THE FUNDAMENTAL ORDERS OF 1639

By Miscellaneous

January 14, 1639

 For as much as it hath pleased Almighty God by the wise

disposition of his divine providence so to order and dispose of

things that we the Inhabitants and Residents of Windsor,

Hartford and Wethersfield are now cohabiting and dwelling in

and upon the River of Connectecotte and the lands thereunto

adjoining; and well knowing where a people are gathered

together the word of God requires that to maintain the peace

and union of such a people there should be an orderly and

decent Government established according to God, to order and

dispose of the affairs of the people at all seasons as occasion

shall require; do therefore associate and conjoin ourselves to

be as one Public State or Commonwealth; and do for ourselves

and our successors and such as shall be adjoined to us at any

time hereafter, enter into Combination and Confederation

together, to maintain and preserve the liberty and purity of

the Gospel of our Lord Jesus which we now profess, as also, the

discipline of the Churches, which according to the truth of the

said Gospel is now practiced amongst us; as also in our civil

affairs to be guided and governed accordinbg to such Laws,

Rules, Orders and Decrees as shall be made, ordered, and

decreed as followeth:

1. It is Ordered, sentenced, and decreed, that there shall

be yearly two General Assemblies or Courts, the one the second

Thursday in April, the other the second Thursday in September

following; the first shall be called the Court of Election,

wherein shall be yearly chosen from time to time, so many

Magistrates and other public Officers as shall be found

requisite: Whereof one to be chosen Governor for the year

ensuing and until another be chosen, and no other Magistrate

to be chosen for more than one year: provided always there be

six chosen besides the Governor, which being chosen and sworn

according to an Oath recorded for that purpose, shall have

the power to administer justice according to the Laws here

established, and for want thereof, according to the Rule of

the Word of God; which choice shall be made by all that are

admitted freemen and have taken the Oath of Fidelity, and do

cohabit within this Jurisdiction having been admitted

Inhabitants by the major part of the Town wherein they live

or the major part of such as shall be then present.

2. It is Ordered, sentenced, and decreed, that the election

of the aforesaid Magistrates shall be in this manner: every

person present and qualified for choice shall bring in (to the

person deputed to receive them) one single paper with the name

of him written in it whom he desires to have Governor, and that

he that hath the greatest number of papers shall be Governor

for that year. And the rest of the Magistrates or public

officers to be chosen in this manner: the Secretary for the

time being shall first read the names of all that are to be put

to choice and then shall severally nominate them distinctly,

and every one that would have the person nominated to be chosen

shall bring in one single paper written upon, and he that would

not have him chosen shall bring in a blank; and every one that

hath more written papers than blanks shall be a Magistrate for

that year; which papers shall be received and told by one or

more that shall be then chosen by the court and sworn to be

faithful therein; but in case there should not be six chosen

as aforesaid, besides the Governor, out of those which are

nominated, than he or they which have the most writen papers

shall be a Magistrate or Magistrates for the ensuing year, to

make up the aforesaid number.

3. It is Ordered, sentenced, and decreed, that the Secretary

shall not nominate any person, nor shall any person be chosen

newly into the Magistracy which was not propounded in some

General Court before, to be nominated the next election; and to

that end it shall be lawful for each of the Towns aforesaid by

their deputies to nominate any two whom they conceive fit to be

put to election; and the Court may add so many more as they

judge requisite.

4. It is Ordered, sentenced, and decreed, that no person be

chosen Governor above once in two years, and that the Governor

be always a member of some approved Congregation, and formerly

of the Magistracy within this Jurisdiction; and that all the

Magistrates, Freemen of this Commonwealth; and that no

Magistrate or other public officer shall execute any part of

his or their office before they are severally sworn, which

shall be done in the face of the court if they be present,

and in case of absence by some deputed for that purpose.

5. It is Ordered, sentenced, and decreed, that to the

aforesaid Court of Election the several Towns shall send their

deputies, and when the Elections are ended they may proceed in

any public service as at other Courts. Also the other General

Court in September shall be for making of laws, and any other

public occasion, which concerns the good of the Commonwealth.

6. It is Ordered, sentenced, and decreed, that the Governor

shall, either by himself or by the Secretary, send out summons

to the Constables of every Town for the calling of these two

standing Courts one month at least before their several times:

And also if the Governor and the greatest part of the

Magistrates see cause upon any special occasion to call a

General Court, they may give order to the Secretary so to do

within fourteen days' warning: And if urgent necessity so

required, upon a shorter notice, giving sufficient grounds for

it to the deputies when they meet, or else be questioned for

the same; And if the Governor and major part of Magistrates

shall either neglect or refuse to call the two General standing

Courts or either of them, as also at other times when the

occasions of the Commonwealth require, the Freemen thereof, or

the major part of them, shall petition to them so to do; if

then it be either denied or neglected, the said Freemen, or the

major part of them, shall have the power to give order to the

Constables of the several Towns to do the same, and so may meet

together, and choose to themselves a Moderator, and may proceed

to do any act of power which any other General Courts may.

