

## Body of Liberties

The Mayflower is “indissolubly linked with the fundamentals of American democratic institutions. She was the wave-rocked cradle of our liberties.” (Henry B. Culver, Naval Historian, 1924)

### Mayflower Compact

The Pilgrims established a government of sorts under the Mayflower Compact of 1620, which enshrined the notion of the consent of the governed.

It agreed to pass “just and equal laws for the good of the Colony”. The first experiment in New World self-government, some scholars even see it as a kind of American Magna Carta, a template for the Declaration of Independence and the US Constitution. (Bryant, BBC)

The legacy of the pilgrims is foundational. The work ethic. The fact Americans don't take much annual holiday. Notions of self-reliance and attitudes towards government welfare. Laws that prohibit young adults from drinking in bars until the age of 21. A certain prudishness. The religiosity.

Americans continue to expect their presidents to be men of faith. In fact, no occupant of the White House has openly identified as an atheist.

Also the profit motive was strong among the settlers, and with it the belief that prosperity was a divine reward for following God's path - a forerunner of the gospel of prosperity preached by modern-day television evangelists. (Bryant, BBC)

Julia Ernst, Associate Dean for Academic and Student Affairs and Associate Professor at the University of North Dakota School of Law, published a paper ‘Mayflower Compact - Celebrating Four Years of Influence on US Democracy’ for the North Dakota Law Review, Vol 95:1. In part, it states,

The crux of the Mayflower Compact was to establish a common agreement among all the people in the colony, “mutually” and “in the presence of one another,” to “Covenant and Combine ourselves together into a Civil Body Politic.” This is the beginning of a democratic form of governance established by the people and for the people under the principle of majority rule.

It is a foundational document - not a set of specific rules, but a charter creating the polity (the public relationships among the members of that community) and the government to institute and maintain order in that society.

They agreed to “Covenant” with each other - to enter into a formal and fundamentally sacred reciprocal promise with every other member of the community.

This form of agreement reflected the earnest solemnity of the covenant theological system and the covenant political system with which most of them were probably accustomed. The Separatists utilized covenants in their religious beliefs and practices, as mentioned previously.

Not only did they make a formal promise to each other through the “Covenant,” but they also pledged themselves to “Combine” with each other - to work together as one unit for the common good of all members of the diverse community, both Saints and Strangers.

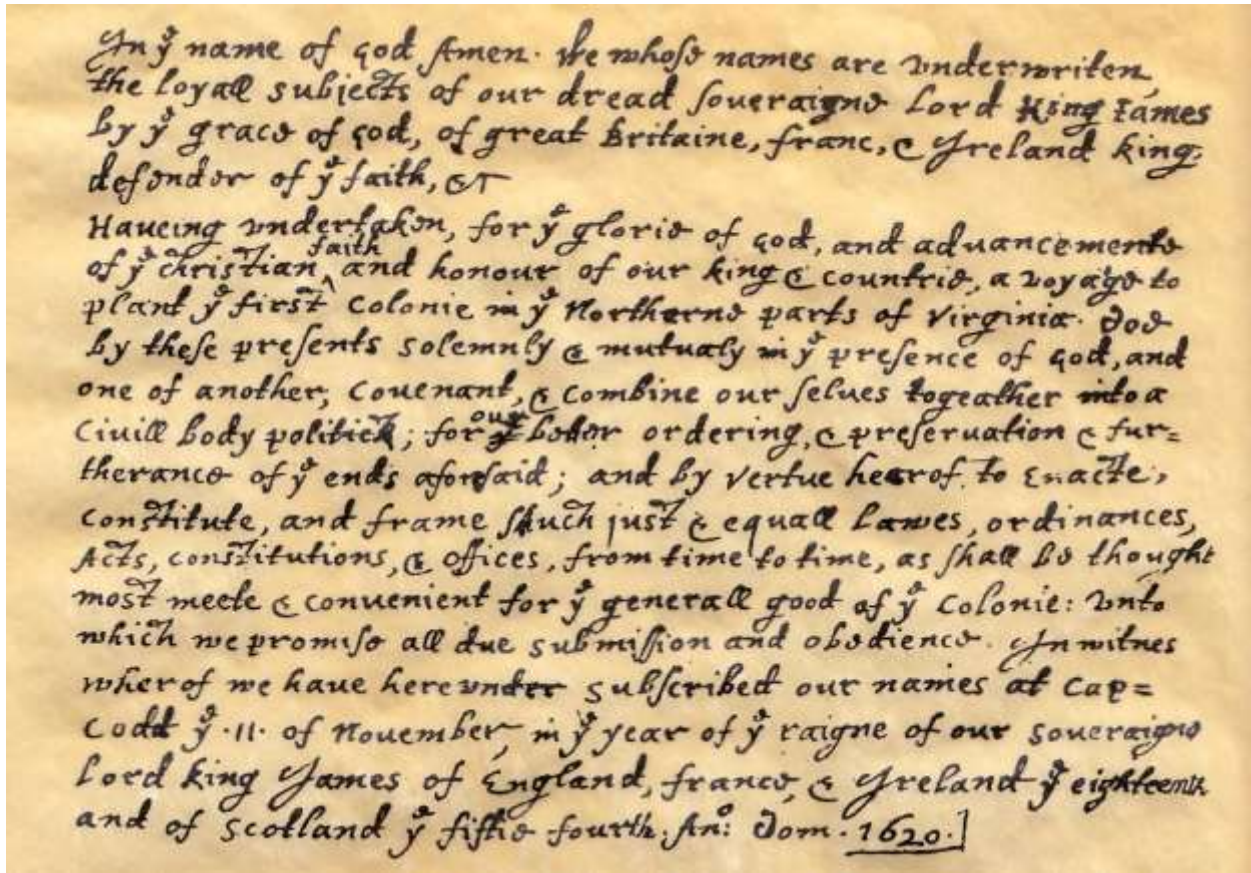
The Mayflower Compact was not so named until 1793 - it was originally called the Plymouth Combination, reflecting the coming together of all individual members into one cohesive, collective, egalitarian unit.

