government. In a letter to John Adams, John Winthrop wrote, “Tis universally admired here. If the Congress should adopt the

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<sup>155</sup> Ibid.

<sup>156</sup> Maier, *American Scripture*, 32.

<sup>157</sup> Ibid, 34.

sentiments of it, it would give the greatest satisfaction to our people.”<sup>158</sup> *Common Sense* was written in a straightforward way and therefore could be read and understood by the general public. The ideas written in Paine’s pamphlet allowed colonists to start making their own opinions on their current state under British rule. Paine’s arguments echoed throughout the colonies, popping up in various instructions, addresses, and resolutions that local bodies within the colonies sent to the Continental Congress.<sup>159</sup> Not only did the common public read the pamphlet but people of a higher learning/ class did as well (like John Winthrop). For example, Abigail Adams wrote to her husband in March 1776 saying, “I am charmed with the Sentiments of *Common Sense*; and wonder how an honest Heart, one who wishes the welfare of their country, and the happiness of posterity can hesitate one moment at adopting them.”<sup>160</sup> She, like John Winthrop, wondered if the Congress had yet read and adopted the ideas set forth in Paine’s pamphlet. To the general public, Paine’s pamphlet made valid arguments and thus started a new wave of revolutionary thought and support.

While John Adams was not an immediate enthusiast of all the ideas within *Common Sense*, both he and Thomas Paine were working towards the same goal for independence. John Adams criticized Paine for writing his pamphlet in “knock-about language” suitable, Adams claimed, “for an Emigrant from New Gate [the English prison], or one who had chiefly associated with such company.”<sup>161</sup> However, the writing style was not the only thing Adams had a problem with. Adams seemed to hold different ideas than Paine and they did not always see eye-to-eye. While Adams agreed with Paine that reconciling with Britain was not a good move,

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<sup>158</sup> John Winthrop, “To John Adams, April 1776,” *Papers of John Adams, vol.4* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>159</sup> David Armitage, *The Declaration of Independence: A Global History*, Cambridge, Mass.: Harvard University Press, 2007, 17.

<sup>160</sup> Abigail Adams, “To John Adams, March 2, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>161</sup> Maier, *American Scripture*, 31.

he disagreed with the way Paine wrote about government. Adams stated, “[Paine’s] notions and plans of Continental Government are not much applauded. Indeed this writer has a better Hand at pulling down than building.”<sup>162</sup> Adams was upset by the idea of a one-chamber legislature, as laid out by Paine in his pamphlet. He also did not agree with the lack of separation of powers; Adams claimed that executive and judicial branches were needed in addition to the legislature. Furthermore, he did not believe in a government “unrestrainedly ‘popular’ any more than he believed in unlimited monarchy.”<sup>163</sup> Adams had seen mobs and the violence and lawlessness that people were capable of when they craved power. He knew that the colonists were not immune to the temptations of power, thus a one-chamber legislature was not the best form of government for the new, independent country.<sup>164</sup> Adams believed that Paine’s idea of government was not the best way to uphold law and order in America.

Although John Adams did not agree with Thomas Paine’s ideas of government, he (as did most others) did agree with Paine’s arguments in favor of Independence. Paine wanted to shift the focus from evaluations of British rulers and the visions of reconciliation to deciding how an independent America should be governed.<sup>165</sup> Paine accomplished this goal by persuading the colonies to accept the prospect of independence and encouraged them to start thinking of what their new, independent government could look like. Adams’ challenge to Paine’s pamphlet was a sure sign of its success.

A few months after *Common Sense* was published in the colonies, John Adams wrote a pamphlet in response titled, *Thoughts on Government* which addressed new ideas of government. He discussed the construction and role of government, specifically in a republic (which was the

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<sup>162</sup> John Adams, “To Abigail Adams, March 19, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>163</sup> Bowen, 562.

<sup>164</sup> Ibid.

<sup>165</sup> Maier, *American Scripture*, 34.

favorable government structure among most Congressional delegates). In his document, Adams wrote, “That, as a Republic is the best of governments, so that particular arrangement of the powers of society, or in other words that form of government, which is best contrived to secure an impartial and exact execution of the laws, is the best of Republics.”<sup>166</sup> This pamphlet outlined the reasons for a new government (once independence was gained) and it called for the drafting of a constitution. Adams believed that the law should be the ruling body of the people. Adams knew that the law must be upheld in order for a country to run properly and protect its citizens. His ideas for independence and the construction of a new colonial government were based upon his belief that the British government had not upheld the law in the colonies and thus was no longer able to preserve it.

