

The Massachusetts Body of Liberties (1641)

This document was part of the struggle of the common citizens against the elected magistrates, who wanted to rule without a written body of laws, and with as little interference from the citizens as possible. In the years preceeding the codification of the Liberties, the magistrates had extended the status of freeman (citizen) to many people not originally covered by the colony's charter, but they didn't call the freemen's representative body to meet every year, as should have been done. John Winthrop, the leader of the "magistrates' faction," was elected year after year to the office of Governor (out of office in only 4 of the years from 1630-49); apart from a charter, the colony did not have a standing body of law to govern it.

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.

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.

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 suffitiently recompenced.

Rites Rules and Liberties concerning Juditiall proceedings.

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.

26. Every man that findeth himselfe unfit to plead his owne cause in any Court shall have Libertie to imploy 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.

29. In all actions at law it shall be the libertie of the plantife and defendand 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 Criminall 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 cercumstantibus impaneled in their room.

42. No man shall be twise sentenced by Civill Justice for one and the same Crime, offence, or Trespasse.

94. Capitall Laws.

1. (Deut 13:6, 10; 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; Detu 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.

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.

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

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.

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 cercumstances.