The Mayflower Compact does not contain all the elements of a written constitution, such as fleshing out the form in which the new government will take shape. However, it forms the basis for such a government through their agreement "to enact, constitute and frame such just and equal Laws Ordinances, Acts, Constitutions and Offices, from time to time."

Thus, the Mayflower Compact was in effect a pre-constitutional agreement, as it expressly envisions that the members of the civil society will jointly create "Constitutions and Offices."

They adopted a republican (i.e., representative) approach, in the sense that the adult men who signed the document did so not only on behalf of themselves, and on behalf the women, children, non-freemen, and sick aboard the Mayflower, but also on behalf of all members of Plymouth Colony who joined the settlement after the Mayflower Compact had been originally signed.

If the purpose of government is to protect rights, such as justice and equality, and all people within that community are endowed with those inalienable rights that the government must protect, then the Mayflower Compact was a significant step in recognizing and protecting those nascent human rights.



Today, a visitor to the lobby of the American Bar Association headquarters in Chicago is greeted by glass etchings portraying inspiring legal documents: the Magna Carta, U.S. Constitution and Declaration of Independence and the Mayflower Compact.

One of the world's largest professional organizations recognizes the historical importance of the November 11, 1620, signing. The associate director of the ABA Division for Public Education wrote that "the complex roots of the U.S. Constitution can be traced to these colonial documents," including the Mayflower Compact.

"The Mayflower Compact reaffirmed one of the fundamental ideas of the Magna Carta; namely, that no political society could flourish without respect for the rule of law," said Kim Holmes, executive vice president of The Heritage Foundation.

### **Body of Liberties**

Next, in 1630, the Puritans used the royal charter establishing the Massachusetts Bay Company to create a government in which "freemen" - white males who owned property and paid taxes and thus could take on the responsibility of governing - elected a governor and a single legislative body called the Great and General Court, made up of assistants and deputies.

Conflicts arose over the arbitrariness of the assistants, and in 1641 the legislature created the Body of Liberties. This document was a statement of principles for governance that protected individual liberties and was the basis for the guarantees later expressed in the Bill of Rights of the U.S. Constitution.

The Massachusetts Body of Liberties was the first attempt in the colonies to restrain the power of the elected representatives by appealing to a fundamental document that lists the rights and duties of the people. The document, drafted and debated over several years, combined the early American covenanting tradition of the Mayflower Compact with an appeal to the common law tradition that crossed the Atlantic from Britain.

In 1644 this single body became an entity made up of two chambers: the House of Assistants (later the Senate) and the House of Deputies (later the House of Representatives). This set the precedent of bicameralism for most governmental legislatures in the United States, including the eventual federal legislature. (Britannica)

At first the right to vote was limited to the "chosen" - those whose religious background was thought to ensure salvation - but, after the original charter was revoked and a new one established in 1691, the franchise was extended to property owners and taxpayers. (Eventually, amendments granted all men and women the right to vote and hold office.)

The Body of Liberties is the first legal code established by European colonists in New England and was composed of a list of liberties, rather than restrictions, and intended for use as guidance for the General Court of the time.

This document is considered by many as the precursor to the General Laws of Massachusetts and the Massachusetts Constitution. It incorporates rights that were later judged to be ahead of their time, with some of these rights eventually appearing in the Bill of Rights. Scholars do not agree as to whether these liberties were ever adopted, adopted provisionally or approved of by the General Court.



On December 10, 1641, the General Court established the hundred laws which were called the Body of Liberties. They “had been revised and altered by the [General] Court, and sent forth into every town to be further considered of, and now again in this [General] Court they were revised, amended, and presented.” (Mass-gov)

### **The Liberties Of The Massachuset Collonie In New England, 1641.**

The free fruition of such liberties Immunities and priveledges as humanitie, Civilitie, and Christianitie call for as due to every man in his place and proportion without impeachment and Infringement hath ever bene and ever will be the tranquillitie and Stabilitie of Churches and Commonwealths. And the deniall or deprivall thereof, the disturbance if not the ruine of both.

We hould it therefore our dutie and safetie whilst we are about the further establishing of this Government to collect and expresse all such freedoms as for present we foresee may concerne us, and our posteritie after us, And to ratify them with our sollemne consent.

Wee doe therefore this day religiously and unanimously decree and confirme these following Rites, liberties and priveledges concerneing our Churches, and Civill State to be respectively impartiallie and inviolably enjoyed and observed throughout our Jurisdiction for ever.

