

# American Legal History – Russell

**John Childe, *Remonstrance and Petition of Robert Child to Massachusetts General Court, in New-England's Jonas Cast up at London (1646)*, reprinted in 4 Peter Force, *Tracts and Other Papers, Relating Principally to the Origin, Settlement, and Progress of the Colonies of North America no. 3*, at 8-14 (Washington, Wm. Q. Force 1846).**

[\*8]To the Worshipfull, the Governour, the Deputy-governour, and the rest of the Assistants of the *Massachusetts Bay in New England*, together with the Deputies of the generall Court now assembled in *Boston*.

*The Remonstrance and humble Petition of us whose Names are here under-written, in the behalf of our selves and divers within this Jurisdiction.*

Humbly sheweth, That we cannot but with all thankfulness acknowledge your indefatigable pains, continuall care, and constant vigilance, which (by the blessing of the Almighty) hath procured unto this Wildernesse the much desired fruits of Peace and Plenty; while our native Land, yea the Christian world is sharply afflicted with the devouring Sword, and the sad consequents of Intestine wars. And further, That you whom the Lord hath placed at the helm of these Plantations, and endowed with eminent gifts fit for such honourable callings, are best able to foresee the clouds which hang over our heads, the storms and tempests which threaten this poor Handfull here planted; and timously to amend them.

Notwithstanding, those who are under decks, being at present unfit for higher employments, may perceive those Leaks which will inevitably sink this weak and ill compacted Vessell, if not by your Wisdoms opportunely prevented.

We therefore in the behalf of our selves and divers of our Countrymen, laying our hands on our breasts, and seriously considering, That the hand of our good God who through his goodnesse hath safely brought us and ours through the great Ocean, and planted us here, seems not now to be with us, nay rather against us, blasting all our designs, though contrived with much deliberation, undertaken with great care, and proceeding with more then ordinary probability of succesfull events; by which many of good estates are brought to the brinks of extreme poverty; yea, at this time laying His just hand upon our families, taking, many away to himself, striking others with unwonted malignant sicknesses and noysome

shamefull diseases: Have thought it [\*9]convenient, with all respectivenesse, to present these our sincere requests and Remonstrance to this honoured Court, hoping we have found out the speciall Leaks, which concurring with the many and great Sins of this place, (which our Consciences know, and our Brethren of *England* are not ignorant of) are the speciall causes of the Lords turning his face from us leaving us to our selves, and consequently to strife, contention, unfaithfulnesse, idlenesse, and other lamentable failings, not blessing us in any of our endeavours, so as to give us any great hopes of Staple-commodities, and consequently of comfortable subsistence; though we to the utmost of our powers these many years, even to the exhausting of our estates and spirits, have endeavoured the same: but contrariwise all things grow worse and worse, even to the threatening (in our apprehensions) of no lesse then finall ruine. Not doubting but you will receive these our Requests and Remonstrance with the same candor of mind, which we, not aiming at novelty and disturbance, but at the glory of God, our allegiance to the State of *England*, and good of these poor Plantations, (if our hearts deceive us not) present them unto you: though for want of skill and other necessary helps roughly drawn up; and hope that you will be more diligent in amending, then we in the searching out the causes of these our present calamities, &c. Not to trouble you (who are imployed in the most serious affaires of these Plantations) with many words, wee shall briefly referre them to these Heads-----

1. Whereas this place hath been planted by the encouragements (next under God) of Letters Patents given and granted by His Majesty of *England* to the Inhabitants hereof, with many privileges and immunities, *viz.* Incorporation into a Company, liberty of choosing Governours, setting Government, making Laws not repugnant to the Laws of England, power of administering the Oath of Allegiance to all, &c. as by the said Letters Patents more largely appeareth. Notwithstanding we cannot according to our judgements cleerly discern a settled form of Government according to the Fundamentall lawes of *England*; which may seem strange to our Country-men, yea to the whole World, especially considering we are all *English*. Neither do we so understand or perceive our own Lawes or Liberties, or any Body of Lawes here so established, as that thereby there may be a sure and comfortable enjoyment of our Lives, Liberties and Estates, according to our due Naturall rights, as Free-born subjects of the English nation. By which [\*10]many inconveniences flow into these Plantations, *viz.* Jealousies of introducing Arbitrary Government, (which many are prone to believe) construing the procrastination of such settled Lawes, to proceed from an overgreedy spirit of Arbitrary power (which it may be is their weaknesse) such proceedings being most detestable to our English Nation, and to all good men and at present a chief cause of the intestine War in our dear Country. Further it gives cause to many, to think themselves hardly dealt with,

others too much favoured, and the scale of Justice too much bowed and unequally ballanced: From whence also proceedeth feares and jealousies of illegall Commitments, unjust Imprisonments, Taxes, Rates, Customes, Levies, of ungrounded and undoing Assesments, unjustifiable Presses, undue Fines, unmeasurable Expences and Charges, of unconceivable dangers through a Negative or destructive Vote unduly placed, or not well regulated; in a word, of a Non-certainty of all things we enjoy, whether lives, liberties or estates; as also of undue Oaths, being subject to exposition according to the will of him or them that gives them, and not according to a due and unbowed rule of Law; which is the true Interpreter of all Oaths to all men, whether Judge, or Judged.