7. It is Ordered, sentenced, and decreed, that after there

are warrants given out for any of the said General Courts, the

Constable or Constables of each Town, shall forthwith give

notice distinctly to the inhabitants of the same, in some

public assembly or by going or sending from house to house,

that at a place and time by him or them limited and set, they

meet and assemble themselves together to elect and choose

certain deputies to be at the General Court then following to

agitate the affairs of the Commonwealth; which said deputies

shall be chosen by all that are admitted Inhabitants in the

several Towns and have taken the oath of fidelity; provided

that none be chosen a Deputy for any General Court which is

not a Freeman of this Commonwealth.

 The aforesaid deputies shall be chosen in manner

following: every person that is present and qualified as

before expressed, shall bring the names of such, written in

several papers, as they desire to have chosen for that

employment, and these three or four, more or less, being the

number agreed on to be chosen for that time, that have the

greatest number of papers written for them shall be deputies

for that Court; whose names shall be endorsed on the back side

of the warrant and returned into the Court, with the Constable

or Constables' hand unto the same.

8. It is Ordered, sentenced, and decreed, that Windsor,

Hartford, and Wethersfield shall have power, each Town, to send

four of their Freemen as their deputies to every General Court;

and Whatsoever other Town shall be hereafter added to this

Jurisdiction, they shall send so many deputies as the Court

shall judge meet, a reasonable proportion to the number of

Freemen that are in the said Towns being to be attended

therein; which deputies shall have the power of the whole Town

to give their votes and allowance to all such laws and orders

as may be for the public good, and unto which the said Towns

are to be bound.

9. It is Ordered, sentenced, and decreed, that the

deputies thus chosen shall have power and liberty to appoint

a time and a place of meeting together before any General

Court, to advise and consult of all such things as may concern

the good of the public, as also to examine their own Elections,

whether according to the order, and if they or the greatest

part of them find any election to be illegal they may seclude

such for present from their meeting, and return the same and

their reasons to the Court; and if it be proved true, the

Court may fine the party or parties so intruding, and the Town,

if they see cause, and give out a warrant to go to a new

election in a legal way, either in part or in whole. Also the

said deputies shall have power to fine any that shall be

disorderly at their meetings, or for not coming in due time or

place according to appointment; and they may return the said

fines into the Court if it be refused to be paid, and the

Treasurer to take notice of it, and to escheat or levy the

same as he does other fines.

10. It is Ordered, sentenced, and decreed, that every General

Court, except such as through neglect of the Governor and the

greatest part of the Magistrates the Freemen themselves do

call, shall consist of the Governor, or some one chosen to

moderate the Court, and four other Magistrates at least, with

the major part of the deputies of the several Towns legally

chosen; and in case the Freemen, or major part of them,

through neglect or refusal of the Governor and major part of

the Magistrates, shall call a Court, it shall consist of the

major part of Freemen that are present or their deputiues,

with a Moderator chosen by them: In which said General Courts

shall consist the supreme power of the Commonwealth, and they

only shall have power to make laws or repeal them, to grant

levies, to admit of Freemen, dispose of lands undisposed of,

to several Towns or persons, and also shall have power to call

either Court or Magistrate or any other person whatsoever into

question for any misdemeanor, and may for just causes displace

or deal otherwise according to the nature of the offense; and

also may deal in any other matter that concerns the good of

this Commonwealth, except election of Magistrates, which shall

be done by the whole body of Freemen.

 In which Court the Governor or Moderator shall have power

to order the Court, to give liberty of speech, and silence

unseasonable and disorderly speakings, to put all things to

vote, and in case the vote be equal to have the casting voice.

But none of these Courts shall be adjourned or dissolved

without the consent of the major part of the Court.

11. It is Ordered, sentenced, and decreed, that when any

General Court upon the occasions of the Commonwealth have

agreed upon any sum, or sums of money to be levied upon the

several Towns within this Jurisdiction, that a committee be

chosen to set out and appoint what shall be the proportion of

every Town to pay of the said levy, provided the committee be

made up of an equal number out of each Town.

 14th January 1639 the 11 Orders above said are voted.

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The Fundamental Orders OF 1639 are often credited as being the

first written Constitution in the new world. However, see also

the Iroquois Constitution and the Mayflower Compact of earlier times.

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Prepared by Gerald Murphy (The Cleveland Free-Net - aa300)

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