1. No mans life shall be taken away, no mans honour or good name shall be stayned, no mans person shall be arested, restrayned, banished, dismembred, nor any wayes punished, no man shall be deprived of his wife or children, no mans goods or estaite shall be taken away from him, nor any way indammaged under colour of law or Countenance of Authoritie, unlesse it be by vertue or equitie of some expresse law of the Country waranting the same, established by a generall Court and sufficiently published, or in case of the defect of a law in any parteculer case by the word of God. And in Capitall cases, or in cases concerning dismembring or banishment according to that word to be judged by the Generall Court.
2. Every person within this Jurisdiction, whether Inhabitant or forreiner shall enjoy the same justice and law, that is generall for the plantation, which we constitute and execute one towards another without partialitie or delay.
3. No man shall be urged to take any oath or subscribe any articles, covenants or remonstrance, of a publique and Civill nature, but such as the Generall Court hath considered, allowed and required.
4. No man shall be punished for not appearing at or before any Civill Assembly, Court, Councill, Magistrate, or Officer, nor for the omission of any office or service, if he shall be necessarily hindred by any apparent Act or providence of God, which he could neither foresee nor avoid. Provided that this law shall not prejudice any person of his just cost or damage, in any civill action.

5. No man shall be compelled to any publique worke or service unlesse the presse be grounded upon some act of the generall Court, and have reasonable allowance therefore.
6. No man shall be pressed in person to any office, worke, warres or other publique service, that is necessarily and sufficiently exempted by any naturall or personall impediment, as by want of yeares, greatnes of age, defect of minde, fayling of sences, or impotencie of Lymbes.
7. No man shall be compelled to goe out of the limits of this plantation upon any offensive warres which this Comonwealth or any of our freinds or confederats shall volentarily undertake. But onely upon such vindictive and defensive warres in our owne behalfe or the behalfe of our freinds and confederats as shall be enterprized by the Counsell and consent of a Court generall, or by authority derived from the same.
8. No mans Cattel or goods of what kinde soever shall be pressed or taken for any publique use or service, unlesse it be by warrant grounded upon some act of the generall Court, nor without such reasonable prices and hire as the ordinarie rates of the Countrie do afford. And if his Cattle or goods shall perish or suffer damage in such service, the owner shall be sufficiently recompenced.
9. No monopolies shall be granted or allowed amongst us, but of such new Inventions that are profitable to the Countrie, and that for a short time.
10. All our lands and heritages shall be free from all fines and licenses upon Alienations, and from all hariotts, wardships, Liveries, Primer-seisins, yeare day and wast, Escheates, and forfeitures, upon the deaths of parents or Ancestors, be they naturall, casuall or Juditiall.
11. All persons which are of the age of 21 yeares, and of right understanding and meamories, whether excommunicate or condemned shall have full power and libertie to make there wills and testaments, and other lawfull alienations of their lands and estates.
12. Every man whether Inhabitant or fforreiner, free or not free shall have libertie to come to any publique Court, Councel, or Towne meeting, and either by speech or writeing to move any lawfull, seasonable, and materiall question, or to present any necessary motion, complaint, petition, Bill or information, whereof that meeting hath proper cognizance, so it be done in convenient time, due order, and respective manner.
13. No man shall be rated here for any estaite or revenue he hath in England, or in any forreine partes till it be transported hither.
14. Any Conveyance or Alienation of land or other estaite what so ever, made by any woman that is married, any childe under age, Ideott or distracted person, shall be good if it be passed and ratified by the consent of a generall Court.
15. All Covenous or fraudulent Alienations or Conveyances of lands, tenements, or any heriditaments, shall be of no validitie to defeate any man from due debts or legacies, or from any just title, clame or possession, of that which is so fraudulently conveyed.
16. Every Inhabitant that is an howse holder shall have free fishing and fowling in any great ponds and Bayes, Coves and Rivers, so farre as the sea ebbes and flowes within the presincts of the towne where they dwell, unlesse the free men of the same Towne or the Generall Court have otherwise appropriated them, provided that this shall not be extended to give leave to any man to come upon others proprietie without there leave.

17. Every man of or within this Jurisdiction shall have free libertie, notwithstanding any Civill power to remove both himselfe, and his familie at their pleasure out of the same, provided there be no legall impediment to the contrarie.

**Rites Rules and Liberties concerning Juditiall proceedings.**

18. No mans person shall be restrained or imprisoned by any authority whatsoever, before the law hath sentenced him thereto, if he can put in sufficient securitie, bayle or mainprise, for his appearance, and good behaviour in the meane time, unlesse it be in Crimes Capitall, and Contempts in open Court, and in such cases where some expresse act of Court doth allow it.

19. If in a general Court any miscariage shall be amongst the Assistants when they are by themselves that may deserve an Admonition or fine under 20 sh. it shall be examined and sentenced amongst themselves, If amongst the Deputies when they are by themselves, it shall be examined and sentenced amongst themselves, If it be when the whole Court is together, it shall be judged by the whole Court, and not severallie as before.

20. If any which are to sit as Judges in any other Court shall demeane themselves offensively in the Court, The rest of the Judges present shall have power to censure him for it, if the cause be of a high nature it shall be presented to and censured at the next superior Court.

21. In all cases where the first summons are not served six dayes before the Court, and the cause briefly specified in the warrant, where appearance is to be made by the partie summoned, it shall be at his libertie whether he will appeare or no, except all cases that are to be handled in Courts suddainly called, upon extraordinary occasions, In all cases where there appeares present and urgent cause any assistant or officer apointed shal have power to make out attachments for the first summons.

22. No man in any suit or action against an other shall falsely pretend great debts or damages to vex his adversary, if it shall appeare any doth so, The Court shall have power to set a reasonable fine on his head.

23. No man shall be adjudged to pay for detaining any debt from any Creditor above eight pounds in the hundred for one yeare, And not above that rate proportionable for all somes what so ever, neither shall this be a coulour or countenance to allow any usurie amongst us contrarie to the law of god.

