

## The Essex Result

*April 29, 1778*

### INTRODUCTION

The 1778 Essex Result, a set of town resolutions regarding a proposed constitution for Massachusetts, contains one of the clearest articulations of the core principles of the Founding. The Result affirms in detail the concepts of equal natural rights and government by consent found in the Declaration of Independence, and also explains how these ideas translate into republican political practices such as majority rule and representation, and liberty-preserving institutions such as the separation of powers and a bicameral legislature. The Result, along with similar popular expressions from throughout the new states, influenced the Constitution and makes clear the relationship between the political philosophy of natural rights and the distinctive institutions of the American republic.

On April 29, 1778, a convention of 12 towns in Essex County in northeastern Massachusetts approved resolutions “ascertaining of the true principles of government” for a free and happy people. The Result led to the rejection of a proposed state constitution that did not meet these “FREE republican” standards. Their principal author, Theophilus Parsons (1750–1813), later

became an active Federalist Party supporter and Chief Justice of the Massachusetts Supreme Court.

The Result explains the central concepts of natural rights political philosophy that informed the Declaration of Independence, including the state of nature; equal, inalienable natural rights from a Creator; the consent of the governed; and the social contract. If men are born free and possess equal rights, then the coercive power of government can justly come only from consent. The terms of the social contract must in turn create an authority strong enough to protect individual rights, while preventing the government from threatening the rights it is supposed to secure.

The Result further proposes how “the greatest possible power, wisdom, and goodness” might be produced in a republican or popular government. Once we deny that a god on earth can rule us, we must turn to the people. Since government cannot proceed by unanimity, it must adopt majority rule (Abraham Lincoln would replicate this reasoning in his First Inaugural, which denied the legitimacy of secession). Legitimate majority rule prevents the law from becoming

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“a second stamp act.” Strictly separated powers further protect rights and allow the government to “act with the greatest vigour and wisdom, and with the best intentions.” “Should the executive and legislative powers be united, mischiefs the most terrible would follow”—including even civil war. A bicameral legislature would mix the best features of the community in its representation, thus securing the common

good while protecting individual rights, especially the rights of conscience and property.

The citizens who approved the Essex Result anticipated the authors of the Constitution by upholding the principles of free republican government as the guide to self-government. The Essex Result reflects the wisdom these principles and the virtue of the people who approved it.

## The Essex Result

April 29, 1778

*Result of the Convention of Delegates Holden at Ipswich in the County of Essex, Who Were Deputed to Take into Consideration the Constitution and Form of Government, Proposed by the Convention of the State of Massachusetts-Bay.*

*In Convention of Delegates from the several towns of Lynn, Salem, Danvers, Wenham, Manchester, Gloucester, Ipswich, Newbury-Port, Salisbury, Methuen, Boxford, and Topsfield, holden by adjournment at Ipswich, on the twenty-ninth day of April, one thousand seven hundred and seventy-eight.*

Peter Coffin Esq; in the Chair.

The Constitution and form of Government framed by the Convention of this State, was read paragraph by paragraph [...]. A committee was then appointed to attempt the ascertaining of the true principles of government, applicable to the territory of the Massachusetts-Bay; to state the non-conformity of the constitution proposed by the Convention of this State to those principles, and to delineate the general outlines of a constitution conformable thereto; and to report the same to this Body.

[...]

**[Basic Principles: state of nature, natural rights, tyranny, social contract]**

The committee however proceeded in attempting the task assigned them, and the success of that attempt is now reported.

The reason and understanding of mankind, as well as the experience of all ages, confirm the truth of this proposition, that the benefits resulting to individuals from a free government, conduce much more to their happiness, than the retaining of all their natural rights in a state of nature. These benefits are greater or less, as the form of government, and the mode of exercising the supreme power of the State, are more or less conformable to those principles of equal impartial liberty, which is the property of all men from their birth as the gift of their Creator, compared with the manners and genius of the people, their occupations, customs, modes of thinking, situation, extent of country, and numbers. If the constitution and form of government are wholly repugnant to those principles, wretched are the subjects of that State. They have surrendered a portion of their natural rights, the enjoyment of which was in some degree a blessing, and the consequence is, they find themselves stripped of the remainder. As an anodyne to compose the spirits of these slaves, and to lull them into a passively obedient state, they are told, that tyranny is preferable to no government at all; a proposition which is to be doubted, unless considered under some limitation. Surely a state of nature is more excellent than that, in which men are meanly submissive to the haughty will of an imperious tyrant, whose savage passions are not bounded by the laws of reason, religion, honor, or a regard to his subjects, and the point to which all his movements center, is the