Wherefore our humble desire and request is, That you would be pleased to consider of our present condition, and upon what foundation we stand; and unanimously concurre to establish the Fundamentall and wholsome Lawes of our native Country, and such others as are no way repugnant to them, unto which all of us are most accustomed, and we suppose them best agreeable to our English tempers, and your selves obliged thereunto by the Generall Charter, and your Oaths of Allegiance: neither can we tell whether the Lord hath blest many in these Parts with such eminent Politicall gifts, so as to contrive better Lawes and Customes, than the Wisest of our Nation have with great consideration composed, and by many hundred years experience have found most equall and just; which have procured to the Nation much honour and renown amongst strangers, and long peace and tranquility amongst themselves. And for the more strict and due observation and execution of the said Lawes by all Ministers of Justice, that there may be a setled Rule for them to walk by in cases of Judicature, from which if they swerve, there may be some Power setled, according to the Laws of *England*, that may call them to account for their Delinquencie, which may be a good means to prevent divers unnecessary Appeals into *England*

[\*11]2. Whereas there are many thousands in these Plantations of the English Nation free-born, quiet peaceable men, righteous in their dealings, forward with hand, heart and purse to advance the publike good, known friends to the honourable and victorious Houses of Parliament, lovers of the Nation, &c. Who are debarred from all Civil imployment (without any just cause that we know) not being permitted to beare the least office (though it cannot be denied but some are well qualified.) No not so much as to have any Vote in choosing Magistrates, Captains, or other Civil or Military Officers; notwithstanding they have here expended their youth, born the burthen of the day, wasted much of their estates for the subsistence of these poor Plantations, paid all assesments, taxes, rates, at least equal, if not exceeding others: Yea, when the late War was denounced against the

*Naraganset Indians*, without their consent; their goods were seized on for the service, themselves and servants especially forced and imprest to serve in that war, to the hazarding of all things most neer and dear unto them. Whence issue forth many great inconveniences, secret discontents, murmurings, rents in the Plantations, discouragements in their callings, unsetlednesse of minde, strife, contention, (and the Lord only knows to what a flame in time it may kindle) also jealousies of too much unwarranted power and dominion on the one side, and of perpetuall slavery and bondage to them and their posterity on the other, and which is intolerable, even by them who ought to love and respect them as brethren, &c.

We therefore desire, that Civil liberty and freedome be forthwith granted to all truly *English*, equall to the rest of their Country-men, as in all Plantations is accustomed to be done, and as all Free-borne enjoy in our native Country; we hoping here in some things to enjoy greater liberties then elsewhere, counting it no small losse of liberty to be as it were banished from our native home, and enforced to lay our bones in a strange wilderness. Without imposing any Oaths or Covenants on them, which we suppose cannot be warranted by the Letters Patents, and seem not to concur with the Oath of Allegiance formerly enforced on all, and later Covenants lately imposed on many here present by the honourable Houses of Parliament; or at least to detract from our native Country, and Laws, (which by some are stiled Foreign, and this Place termed rather a Free State, then a Colony or Corporation of *England*.) All of us being very willing to take such Oaths and Covenants, as are expressions of our desires of advancing the glory of God [\*12]and good of this place, of our duties to the State of *England* and love to our Nation, being composed according to the laws and customes of other Corporations of *England*. But all of us are exceedingly unwilling, by any policies whatsoever, to be rent from our Native country, though far distant from it; valuing our free Denizations, the Immunities and Priviledges which we and our posterity do, and we hope shall alwayes enjoy, above the greatest Honours of this Country not cemented to the State of *England*; and glory to be accounted though but as Rushes of that Land, and yet that we may continue to write, that we and ours are *English*. Or at least we intreat, that the Bodies of us and ours (English subjects possessing here on priviledges) may not be imprest, nor Goods forcibly taken away; lest we not knowing the justnesse of the war, may be ignorantly and unwillingly inforced upon our own destructions. And that all Assesments, Taxes, Impositions, (which are many and grievous) if Civil liberty be not granted) may be taken off, that in all things we may be Strangers: otherwise we suppose ourselves in a worse case here, and lesse free, then the Natives amongst whom we live, or any Aliens. Further, that none of the English nation (who at this time are too forward to be gone, and very backward to come hither) be banished, unlesse they break the known Lawes of

*England* in so high a manner, as to deserve so high a punishment. And that those few that come over, may settle here without having two Magistrates hands, which sometime not being possible to obtain, hath procured a kind of banishment to some, who might have been Serviceable to this place, as they have been to the State of *England*, &c.