24. In all Trespasses or damages done to any man or men, If it can be proved to be done by the meere default of him or them to whome the trespasse is done, It shall be judged no trespasse, nor any damage given for it.

25. No Summons pleading Judgement, or any kinde of proceeding in Court or course of Justice shall be abated, arested or reversed upon any kinde of circumstantiall errors or mistakes, If the person and cause be rightly understood and intended by the Court.

26. Every man that findeth himselfe unfit to plead his owne cause in any Court shall have Libertie to employ any man against whom the Court doth not except, to helpe him, Provided he give him noe fee or reward for his paines. This shall not exempt the partie him selfe from Answering such Questions in person as the Court shall thinke meete to demand of him.

27. If any plantife shall give into any Court a declaration of his cause in writeing, The defendant shall also have libertie and time to give in his answer in writeing, And so in all further proceedings betwene partie and partie, So it doth not further hinder the dispatch of Justice then the Court shall be willing unto.
28. The plantife in all Actions brought in any Court shall have libertie to withdraw his Action, or to be nonsuited before the Jurie hath given in their verdict, in which case he shall alwaies pay full cost and chardges to the defendant, and may afterwards renew his suite at an other Court if he please.
29. In all actions at law it shall be the libertie of the plantife and defendant by mutual consent to choose whether they will be tryed by the Bensch or by a Jurie, unlesse it be where the law upon just reason hath otherwise determined. The like libertie shall be granted to all persons in Criminnal cases.
30. It shall be in the libertie both of plantife and defendant, and likewise every delinquent (to be judged by a Jurie) to challenge any of the Jurors. And if his challenge be found just and reasonable by the Bench, or the rest of the Jurie, as the challenger shall choose it shall be allowed him, and tales de circumstantibus impaneled in their room.
31. In all cases where evidences is so obscure or defective that the Jurie cannot clearely and safely give a positive verdict, whether it be a grand or petit Jurie, It shall have libertie to give a non Liquit, or a spetiall verdict, in which last, that is in a spetiall verdict, the Judgement of the cause shall be left to the Court, And all Jurors shall have libertie in matters of fact if they cannot finde the maine issue, yet to finde and present in their verdict so much as they can, If the Bench and Jurors shall so suffer at any time about their verdict that either of them cannot proceede with peace of conscience the case shall be referred to the Generall Court, who shall take the question from both and determine it.
32. Every man shall have libertie to replevy his Cattell or goods impounded, distreined, seised, or extended, unlesse it be upon execution after Judgement, and in paiment of fines. Provided he puts in good securitie to prosecute his replevin, And to satisfie such demands as his Adversary shall recover against him in Law.
33. No mans person shall be arrested, or imprisoned upon execution or judgment for any debt or fine, If the law can finde competent meanes of satisfaction otherwise from his estaite, and if not his person may be arrested and imprisoned where he shall be kept at his owne charge, not the plantife's till satisfaction be made, unlesse the Court that had cognizance of the cause or some superior Court shall otherwise provide.
34. If any man shall be proved and Judged a commen Barrator vexing others with unjust frequent and endlesse suites, It shall be in the power of Courts both to denie him the benefit of the law, and to punish him for his Barratry.
35. No mans corne nor hay that is in the feild or upon the Cart, nor his garden stuffe, nor any thing subject to present decay, shall be taken in any distresse, unles he that takes it doth presently bestow it where it may not be imbesled nor suffer spoile or decay, or give securitie to satisfie the worth thereof if it comes to any harme.
36. It shall be in the libertie of every man cast condemned or sentenced in any cause in any Inferior Court, to make their appeale to the Court of Assistants, provided they tender their appeale and

put in securitie to prosecute it, before the Court be ended wherein they were condemned, And within six dayes next ensuing put in good securitie before some Assistant to satisfie what his Adversarie shall recover against him; And if the cause be of a Criminall nature for his good behaviour, and appearance, And everie man shall have libertie to complaine to the Generall Court of any Injustice done him in any Court of Assistants or other.

37. In all cases where it appeares to the Court that the plantife hath wilingly and witingly done wronge to the defendant in commenceing and prosecuting an action or complaint against him, They shall have power to impose upon him a proportionable fine to the use of the defendant or accused person, for his false complaint or clamor.
38. Everie man shall have libertie to Record in the publique Rolles of any Court any Testimony given upon oath in the same Court, or before two Assistants, or any deede or evidence legally confirmed there to remaine in perpetuam rei memoriam, that is for perpetuall memoriall or evidence upon occasion.
39. In all actions both reall and personall betweene partie and partie, the Court shall have power to respite execution for a convenient time, when in their prudence they see just cause so to doe.
40. No Conveyance, Deede, or promise whatsoever shall be of validitie, If it be gotten by Illegal violence, imprisonment, threatening, or any kinde of forcible compulsion called Dures.
41. Everie man that is to Answer for any criminall cause, whether he be in prison or under bayle, his cause shall be heard and determined at the next Court that hath proper Cognizance thereof, And may be done without prejudice of Justice.
42. No man shall be twice sentenced by Civill Justice for one and the same Crime, offence, or Trespasse.
43. No man shall be beaten with above 40 stripes, nor shall any true gentleman, nor any man equall to a gentleman be punished with whipping, unles his crime be very shamefull, and his course of life vitious and profligate.
44. No man condemned to dye shall be put to death within fower dayes next after his condemnation, unles the Court see spetiall cause to the contrary, or in case of martiall law, nor shall the body of any man so put to death be unburied 12 howers unlesse it be in case of Anatomie.
45. No man shall be forced by Torture to confesse any Crime against himselfe nor any other unlesse it be in some Capitall case, where he is first fullie convicted by cleare and suffitient evidence to be guilty, After which if the cause be of that nature, That it is very apparent there be other conspiratours, or confederates with him, Then he may be tortured, yet not with such Tortures as be Barbarous and inhumane.
46. For bodilie punishments we allow amongst us none that are inhumane Barbarous or cruel.
47. No man shall be put to death without the testimony of two or three witnesses or that which is equivalent thereunto.
48. Every Inhabitant of the Countrie shall have free libertie to search and veewe any Rooles, Records, or Regesters of any Court or office except the Councill, And to have a transcript or exemplification



thereof written examined, and signed by the hand of the officer of the office paying the appointed fees therefore.