gratification of a brutal appetite. As in a state of nature much happiness cannot be enjoyed by individuals, so it has been conformable to the inclinations of almost all men, to enter into a political society so constituted, as to remove the inconveniences they were obliged to submit to in their former state, and, at the same time, to retain all those natural rights, the enjoyment of which would be consistent with the nature of a free government, and the necessary subordination to the supreme power of the state.

To determine what form of government, in any given case, will produce the greatest possible happiness to the subject, is an arduous task, not to be compassed perhaps by any human powers. Some of the greatest geniuses and most learned philosophers of all ages, impelled by their sollicitude to promote the happiness of mankind, have nobly dared to attempt it: and their labours have crowned them with immortality. [...] The man who alone undertakes to form a constitution, ought to be an unimpassioned being; one enlightened mind; biassed neither by the lust of power, the allurements of pleasure, nor the glitter of wealth; perfectly acquainted with all the alienable and unalienable rights of mankind; possessed of this grand truth, that all men are born equally free, and that no man ought to surrender any part of his natural rights, without receiving the greatest possible equivalent; and influenced by the impartial principles of rectitude and justice, without partiality for, or prejudice against the interest or professions of any individuals or class of men. He ought also to be master of the histories of all the empires and states which are now existing, and all those which have figured in antiquity, and thereby able to collect and blend their respective excellencies, and avoid those defects which experience hath pointed out. [...]

The freemen inhabiting the territory of the Massachusetts-Bay are now forming a political society for themselves. [...] We live also in an age, when the principles of political liberty, and the foundation of governments, have been freely canvassed, and fairly settled. Yet some difficulties we have to encounter. [...]

We are contending for freedom—Let us all be equally free—It is possible, and it is just. Our interests when candidly considered are one. Let us have a constitution founded, not upon party or prejudice—not one for to-day or to-morrow—but for posterity. [...]

Was it asked, what is the best form of government for the people of the Massachusetts-Bay? [...] Was a man to mention a despotic government, his life would be a just forfeit to the resentments of an affronted people. Was he to hint monarchy, he would deservedly be hissed off the stage, and consigned to infamy. A republican form is the only one consonant to the feelings of the generous and brave Americans. Let us now attend to those principles, upon which all republican governments, who boast any degree of political liberty, are founded, and which must enter into the spirit of a FREE republican constitution. For all republics are not FREE. [...]

All men are born equally free. The rights they possess at their births are equal, and of the same kind. Some of those rights are alienable, and may be parted with for an equivalent. Others are unalienable and inherent, and of that importance, that no equivalent can be received in exchange. Sometimes we shall mention the surrendering of a power to controul our natural rights, which perhaps is speaking with more precision, than when we use the expression of parting with natural rights—but the same thing is intended. Those rights which are unalienable, and of that importance, are called the rights of conscience. We have duties, for the discharge of which we are accountable to our Creator and benefactor, which no human power can cancel. What those duties are, is determinable by right reason, which may be, and is called, a well informed conscience. [...] What this conscience dictates as our duty, is so; and that power which assumes a controul over it, is an usurper; for no consent can be pleaded to justify the controul, as any consent in this case is void. [...]

When men form themselves into society, and erect a body politic or State, they are to be considered as one moral whole, which is in possession of the supreme

power of the State. This supreme power is composed of the powers of each individual collected together, and VOLUNTARILY parted with by him. No individual, in this case, parts with his unalienable rights, the supreme power therefore cannot controul them. Each individual also surrenders the power of controuling his natural alienable rights, ONLY WHEN THE GOOD OF THE WHOLE REQUIRES it. The supreme power therefore can do nothing but what is for the good of the whole; and when it goes beyond this line, it is a power usurped. [...] Let it be thus defined; political liberty is the right every man in the state has, to do whatever is not prohibited by laws, TO WHICH HE HAS GIVEN HIS CONSENT. This definition is in unison with the feelings of a free people. But to return— If a fundamental principle on which each individual enters into society is, that he shall be bound by no laws but those to which he has consented, he cannot be considered as consenting to any law enacted by a minority: for he parts with the power of controuling his natural rights, only when the good of the whole requires it; and of this there can be but one absolute judge in the State. [...]