Furthermore, Adams discusses what this new government would consist of, once independent from Great Britain. In response to Paine’s pamphlet, Adams rejected the idea of one single legislative body, hypothesizing instead the idea of two legislative bodies that could check and balance each other. Adams also outlined the three branches of government we know in the United States today: legislative, executive, and judicial. These branches would create a more balanced form of government and would be more likely to preserve law and order in American than Paine’s fictional government. Adams’ ideas were later used to help draft the United States Constitution, ratified in 1788. In his pamphlet, Adams begs the question, “As good government, is an empire of laws, how shall your laws be made?”<sup>167</sup> He claims that the first step is to remove power from the “many” and give it to a few of the most “wise and good.”<sup>168</sup> Adams’ firm belief in the strength of government and law are presented in this

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<sup>166</sup> John Adams, “Thoughts on Government,” *Papers of John Adams, vol.4* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.



pamphlet. Adams believed that a country to be governed by law was of utmost importance and thus the government should be structured as such that the law comes before all else. Both Paine and Adams' pamphlets were both instrumental in constructing the ideas of freedoms, liberties, independence, and government found in the Declaration of Independence.

Adams also responded to the resolution of Richard Henry Lee (June 1776), expressing his own sentiments on government, independence, and the necessity of law. Adams claimed that Lee's resolution was "consistent and decisive" in a letter to Lee written in June. Adams was one of the delegates of the Second Continental Congress to support this resolution of independence. He also believed that the independence resolution would eventually lead to a restructuring of government in the colonies. Adams stated that the resolution was

grounded on true Principles which are fairly and clearly Stated, and in my humble opinion the Proviso which reserves to your selves the Institution of your own Government is fit and right, this being a Matter of which the Colonies are the best Judges, and a Priviledge [sic] which each Colony ought to reserve to it self [sic].<sup>169</sup>

In other words, Adams supported Lee's ideas and also claimed that the colonists were the only ones who could truly govern themselves. Adams believed that one's liberties and natural rights were in direct correlation to the law (the product of government). In his diary, Adams wrote of the colonies, "The valour [sic] alone of their Country, is to save its Liberties."<sup>170</sup> Adams understood and promoted Lee's ideas laid out in his resolution, as independence from the tyrannical Great Britain would allow the colonies to become independent states, free to create and maintain their own government and preserve the rule of law.

John Adams was one of the central figures in the formulation of the Declaration of Independence because of his statements in favor of natural rights and a new constitutional

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<sup>169</sup> John Adams, "To Richard Lee, June 4, 1776," *Papers of John Adams, vol.4* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

<sup>170</sup> John Adams, "July 19, 1776," *Diary of John Adams, vol.3* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

government. Adams knew that writing such a declaration against the British Crown would be a dangerous act and yet he continued to support it. In a letter to Abigail Adams, on July 3, 1776, Adams wrote, “I am well aware of the Toil and Blood and Treasure, that it will cost Us to maintain this Declaration, and support and defend these States.—Yet through all the Gloom I can see the Rays of ravishing Light and Glory.”<sup>171</sup> Adams knew that declaring and gaining independence from Britain would not be an easy feat; however, his unwavering faith in the American cause kept him on the path towards freedom. Adams’ belief in the importance of law and liberties kept him pointed in the direction of independence for a greater tomorrow, for a greater America.

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<sup>171</sup> John Adams, “To Abigail Adams, July 3, 1776,” *Adams Family Correspondence* [Electronic edition], Adams Family Papers: An Electronic Archive, Massachusetts Historical Society.

## Conclusions

John Adams, a man who lacked social standing and a wealthy background when he made his entrance into history, had a huge impact on Revolutionary America. Adams was an eloquent writer and a strong attorney who held an inexhaustible love for books and knowledge. As David McCullough writes in his biography of John Adams, “It was in the courtrooms of Massachusetts and on the printed page, principally in the newspapers of Boston, that Adams had distinguished himself.”<sup>172</sup> John Adams was a brilliant individual who eventually became an influential politician and future president of the United States of America. Some of his most important work for America was in regards to his innate belief in the importance and power of the rule of law.

Through several Revolutionary acts, riots, and trials between 1765 and 1776, John Adams proved his innate belief of law above all else. For John Adams, the rule of law was divided into two components. The first was the external relationship between the British government and the colonists. Adams believed in the protection of the natural rights of all Englishmen under the law. Great Britain was assigned to the task of protecting such rights and, John Adams felt, failed to do so. His opposition to the Stamp Act (colonial taxation without consent) and support for the Declaration of Independence (claiming independence from Great Britain) demonstrated his support for colonial rights and commitment to (re)establishing the rule of law in America. Adams defined the second part of the rule of law as the internal relationship between the colonists and their own government. During the Boston Massacre and Stamp Act riots, Adams demonstrated his disdain for the popular mob protests, labeling them as violent and lawless acts. Adams feared that this was a sign that the colonists were capable of undermining

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<sup>172</sup> McCullough, 19.

their own government. He believed that a proper government should be constructed in the new, independent America, centering on the rule of law. Adams was committed to the preservation of natural rights, liberty, and law in America, even if the cost was to sever ties with Great Britain. John Adams was making early strides for a country that understood and was governed by the rule of law.

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