3. Whereas there are divers sober, righteous, and godly men, eminent for knowledge, and other gracious gifts of the Holy Spirit, no ways scandalous in their lives and conversations, Members of the Churches of *England* (in all Ages famous for piety and learning) not dissenting from the late and best Reformation of *England*, *Scotland*, &c. Yet they and their posterity are detained from the Seals of the Covenant of Free-grace, because (as it is supposed) they will not take these Churches Covenants, for which as yet they see no light in Gods word, neither can they cleerly perceive what they are, every Church having their Covenant differing from anothers, at least in words, yea some Churches sometime adding, sometimes detracting, calling it sometime the Covenant of Grace, sometime a Branch of it, sometime a Profession of the Free-Covenant, [\*13]&c. Notwithstanding they are compelled, under a severe Fine, every Lords day to appeare at the Congregation, and notice is taken of such who stay not till Baptisme be administered to other mens children, though denied to their own; and in some places forced to contribute to the maintenance of those Ministers, who vouchsafe not to take them into their Flock, though desirous of the Ordinances of God, &c. yet they are not so-counted so much as Brethren, nor publicly so called; nor is Christian vigilancie (commanded to all) any way exercised to them. Whence (as we conceive) abound an ocean of inconveniences; Dishonour to God and his Ordinances, little profit by the Ministry, increase of Anabaptism, and of those that totally condemn all Ordinances as vain, fading of Christian graces, decrease of Brotherly love, Heresies, Schisms, &c. The whole body of the Members of the Churches of *England*, like sheep scattered in the wilderness without a shepherd, in a forlorne sad condition. We therefore humbly intreat you, in whose hands it is to help, and whose judicious eyes discern these great inconveniences; for the glory of God, and the comfort of your Brethren and Countrymen, to give liberty to the Members of the Churches of *England* not scandalous in their lives and conversations (as Members of those Churches) to be taken into your Congregations, and to enjoy with you all those liberties and ordinances Christ hath purchased for them, and into whose Name they are baptized; That the Lord may be one, and his Name one amongst us in this place; That the Seals of the Covenant may be applied to them and their posterity, as we conceive they ought to be, till inconveniences hereby be found prejudiciall to the Churches, or Colonie (which we hope shall never be.) Not doubting but the same Christian favour will be shewed to all the Members of these

Churches, when they shall retire to our deare native Country, (if their conversations be righteous and holy); Or otherwise to grant liberty to settle themselves here in a Church-way according to the best Reformations of *England* and *Scotland*. If not, we and they shall be necessitated to apply our humble desires to the Honourable Houses of Parliament, who we hope will take our sad conditions into their serious considerations, to provide able Ministers for us, (this place being not so well provided as to spare any); Or else out of their charity (many estates being wasted) to transport us to some other place, where we may live like Christians, and not be accounted burthens, but serviceable both to Church and State.

[\*14]These things granted, by the blessing of God to us in Christ, we hope to see the now contemned Ordinances of God, highly prized; the Gospel much darkned, break forth as the sun at noon-day; Christian charity & brotherly love almost frozen, wax warm; Zeal and holy emulation, more fervent; Jealousies of Arbitrary Government, the bane of all Commonwealths, quite banished; The wicked, if any such be found, in their courses disheartned; The righteous actors, in their ways, encouraged; Secret discontents fretting like cankers, remedied; Merchandizing, shipping, by speciall Providence wasted, speedily increased; Mines undertaken with more cheerfulness, Fishing with more forwardnesse; Husbandry, now withering, forthwith flourishing; Villages and Plantations, much deserted, presently more populous; All mechanicall Trades, the great enrichers of all Commonwealths, bravely going on; Staple-commodities, the life of States, presently raised; Our almost lost credit regained; Our brethren of *England's* just indignation, and therefore as from a pest flying from us, turned to imbraces; The honourable Houses of Parliament, Patrons of Piety, under their wings, in these dangerous times, with all alacrity shrowding us; The Priviledges and Immunities which we and ours enjoy in our native Land, more firmly settled; Foraign enemies daily threatning, totally discouraged; Unsettled men now abounding, firmly planted, that the prosperity of *England* may not be the ruine of this Plantation, but the contrary; Hands, hearts, and purses now straightned, freely opened for publick and honorable services; Strife and contention now rife, abated; Taxes and sesses, lightned; The burthens of the State, but pleasure. To conclude, all businesses in Church and Common wealth which for many years have seemed to goe backward, beyond our desert, yea expectation, the good hand of our God going along with us, succesfully thriving.

And shall alwayes pray the Almighty the only wise God, to guide you with his wisdom, strengthen you with his power, in all your undertakings, that all may be

to his glory, and good of his people; and that he would blesse your Wisdomes with the blessings of peace, plenty, and long dayes, &c.

*Robert Child, Tho. Fowle, Samuel Maverick, Thomas Burton, David Yale, John Smith, John Dand.* This Petition was presented to the Generall Court held at *Boston, May 19, 1646.*

EOD