It has been observed, that each individual parts with the power of controuling his natural alienable rights, only when the good of the whole requires it, he therefore has remaining, after entering into political society, all his unalienable natural rights, and a part also of his alienable natural rights, provided the good of the whole does not require the sacrifice of them. Over the class of unalienable rights the supreme power hath no controul, and they ought to be clearly defined and ascertained in a BILL OF RIGHTS, previous to the ratification of any constitution. [...]

### [The People and the Government]

The committee also proceeded to consider upon what principles, and in what manner, the supreme power of the state thus composed of the powers of the several individuals thereof, may be formed, modelled, and exerted in a republic, so that every member of the

state may enjoy political liberty. This is called by some, *the ascertaining of the political law of the state*. Let it now be called *the forming of a constitution*.

The reason why the supreme governor of the world is a rightful and just governor, and entitled to the allegiance of the universe is, because he is infinitely good, wise, and powerful. His goodness prompts him to the best measures, his wisdom qualifies him to discern them, and his power to effect them. In a state likewise, the supreme power is best disposed of, when it is so modelled and balanced, and rested in such hands, that it has the greatest share of goodness, wisdom, and power, which is consistent with the lot of humanity. [...]

But from a single person, or a very small number, we are not to expect that political honesty, and upright regard to the interest of the body of the people, and the civil rights of each individual, which are essential to a good and free constitution. For these qualities we are to go to the body of the people. The voice of the people is said to be the voice of God. No man will be so hardy and presumptuous, as to affirm the truth of that proposition in its fullest extent.

Yet, when we are forming a Constitution, by deductions that follow from established principles, (which is the only good method of forming one for futurity,) we are to look further than to the bulk of the people, for the greatest wisdom, firmness, consistency, and perseverance. These qualities will most probably be found amongst men of education and fortune. [...]

Let all these respective excellencies be united. Let the supreme power be so disposed and ballanced, that the laws may have in view the interest of the whole; let them be wisely and consistently framed for that end, and firmly adhered to; and let them be executed with vigour and dispatch. [...]

The proposition is only this. That among gentlemen of education, fortune and leisure, we shall find the largest number of men, possessed of wisdom, learning, and a firmness and consistency of character. That among the bulk of the people, we shall find the greatest share of political honesty, probity, and a regard to

the interest of the whole, of which they compose the majority. That wisdom and firmness are not sufficient without good intentions, nor the latter without the former. The conclusion is, let the legislative body unite them all. The former are called the excellencies that result from an aristocracy; the latter, those that result from a democracy.

### [The Separation of Powers]

The supreme power is considered as including the legislative, judicial, and executive powers. The nature and employment of these several powers deserve a distinct attention.

The legislative power is employed in making laws, or prescribing such rules of action to every individual in the state, as the good of the whole requires, to be conformed to by him in his conduct to the governors and governed, with respect both to their persons and property, according to the several relations he stands in. What rules of action the good of the whole requires, can be ascertained only by the majority, for a reason formerly mentioned. Therefore the legislative power must be so formed and exerted, that in prescribing any rule of action, or, in other words, enacting any law, the majority must consent. [...] The only objects of legislation therefore, are the person and property of the individuals which compose the state. If the law affects only the persons of the members, the consent of a majority of any members is sufficient. If the law affects the property only, the consent of those who hold a majority of the property is enough. If it affects, (as it will very frequently, if not always,) both the person and property, the consent of a majority of the members, and of those members also, who hold a majority of the property is necessary. If the consent of the latter is not obtained, their interest is taken from them against their consent, and their boasted security of property is vanished. Those who make the law, in this case give and grant what is not theirs. The law, in its principles, becomes a second stamp act. [...] Therefore to constitute a perfect law in a free state, affecting the persons

and property of the members, it is necessary that the law be for the good of the whole, which is to be determined by a majority of the members, and that majority should include those, who possess a major part of the property in the state.

