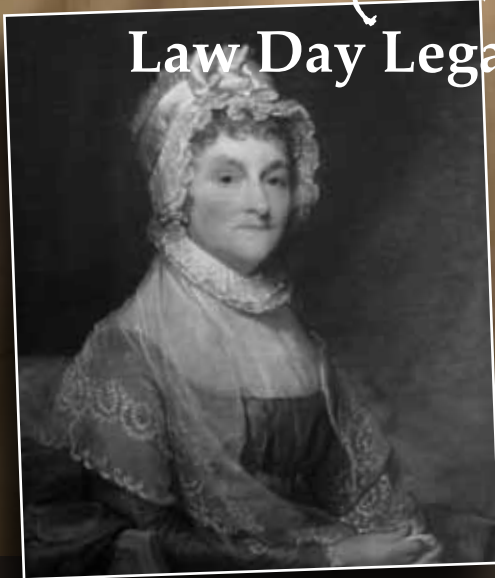


John and Abigail Adams: Law Day Legacy of Partnership



“The domestic and the public spheres are permeable.
What happens in the one affects what happens in the other.”

—“Abigail & John: Portrait of a Marriage” by Edith B. Gelles

BY JUSTICES GREG HOBBS
AND NANCY RICE

Law Day 2011, observed May 1, celebrates the legacy of John Adams. Forever part of this legacy is Abigail Smith, the woman who partnered with him.

Their letters—1,100 of them written between 1762 and 1801—shine with wit, intellect, character, compassion, and critical appraisal and appreciation of and for each other. Our April 18 Colorado Bar Association CLE presentation re-enacts their dialogue through a paired reading from letters they wrote from courtship in 1762 to the Declaration of Independence in 1776.

John Adams is well known for describing a republic as “a government of laws, and not of men” (in the widely circulated letter penned Feb. 6, 1775, under

the pseudonym Novanglus).

Three months before the Declaration of Independence, which he enlisted Thomas Jefferson to draft, Abigail argues her case as if she were an equal. In her letter from March 31, 1776, she says a government of men serving only men is tyranny.

“Remember all men would be tyrants if they could ... That your Sex are Naturally Tyrannical is a Truth so thoroughly established as to admit of no dispute.” She urges that the Continental Congress, in declaring “an independency,” should adopt “a new Code of Laws” by which men “give up the harsh title of Master.”

At the beginning of their courtship, Abigail acknowledges John’s intellect and scholarship but, in his “nearer inspection of Mankind ... and the corruptions of the Heart, which I believe you often find desperately wicked and deceitful” she cautions him against being “too severe ... that you do not make quite so many allowances as Humane Nature requires” (April 12, 1764). John welcomes her critique by complimenting her “Habit of Reading, Writing and Thinking” (May 7, 1764). They marry in October 1764.

She admires and supports his public service, but she painfully misses him during long absences caused by his on-the-circuit law practice, two Continental Congresses, and a long period of diplomatic duty in France and the Netherlands. She joins him in England from 1784 to 1788, when he serves as the first American minister to England.

Their grief of separation is mutual and their belief in each other’s abilities is a solace to both. He entrusts her with their family farming business, the education of their four children, and the role of leveling his pride and ambition. Self-educated from reading the classics, like Lincoln, she becomes an insightful first citizen of our new republic.

John’s commitment to the rule of law leads him to defend eight British soldiers who fired on protesting Massachusetts colonists in the Boston Massacre of 1770 and their captain. He asserts self-defense to the actions of an unruly mob and gains the acquittal of all but two of the soldiers, who receive a lesser conviction of manslaughter and are punished only by a branding on their thumbs.

A Meeting of the Minds, In Letters

Justices Hobbs and Rice performed as John and Abigail Adams in April, but you can register to watch the webcast at bit.ly/cbalawday. The cost is \$18 and the proceeds benefit the Legal Aid Foundation of Colorado.

By 1772, signs of a “gathering storm” are brewing, and John is tiring of the legal practice circuit. “This wandering, itinerating Life grows more and more disagreeable to me. I want to see my Wife and Children every Day, I want to see my Grass and Blossoms and Corn” (May 23, 1772).