49. No free man shall be compelled to serve upon Juries above two Courts in a yeare, except grand Jurie men, who shall hould two Courts together at the least.
50. All Jurors shall be chosen continuallie by the freemen of the Towne where they dwell.
51. All Associates selected at any time to Assist the Assistants in Inferior Courts, shall be nominated by the Townes belonging to that Court, by orderly agreement amonge themselves.
52. Children, Idiots, Distracted persons, and all that are strangers, or new comers to our plantation, shall have such allowances and dispensations in any cause whether Criminal or other as religion and reason require.
53. The age of discretion for passing away of lands or such kinde of hereditments, or for giving, of votes, verdicts or Sentence in any Civill Courts or causes, shall be one and twentie yeares.
54. Whensoever any thing is to be put to vote, any sentence to be pronounced, or any other matter to be proposed, or read in any Court or Assembly, If the president or moderator thereof shall refuse to performe it, the Major parte of the members of that Court or Assembly shall have power to appoint any other meete man of them to do it, And if there be just cause to punish him that should and would not.
55. In all suites or Actions in any Court, the plaintife shall have libertie to make all the titles and claims to that he sues for he can. And the Defendant shall have libertie to plead all the pleas he can in answer to them, and the Court shall judge according to the intire evidence of all.
56. If any man shall behave himselfe offensively at any Towne meeting, the rest of the freemen then present, shall have power to sentence him for his offence. So be it the mulct or penaltie exceede not twentie shilings.
57. Whensoever any person shall come to any very suddaine untimely and unnaturall death, Some assistant, or the Constables of that Towne shall forthwith sumon a Jury of twelve free men to inquire of the cause and manner of their death, and shall present a true verdict thereof to some neere Assistant, or the next Court to be helde for that Towne upon their oath.

Liberties more peculiarie concerning the free men.

58. Civill Authoritie hath power and libertie to see the peace, ordinances and Rules of Christ observed in every church according to his word. so it be done in a Civill and not in an Ecclesiastical way.
59. Civill Authoritie hath power and libertie to deale with any Church member in a way of Civill Justice, notwithstanding any Church relation, office or interest.
60. No church censure shall degrade or depose any man from any Civill dignitie, office, or Authoritie he shall have in the Commonwealth.
61. No Magistrate, Juror, Officer, or other man shall be bound to informe present or reveale any private crim or offence, wherein there is no perill or danger to this plantation or any member thereof, when any necessarie tye of conscience binds him to secresie grounded upon the word of god, unlesse it be in case of testimony lawfully required.

62. Any Shire or Towne shall have libertie to choose their Deputies whom and where they please for the Generall Court. So be it they be free men, and have taken there oath of fealtie, and Inhabiting in this Jurisdiction.
63. No Governor, Deputy Governor, Assistant, Associate, or grand Jury man at any Court, nor any Deputie for the Generall Court, shall at any time beare his owne chardges at any Court, but their necessary expences shall be defrayed either by the Towne or Shire on whose service they are, or by the Country in generall.
64. Everie Action betweene partie and partie, and proceedings against delinquents in Criminall causes shall be briefly and distinctly entered on the Rolles of every Court by the Recorder thereof. That such actions be not afterwards brought againe to the vexation of any man.
65. No custome or prescription shall ever prevaile amongst us in any morall cause, our meaneing is maintaine anythinge that can be proved to be morrallie sinfull by the word of god.
66. The Freemen of every Towneship shall have power to make such by laws and constitutions as may concerne the wellfare of their Towne, provided they be not of a Criminall, but onely of a prudential nature, And that their penalties exceede not 20 sh. for one offence. And that they be not repugnant to the publike laws and orders of the Countrie. And if any Inhabitant shall neglect or refuse to observe them, they shall have power to levy the appointed penalties by distresse.
67. It is the constant libertie of the free men of this plantation to choose yearly at the Court of Election out of the freemen all the General officers of this Jurisdiction. If they please to dischargdge them at the day of Election by way of vote. They may do it without shewing cause. But if at any other generall Court, we hould it due justice, that the reasons thereof be alleadged and proved. By Generall officers we meane, our Governor, Deputy Governor, Assistants, Treasurer, Generall of our warres. And our Admirall at Sea, and such as are or hereafter may be of the like generall nature.
68. It is the libertie of the freemen to choose such deputies for the Generall Court out of themselves, either in their owne Townes or elsewhere as they judge fittest. And because we cannot foresee what varietie and weight of occasions may fall into future consideration, And what counsells we may stand in neede of, we decree. That the Deputies (to attend the Generall Court in the behalfe of the Countrie) shall not any time be stated or inacted, but from Court to Court, or at the most but for one yeare, that the Countrie may have an Annuall libertie to do in that case what is most behoofefull for the best welfaire thereof.
69. No Generall Court shall be desolved or adjourned without the consent of the Major parte thereof.
70. All Freemen called to give any advise, vote, verdict, or sentence in any Court, Counsell, or Civill Assembly, shall have full freedome to doe it according to their true Judgements and Consciences, So it be done orderly and inofensively for the manner.
71. The Governor shall have a casting voice whensoever an Equi vote shall fall out in the Court of Assistants, or generall assembly, So shall the presedent or moderator have in all Civill Courts or Assemblies.
72. The Governor and Deputy Governor Joyntly consenting or any three Assistants concurring in consent shall have power out of Court to reprive a condemned malefactour, till the next quarter or generall Court. The generall Court onely shall have power to pardon a condemned malefactor.

