Written by **Becky Akers** on April 6, 2011

1776 and 2011: Transporting Us Beyond Seas

As the anniversary of "that famous day" on "the eighteenth of April, in Seventy-five" approaches, you may recall that one goal of "the midnight ride of Paul Revere" was warning John Hancock and Sam Adams. The two were between Congresses, so to speak: having attended Massachusetts' Provincial one, they would shortly head to Philadelphia for the Second Continental. In the interim, they didn't risk returning to Boston with its infestation of Redcoats; rather, they stayed in Lexington at the home of Rev. Jonas Clarke, a staunch Patriot. Hancock must have felt especially secure: as a boy, he had lived with his grandfather, then the town's preacher, in that same parsonage for 6 years after his father died.

But whatever comfort he felt was only an illusion. Politicians in the 18th-century British Empire were as stubborn and as impervious to reason as those in the 21st-century American one. They had convinced themselves that the "troubles" in the colonies had nothing to do with the Empire's abuses and tyranny; instead, a couple of Boston's malcontents were stirring up their countrymen. Arrest those ringleaders, and everyone else would settle down to loyal subjugation once again.

As Longfellow said, "You know the rest." Many Americans, not just Hancock and Adams, despised the brutal, dictatorial Empire and were determined to live free of it. Some of these folks dispatched a couple others to warn everyone that the King's bully-boys were marching out of Boston to disarm the colonists. They would also seize Hancock and Adams for trial in Britain.

Jefferson later listed these kangaroo courts among the Declaration's indictments of King George III's administration: "For transporting us beyond seas to be tried for pretended offenses…" And still later, the Founders tried to quash such jostling for a venue more favorable to the government than to the accused. Their Constitution orders that "The Trial of all Crimes … shall be held in the State where the said Crimes shall have been committed…"

Meanwhile, the colonies boasted courts that functioned perfectly well, according to British tradition and precedence. Indeed, the Crown had won two signal victories from them within the last few years.

In 1761, colonial lawyer James Otis had argued against Writs of Assistance: "A man's house is his castle…," he told Massachusetts' Superior Court. "This writ, if it should be declared legal, would totally annihilate this privilege. Customhouse officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no court may inquire. Bare suspicion without oath is sufficient." You no doubt recognize this hallmark of tyranny: warrantless searches without oath are precisely what the Transportation Security Administration inflicts on victims today.

Despite eloquence that had John Adams rhapsodizing, "Then and there, the child Independence was born," Otis lost the case.

His admirer had better luck a decade later, though this time he was arguing for the Crown, or at least for its employees. When the Redcoats who had fired on protestors at the Boston Massacre were tried, John Adams defended them against charges of murder. And won.

Clearly, courts in Boston could prosecute — to the government's satisfaction if no one else's -— even those cases of special interest to the Crown. So why would the Administration have hauled Sam Adams and John Hancock overseas upon arresting them?

For the same reason that Congress insists on trying suspected terrorists in military commissions instead of existing American courts: politicians want to be absolutely certain the "right" verdict is returned. So certain, in fact, that they "intervened and imposed restrictions blocking the administration from bringing any Guantanamo detainees to trial in the United States," as the thwarted Attorney General, Eric Holder, put it.

Nor are they shy about admitting their motives. "It's unfortunate that it took the Obama administration more than two years to figure out what the majority of Americans already know: that 9-11 conspirator Khalid Sheikh Mohammed is not a common criminal, he's a war criminal," House Judiciary Committee Chairman Lamar Smith, (R-Texas) said in a statement. "I hope the Obama administration will stop playing politics with our national security and start treating foreign terrorists like enemy combatants."

Really, Lamar? And just where does the Constitution you swore to uphold recognize either the category of "enemy combatant" or your power to classify poor cusses as such — and then deny them due process, *habeas corpus* and whatever other rights you disdain that day?

Even more blatant is the loathsome Sen. Chuck Schumer (D-N.Y.): "I have always said that the perpetrators of this horrible crime should get the ultimate penalty, and I believe this proposal by the administration can make that happen," he smirked. Perhaps this despot ought to read the Fifth, Sixth and Eighth Amendments to note their remarkable phrasing: the subjects of their protections are "person[s]" and "the accused" but never "citizens." In other words, the Feds may not flout the restraints the Constitution places on them, regardless of the identity of the "accused," even if he is a mere "person" rather than a citizen.

This is not to praise Obama or that racist demagogue, Eric Holder. "We were prepared to bring a powerful case against the 9/11 defendants in federal court … ," Holder said … "Unfortunately, members of Congress have intervened…"

Does this bozo seriously expect us to believe that Congress' authority suddenly dazzles his boss when it comes to yanking "terrorists" back to Gitmo, though Obama didn't even deign to notice the legislature's existence when bombing Libya? It suits the Administration's purposes — and I don't pretend to be

corrupt or venal enough to decipher what those may be — to defy the Constitution and deny these defendants their rights, or it would thumb its nose at Congress, as usual.

The five "terrorists" may be guilty of what Our Rulers allege. Fine. Put them on trial — real trial, in regular, established courts — and prove it. But "military commissions" mock justice, truth, the rule of law, and everything decent, to say nothing of the Constitution.

During this month of Revolutionary significance, we remember an earlier empire's atrocities and compare them against those of a contemporary one: warrantless searches "without oath" and the transporting of suspects beyond seas for trial. This time, those suspects are foreign terrorists; next time, as in 1775, they may be domestic ones.