History of the transition from provincial to commonwealth government in Massachusetts

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HISTORY OF THE TRANSITION
FROM
PROVINCIAL TO COMMONWEALTH GOVERNMENT
IN MASSACHUSETTS

BY
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CHAPTER I

THE PERIOD OF TRANSITION

§ 1. The Transition, in General

The American Revolution presents two significant and clearly defined series of events. The earlier and not less important includes successive attempts to terminate certain administrative relations and constituent connections, attempts which resulted not simply in the temporary cessation of governmental relations, but also in the severance of a part of the American dependencies from the English empire. Almost contemporaneously with these events appeared great activity in that work of establishing governments which made the earlier effort of the revolutionists effective and its results permanent. In what was logically the earlier of these two movements, successful revolt annihilated all imperial relations. Those who were one day colonists of England, and who the next were by their own sweeping and comforting philosophy relegated to a "state of nature," began to act,

1 This theory appears prominently in 1780. Cf. Oration by Jonathan Mason, Jr., at Boston, March 6, 1780: "As a reward for our exertions in the great cause of freedom, we are now in the possession of those rights and privileges attendant upon the original state of nature, with the opportunity of establishing a government for ourselves, independent upon any nation or people upon earth." Niles, Principles and Acts, 46.

Cf. Oration by Thomas Dawes, Jr., at Boston, March 5, 1781: "And yet the people of Massachusetts have reduced to practice the wonderful theory. A numerous people have convened in a state of nature, and, like our ideas of the patriarchs, have deputed a few fathers of the land to draw up for them a glorious covenant." Ibid., 52. "Johannes in Eremo" published a letter to General Gage, June 17, 1775, in which he said: "You also know that those acts of the
with a growing self-consciousness, as component parts of 
what was by territorial and geographical arrangement, by 
race and language, by religion and by political traditions, the 
germ of a new national state.¹ That such was the position 
of the Americans at the time of the Revolution the history of 
the nation has made evident. The striking feature of the con-
stitutional rearrangement within the nation at its beginning 
was the appearance of the Continental Congress, a body 
among whose acquired functions was recognized the respon-
sibility and right to represent that greater body of individuals 
in whom had become vested all those elements and inci-
dents of national sovereignty which had formerly appertained 
to the king in parliament. That the best and plainest out-
come of the Revolution was the rise of a new nation is the 
lesson which by the progress of events has been impressed 
upon a people who, by reasoning and by warfare, have been 
made believers in the nationalism of the federalists.

Yet while to the matured life of the nation the sentiment 
of nationality born of the Revolution has been of incalculable 
import, it played a relatively less important part in the later 
stages of that movement amid which it first arose. The

British parliament, which you have avowedly undertaken to carry into execution 
against us by fire and sword, are, in the [sic] own nature and operation, offensive 
acts of hostility against law, English liberty and constitutional government of the 
nation in general, and against the charter, laws, liberty, property and lives of this 
 patriot in particular.¹ In the opinion of the writer the enforcement of such acts 
put the inhabitants in a "state of nature," without any connection with the Eng-

lish king. The taking of arms would no longer be rebellion. Gage was no 
longer governor, and, furthermore, "not only a robber, a murderer and usurper, 
1775. Cf. Benj. Akin, Dartmouth, July 29, 1774, to Samuel Adams, Boston: 
"it Appears to me, if there is any force in the late acts. of Parliament. they 
have lett us, afloat. that is, have thrown us into a State of Nature: we Now 
have a fair Opportunity ofCHOOSING WHAT FORM OF GOVERNMENT WE THINK PROPER.
and, Contract, with any Nation, we pleas; for a King to RULE OVER US." Revolu-
tionary Correspondence, III., 277, Bancroft Collection, Lenox Library.

¹ Cf. Burgess, Political Science and Comparative Constitutional Law, I., 100.
enthusiasm of being “an American” could win battles, and it could meet well its test at the time which “Novanglus” foresaw, when recourse must be had “to the ratio ultima of Louis XIV. and the suprema lex of the king of Sardinia,—to the law of brickbats and cannon balls, which can be answered only by brickbats and balls.”¹ The military and diplomatic successes of the Revolution must be recognized and their value fitly estimated. But what seems a successful revolt is not always a successful revolution. To take full advantage of the good work on the field and in the cabinet a firmly established and well organized government was essential. Such to the central body, the Continental Congress, was unknown; such, in large measure, was present in each of those territories which from colonies had become commonwealths. The prominence and incapacity of the central government in the years immediately subsequent to the military crisis were in strong contrast with the efficiency and the quiet conservatism shown by those bodies of the people who had come forth from the constructive work of the first years of the Revolution organized as political units. In territorial arrangement these portions of the population, with one exception,² coincided with the earlier colonies. Among their inhabitants as colonists had occurred those

¹ Works of John Adams, iv. 38.

² Vermont is the exception here referred to. The earlier relations between the New Hampshire Grants and the royal colonies of New Hampshire, New York, and Massachusetts, make the history of the origin of Vermont somewhat complicated. It is not necessary in the present work to enter into any explanation of the subject, although the subsequent grouping of the Vermont Constitution of 1777 with the other constitutions of the period may seem to require justification, since at the time Vermont was not recognized as a state, as a part of the American system. However, the theories on which the acts of the inhabitants of that region were based were in many respects identical with the theories dominant elsewhere on the continent, and the result of work under such conditions may properly be grouped with similar results elsewhere, it being understood that no identity of constitutional procedure is necessarily implied.
events, some violent in character, which have already been broadly classified as the destructive phase of the Revolution; and among each group, acting still on the accustomed lines of political sub-division, had arisen, contemporaneously with the immediate beginnings of nationality already noticed, the more valuable and constructive work, the creation of commonwealth governments. To these is due no small meed of credit for affording the nation some degree of stability and order during the period when the ostensibly national government was in the slough of administrative inefficiency and disintegrating sectionalism; to them are to be traced many features of the later national constitution. In them was brought together the content of the charters, the legislation, and the custom of the past, and with them began the modern period wherein the written constitution appears as a basis of government.

In no country has a period so brief been marked by the promulgation of so many constitutions as the decade of the American Revolution. No period of activity in constitutional matters can compare with this in the manner in which recognized propriety of procedure was forced to yield to expediency. In none, on the other hand, has appeared such a degree of self-control and conservatism as has stamped this as the one among all similar periods in which the people have gained complete control of constituent power. In spite of the circumstances amid which they were formed, the constitutions of the Revolution give abundant evidence of wise conservatism. Monarchy and anarchy were safely avoided, and in that was the chief success. With the exclusion of such elements assured, full play was given to the political instincts of both conservatives and radicals, and the result was the ultimate combination and definite expression of the political theories of their lead-