73. The Generall Court hath libertie and Authoritie to send out any member of this Comanwealth of what qualitie, condition or office whatsoever into forreine parts about any publique message or Negotiation. Provided the partie sent be acquainted with the affaire he goeth about, and be willing to undertake the service.
74. The freemen of every Towne or Towneship, shall have full power to choose yearly or for lesse time out of themselves a convenient number of fitt men to order the planting or prudentiall occasions of that Towne, according to Instructions given them in writeing, Provided nothing be done by them contrary to the publique laws and orders of the Countrie, provided also the number of such select persons be not above nine.
75. It is and shall be the libertie of any member or members of any Court Councill or Civill Assembly in cases of makeing or executing any order or law, that properlie concerne religion, or any cause capitall, or warres, or Subscription to any publique Articles or Remonstrance, in case they cannot in Judgement and conscience consent to that way the Major vote or suffrage goes, to make their contra Remonstrance or protestation in speech or writeing, and upon request to have their dissent recorded in the Rolles of that Court. So it be done Christianlie and respectively for the manner. And their dissent onely be entered without the reasons thereof, for the avoiding of tediousnes.
76. Whensoever any Jurie of trialls or Jurours are not cleare in their Judgments or consciences conserneing any cause wherein they are to give their verdict, They shall have libertie in open Court to advise with any man they thinke fitt to resolve or direct them, before they give in their verdict.
77. In all cases wherein any freeman is to give his vote, be it in point of Election, makeing constitutions and orders or passing sentence in any case of Judicature or the like, if he cannot see reason to give it positively one way or an other, he shall have libertie to be silent, and not pressed to a determined vote.
78. The Generall or publique Treasure or any parte thereof shall never be expended but by the appointment of a Generall Court, nor any Shire Treasure, but by the appointment of the freemen thereof, nor any Towne Treasurie but by the freemen of that Township.

#### **Liberties of Women.**

79. If any man at his death shall not leave his wife a competent portion of his estaite, upon just complaint made to the Generall Court she shall be relieved.
80. Everie married woeman shall be free from bodilie correction or stripes by her husband, unlesse it be in his owne defence upon her assault. If there be any just cause of correction complaint shall be made to Authoritie assembled in some Court, from which onely she shall receive it.

#### **Liberties of Children.**

81. When parents dye intestate, the Elder sonne shall have a doble portion of his whole estate reall and personall, unlesse the Generall Court upon just cause alleadged shall judge otherwise.
82. When parents dye intestate haveing noe heires males of their bodies their Daughters shall inherit as Copartners, unles the Generall Court upon just reason shall judge otherwise.

83. If any parents shall wilfullie and unreasonably deny any childe timely or convenient mariage, or shall exercise any unnaturall severitie towards them, such children shall have free libertie to complaine to Authoritie for redresse.
84. No Orphan dureing their minoritie which was not committed to tuition or service by the parents in their life time, shall afterwards be absolutely disposed of by any kindred, freind, Executor, Towneship, or Church, nor by themselves without the consent of some Court, wherein two Assistants at least shall be present.

#### **Liberties of Servants.**

85. If any servants shall flee from the Tiranny and crueltie of their masters to the howse of any freeman of the same Towne, they shall be there protected and susteyned till due order be taken for their relife. Provided due notice thereof be speedily given to their maisters from whom they fled. And the next Assistant or Constable where the partie flying is harboured.
86. No servant shall be put of for above a yeare to any other neither in the life time of their maister nor after their death by their Executors or Administrators unlesse it be by consent of Authoritie assembled in some Court or two Assistants.
87. If any man smite out the eye or tooth of his man-servant, or maid servant, or otherwise mayme or much disfigure him, unlesse it be by meere casualtie, he shall let them goe free from his service. And shall have such further recompense as the Court shall allow him.
88. Servants that have served deligentlie and faithfully to the benefitt of their maisters seaven yeares, shall not be sent away emptie. And if any have bene unfaithfull, negligent or unprofitable in their service, notwithstanding the good usage of their maisters, they shall not be dismissed till they have made satisfaction according to the Judgement of Authoritie.

#### **Liberties of Forreiners and Strangers.**

89. If any people of other Nations professing the true Christian Religion shall flee to us from the Tiranny or oppression of their persecutors, or from famyne, warres, or the like necessary and compulsarie cause, They shall be entertayned and succoured amongst us, according to that power and prudence, god shall give us.
90. If any ships or other vessels, be it freind or enemy, shall suffer shipwrack upon our Coast, there shall be no violence or wrong offered to their persons or goods. But their persons shall be harboured, and relieved, and their goods preserved in safety till Authoritie may be certified thereof, and shall take further order therein.
91. There shall never be any bond slaverie, villinage or Captivitie amongst us unles it be lawfull Captives taken in just warres, and such strangers as willingly selle themselves or are sold to us. And these shall have all the liberties and Christian usages which the law of god established in Israell concerning such persons doeth morally require. This exempts none from servitude who shall be Judged thereto by Authoritie.