In their separation, each becomes a witness for the other. John fears that Boston will “suffer Martyrdom” for the “Cause of Truth, of Virtue, of Liberty and of Humanity” but predicts that Lord North “will as surely be defeated ... as he was in the Project of the Tea” (letter from John, May 12, 1774). Abigail observes that “by an excessive love of peace” the Spartans “neglected the means of making it sure and lasting.” Peace cannot be “purchased at the price of liberty.” She closes this letter by wishing “you every Publick as well as private blessing” (Aug. 19, 1774).

In Philadelphia John grows weary with endless orations. “I am wearied to Death with the Life I lead. The Business of the Congress is tedious beyond Expression ... Every Man in it is a great Man—an orator, a Critick, a statesman, and therefore every Man upon every Question must shew his oratory, his Criticism, and his Political Abilities” (Oct. 9, 1774).

Abigail’s response is full of grace and resolve. She says how “ardently I long for your return,” then encourages him to stand fast and act in the best interests of those who have no idea of the weighty decisions that must be made. “The People in the Country begin to be very anxious for the congress to rise. They have no Idea of the Weighty Business you have to transact, and their Blood boils with indignation at the Hostile preparations they are constant witness of” (Oct. 16, 1774).

In 1775, John leads the Continental Congress to choose George Washington as General of the Army. Greatly satisfied with this choice, he reports that the members of the Congress are seeing “the Necessity of pursuing vigorous measures ... nothing but Fortitude, Vigour, and Perseverance can save us.” But “Progress must be slow.” He likens America to a “large Fleet sailing under Convoy ... the fleetest Sailors must wait for the dullest and the slowest” and to a “Coach” with the “swiftest horses” that “must be slackened and the slowest quickened, that all may keep an even Pace” (June 17, 1775).

Abigail is riveted by his task of pulling his colleagues together. As fuel to his flame, she asks a series of questions about the form of government that might be established. “(W)hat Code of Laws will be established? How shall we be governed so as to retain our Liberties? Can any government be free which is not administered by general stated laws? Who shall frame these Laws? Who will give them force and energy?” (Nov. 27, 1775).

John rises to her challenge with pregnant answers. As 1776 dawns, he pens his “Thoughts on Government.”

“(T)he form of government which communicates ... happiness, to the greatest number of persons, and in the greatest degree, is the best ... that form of government which is best contrived to secure an impartial and exact execution of the laws, is the best of republics.” He suggests a government with an assembly divided into two bodies, an executive, and a judicial power “distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checks upon that.”

She continues to praise and criti-



Justices Nancy Rice and Greg Hobbs.

cize his work. “A Government of more Stability is much wanted in this colony, and they are ready to receive it from the Hands of Congress.” But she rebukes him and his fellows for forgetting their partners. While “you are proclaiming peace and good will to Men, Emancipating all Nations, you insist upon retaining an absolute power over Wives.” She warns him of “Arbitrary power ... notwithstanding all your wise Laws and Maxims we have it in our power not only to free ourselves but to subdue our Masters” (May 7, 1776).

On July 3, 1776, John reports to her, “Yesterday the greatest Question was decided ... that these united Colonies, are, and of right ought to be free and independent states.”

She congratulates him, credits their partnership, celebrates the country, and prays for a constitution founded on justice. “(N)or am I a little Gratified when I reflect that a person so nearly connected with me has had the Honour of being a principal actor, in laying a foundation for its future Greatness. May the foundation of our new constitution be Justice, Truth and Righteousness” (July 14, 1776).

On this Law Day, may we emulate the combined genius of men and women committed to public service and private felicity. **D**

A Note on Women’s Suffrage

In 1776, Abigail Adams wrote to her husband, John, asking him to “remember the ladies” in the new code of laws. He replied that the men will fight the “despotism of the petticoat.”

Since Colorado became a state in 1876, 84 justices have served on the Colorado Supreme Court. In 1979, Jean

E. Dubofsky became the first female justice. Since then, 10 men and five other women have been appointed to the court, including Mary Mullarkey, Rebecca Kourlis, Nancy Rice, Allison Eid, and Monica Márquez. Justice Mullarkey became the longest serving Chief Justice in Colorado history. In 1893, Colorado

was the second state to recognize the right of women to vote, after Wyoming, a territory when it did so in 1869. Capping a prolonged struggle, women finally gained the right to vote throughout the U.S. upon passage of the 19th Amendment in 1920.