The judicial power follows next after the legislative power; for it cannot act, until after laws are prescribed. Every wise legislator annexes a sanction to his laws, which is most commonly penal, (that is) a punishment either corporal or pecuniary, to be inflicted on the member who shall infringe them. [...]

The executive power is to marshal and command her militia and armies for her defence, to enforce the law, and to carry into execution all the orders of the legislative powers.

A little attention to the subject will convince us, that these three powers ought to be in different hands, and independent of one another, and so ballanced, and each having that check upon the other, that their independence shall be preserved—If the three powers are united, the government will be absolute, whether these powers are in the hands of one or a large number. The same party will be the legislator, accuser, judge and executioner; and what probability will an accused person have of an acquittal, however innocent he may be, when his judge will be also a party.

If the legislative and judicial powers are united, the maker of the law will also interpret it; and the law may then speak a language, dictated by the whims, the caprice, or the prejudice of the judge, with impunity to him— [...]

Should the executive and legislative powers be united, mischiefs the most terrible would follow. The executive would enact those laws it pleased to execute, and no others—The judicial power would be set aside as inconvenient and tardy—The security and protection of the subject would be a shadow—The executive power would make itself absolute, and the government end in a tyranny. [...]

Should the executive and judicial powers be united, the subject would then have no permanent security of

his person and property. The executive power would interpret the laws and bend them to his will; and, as he is the judge, he may leap over them by artful constructions, and gratify, with impunity, the most rapacious passions. Perhaps no cause in any state has contributed more to promote internal convulsions, and to stain the scaffold with its best blood, than this unhappy union. [...]

### [Conclusion]

The following principles now seem to be established.

1. That the supreme power is limited, and cannot controul the unalienable rights of mankind, nor resume the equivalent (that is, the security of person and property) which each individual receives, as a consideration for the alienable rights he parted with in entering into political society.

2. That these unalienable rights, and this equivalent, are to be clearly defined and ascertained in a BILL OF RIGHTS, previous to the ratification of any constitution.

3. That the supreme power should be so formed and modelled, as to exert the greatest possible power, wisdom, and goodness.

4. That the legislative, judicial, and executive powers, are to be lodged in different hands, that each branch is to be independent, and further, to be so balanced, and be able to exert such checks upon the others, as will preserve it from a dependence on, or an union with them.

5. That government can exert the greatest power when its supreme authority is vested in the hands of one or a few.

6. That the laws will be made with the greatest wisdom, and best intentions, when men, of all the several classes in the state concur in the enacting of them.

7. That a government which is so constituted, that it cannot afford a degree of political liberty nearly equal to all its members, is not founded upon principles of freedom and justice, and where any member enjoys no

degree of political liberty, the government, so far as it respects him, is a tyranny, for he is controuled by laws to which he has never consented.

8. That the legislative power of a state hath no authority to controul the natural rights of any of its members, unless the good of the whole requires it.

9. That a majority of the state is the only judge when the general good does require it.

10. That where the legislative power of the state is so formed, that a law may be enacted by the minority, each member of the state does not enjoy political liberty. And

11. That in a free government, a law affecting the person and property of its members, is not valid, unless it has the consent of a majority of the members, which majority should include those, who hold a major part of the property in the state.

[...]

This was at least the task enjoined upon the committee, and whether it has been successfully executed, they presume not to determine. They aimed at modelling the three branches of the supreme power in such a manner, that the government might act with the greatest vigour and wisdom, and with the best intentions—They aimed that each of those branches should retain a check upon the others, sufficient to preserve its independence—They aimed that no member of the state should be controuled by any law, or be deprived of his property, against his consent—They aimed that all the members of the state should enjoy political liberty, and that their civil liberties should have equal care taken of them—and in fine, that they should be a free and an happy people—The committee are sensible, that the spirit of a free republican constitution, or the moving power which should give it action, ought to be political virtue, patriotism, and a just regard to the natural rights of mankind. This spirit, if wanting, can be obtained only from that Being, who infused the breath of Life into our first parent.