#### **Off the Bruite Creature.**

92. No man shall exercise any Tirranny or Crueltie towards any brute Creature which are usuallie kept for man's use.

93. If any man shall have occasion to leade or drive Cattel from place to place that is far of, so that they be weary, or hungry, or fall sick, or lambe, It shall be lawful to rest or refresh them, for competant time, in any open place that is not Corne, meadow, or inclosed for some peculiar use.

94. Capitall Laws.

1. (Deut. 13. 6, 10. Deut. 17. 2, 6. Ex. 22.20) If any man after legall conviction shall have or worship any other god, but the lord god, he shall be put to death.
2. (Ex. 22. 18. Lev. 20. 27. Dut. 18. 10.) If any man or woeman be a witch, (that is hath or consulteth with a familiar spirit,) They shall be put to death.
3. (Lev. 24. 15,16.) If any person shall Blaspheme the name of god, the father, Sonne or Holie Ghost, with direct, expresse, presumptuous or high handed blasphemie, or shall curse god in the like manner, he shall be put to death.
4. (Ex. 21. 12. Numb. 35. 13, 14, 30, 31.) If any person committ any wilfull murther, which is manslaughter, committed upon premeditated malice, hatred, or Crueltie, not in a mans necessarie and just defence, nor by meere casualtie against his will, he shall be put to death.
5. (Numb. 25, 20, 21. Lev. 24. 17) If any person slayeth an other suddaieny in his anger or Crueltie of passion, he shall be put to death.
6. (Ex. 21. 14.) If any person shall slay an other through guile, either by poysoning or other such divelish practice, he shall be put to death.
7. (Lev. 20. 15,16.) If any man or woeman shall lye with any beaste or bruite creature by Carnall Copulation, They shall surely be put to death. And the beast shall be slaine, and buried and not eaten.
8. (Lev. 20. 13.) If any man lyeth with mankinde as he lyeth with a woeman, both of them have committed abomination, they both shall surely be put to death.
9. (lev. 20. 19. and 18, 20. Dut. 22. 23, 24.) If any person committeth Adultery with a married or espoused wife, the Adulterer and Adulteresse shall surely be put to death.
10. (Ex. 21. 16.) If any man stealeth a man or mankinde, he shall surely be put to death.
11. (Deut. 19. 16, 18, 19.) If any man rise up by false witnes, wittingly and of purpose to take away any mans life, he shall be put to death.
12. If any man shall conspire and attempt any invasion, insurrection, or publique rebellion against our commonwealth, or shall indeavour to surprize any Towne or Townes, fort or forts therein, or shall treacherously and perfediouslie attempt the alteration and subversion of our frame of politie or Government fundamentallie, he shall be put to death.

95. A Declaration of the Liberties the Lord Jesus hath given to the Churches.

1. All the people of god within this Jurisdiction who are not in a church way, and be orthodox in Judgement, and not scandalous in life, shall have full libertie to gather themselves into a Church Estaite. Provided they doe it in a Christian way, with due observation of the rules of Christ revealed in his word.
2. Every Church hath full libertie to exercise all the ordinances of god, according to the rules of scripture.
3. Every Church hath free libertie of Election and ordination of all their officers from time to time, provided they be able, pious and orthodox.
4. Every Church hath free libertie of Admission, Recommendation, Dismission, and Expulsion, or deposall of their officers, and members, upon due cause, with free exercise of the Discipline and Censures of Christ according to the rules of his word.

5. No Injunctions are to be put upon any Church, Church officers or member in point of Doctrine, worship or Discipline, whether for substance or circumstance besides the Institutions of the lord.
  6. Every Church of Christ hath freedome to celebrate dayes of fasting and prayer, and of thanksgiving according to the word of god.
  7. The Elders of Churches have free libertie to meete monthly, Quarterly, or otherwise, in convenient numbers and places, for conferences, and consultations about Christian and Church questions and occasions.
  8. All Churches have libertie to deale with any of their members in a church way that are in the hand of Justice. So it be not to retard or hinder the course thereof.
  9. Every Church hath libertie to deale with any magestrate, Deputie of Court or other officer what soe ever that is a member in a church way in case of apparent and just offence given in their places, so it be done with due observance and respect.
  10. Wee allowe private meetings for edification in religion amongst Christians of all sortes of people. So it be without just offence for number, time, place, and other circumstances.
  11. For the preventing and removing of errour and offence that may grow and spread in any of the Churches in this Jurisdiction, And for the preserveing of trueith and peace in the severall churches within themselves, and for the maintenance and exercise of brotherly communion, amongst all the churches in the Countrie, It is allowed and ratified, by the Authoritie of this Generall Court as a lawfull libertie of the Churches of Christ. That once in every month of the year (when the season will beare it) It shall be lawfull for the minesters and Elders, of the Churches neere adjoyneing together, with any other of the breetheren with the consent of the churches to assemble by course in each severall Church one after an other. To the intent after the preaching of the word by such a minister as shall be requested thereto by the Elders of the church where the Assembly is held, The rest of the day may be spent in publique Christian Conference about the discussing and resolving of any such doubts and cases of conscience concerning matter of doctrine or worship or government of the church as shall be propounded by any of the Breetheren of that church, will leave also to any other Brother to propound his objections or answeres for further satisfaction according to the word of god. Provided that the whole action be guided and moderated by the Elders of the Church where the Assemblie is helde, or by such others as they shall appoint. And that no thing be concluded and imposed by way of Authoritie from one or more churches upon an other, but onely by way of Brotherly conference and consultations. That the trueth may be searched out to the satisfying of every mans conscience in the sight of god according his worde. And because such an Assembly and the worke thereof can not be duely attended to if other lectures be held in the same weeke. It is therefore agreed with the consent of the Churches. That in that weeke when such an Assembly is held, All the lectures in all the neighbouring Churches for that weeke shall be forborne. That so the publique service of Christ in this more solemne Assembly may be transacted with greater deligence and attention.
96. Howsoever these above specified rites, freedomes Immunities, Authorites and priveledges, both Civill and Ecclesiastical are expressed onely under the name and title of Liberties, and not in the exact forme of Laws or Statutes, yet we do with one consent fullie Authorise, and earnestly intreate all that are and shall be in Authoritie to consider them as laws, and not to faile to inflict condigne and proportionable punishments upon every man impartiallie, that shall infringe or violate any of them.

97. Wee likewise give full power and libertie to any person that shall at any time be denied or deprived of any of them, to commence and prosecute their suite, Complaint or action against any man that shall so doe in any Court that hath proper Cognizance or judicature thereof.
98. Lastly because our dutie and desire is to do nothing suddainlie which fundamentally concerne us, we decree that these rites and liberties, shall be Audably read and deliberately weighed at every Generall Court that shall be held, within three yeares next insueing, And such of them as shall not be altered or repealed they shall stand so ratified, That no man shall infringe them without due punishment.

And if any Generall Court within these next thre yeares shall faile or forget to reade and consider them as abovesaid. The Governor and Deputy Governor for the time being, and every Assistant present at such Courts, shall forfeite 20sh. a man, and everie Deputie 10sh. a man for each neglect, which shall be paid out of their proper estate, and not by the Country or the Townes which choose them, and whensoever there shall arise any question in any Court amonge the Assistants and Associates thereof about the explanation of these Rites and liberties, The Generall Court onely shall have power to interprett them.

On October 27, 1648, the General Court of Massachusetts would take what began as the Body of Liberties and create the first printed laws in The Book of the General Lawes and Libertyes Concerning the Inhabitants of Massachusetts which would serve as the model for statutory law in Massachusetts and other New England colonies.

### Nathaniel Ward

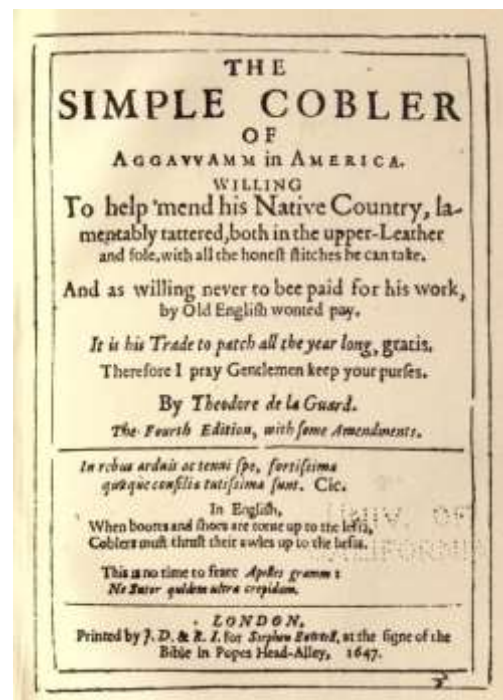
Nathaniel Ward, the compiler of “The Body of Liberties,” was born about 1578 at Haverhill in England, and was the son of Rev. John Ward, an eminent Puritan minister. He was graduated at Emmanuel College, Cambridge, in 1603, studied law, and became a barrister.

Travelling extensively on the Continent, he met at Heidelberg the celebrated writer, David Pareus, who induced him to enter the ministry. He served as a clergyman for a time at Elbing in Prussia, then returning to England, lecturing in London, and then settling in Essex, where he became a Puritan leader, and in 1631 was brought before Laud.

In 1634 he came to New England, and became the colleague of Rev. Thomas Parker at Ipswich. After two years, owing to feeble health, he resigned his pastorate, but continued to reside at Ipswich.

Here he compiled “The Body of Liberties,” which was adopted by the General Court of Massachusetts in December, 1641.

In 1647 he published “The simple Cobbler of Agawam,” which at once became so famous. Returning to England in 1647, Ward became minister of the church at Shenfield in Essex, where he remained until his death in 1652.



His sermon before the House of Commons in 1647 and various writings relating to the conflicts of that stormy time in England were published. Probably few of his associates in New England had legal abilities and training superior to his. "I have read almost all the common Law of England," he says in his "simple Cobbler"; and this was clearly the main source of the Massachusetts "Body of Liberties." (Hanover Historical Texts Project)



Information here is from Colonial Origins of the American Constitution, Lutz; Hanover Historical Texts Project; Secretary of Commonwealth of Massachusetts; Britannica.

In an effort to provide a brief, informal background summary of various people, places and events related to the Mayflower, I made this informal compilation from a variety of sources. This is not intended to be a technical reference document, nor an exhaustive review of the subject. Rather, it is an assemblage of information and images from various sources on basic background information. For ease in informal reading, in many cases, specific quotations and citations and attributions are often not included – however, sources are noted in the summary. The images and text are from various sources and are presented for personal, noncommercial and/or educational purposes. Thanks, Peter T. Young