

MAINE AND THE ROYAL COMMISSION
OF 1664-1666

CENTRE FOR NEWFOUNDLAND STUDIES

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MAINE AND THE ROYAL COMMISSION
OF 1664-1666

by

© J.G. Reid, B.A. Oxon.

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the requirements for the degree of
Master of Arts.

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ABSTRACT

On his Restoration in 1660, Charles II faced the task of reimposing his authority throughout the realm. This study examines a particular aspect of that task as it related to the colonies.

Between 1652 and 1658, the Province of Maine in New England had been annexed by Massachusetts and the Lord Proprietor of the province thus dispossessed. The structure of landholding in Maine had also been changed, since those who held land by patent from the Lord Proprietor now had to co-exist with several town organisations which, like their counterparts in Massachusetts, claimed common ownership of the land within their boundaries.

From 1660, the Lord Proprietor, in alliance with certain of the patentees, made repeated efforts to resume control of his province. These efforts were never successful, largely because of the popular suspicion aroused by the accompanying intention to restore the proprietary land system. This would have destroyed the principle of free land which had been established under Massachusetts.

Soon the royal government intervened. The aggrieved landowners, favoured by legal opinion, were

pressing for redress; this, and other disputes over the power of Massachusetts, demanded royal action.

Massachusetts, however, followed a policy of procrastination which avoided any concession. The government therefore decided to send a royal commission to New England.

The Massachusetts colony refused on many issues to be moved by the commissioners, who were in these respects powerless to enforce their authority. In Maine, however, the commissioners were able successfully to make a temporary settlement by taking the province under direct royal authority and imposing a temporary moratorium on land disputes.

Thus the inhabitants of Maine were for the moment satisfied, though both the Lord Proprietor and the Massachusetts colony had reason to be unhappy. No final settlement, however, was proposed by the royal government. In the absence of action from London, Massachusetts in 1668 resumed jurisdiction in Maine and was able to consolidate its power there. The proprietary system had long been unacceptable to the bulk of the inhabitants of Maine. When the king failed to offer any realistic alternative, the way was left open for Massachusetts and royal authority in New England received a severe setback.

This thesis has been examined and approved by:

Charles E. Clark

8/17/72

PREFACE

This study is both an essay in the history of a region of New England which has frequently been neglected by early colonial historians and an examination of aspects of Charles II's emerging colonial policy in the first decade of his reign. These two closely related themes will be considered for the light which they shed upon one another. The basic expository pattern will be a narrative, which has been adopted as the clearest method of portraying a complex series of events which has hitherto been scantily treated in secondary works.

The opening chapter will examine in general terms the circumstances of the Restoration and the situation which faced Charles II on his return to power. Particular attention will be paid to colonial affairs. A chapter will then be devoted to an account of the growth of settlement in Maine from its first recorded discovery in 1602 and of the conflicts which subsequently arose over land and government. The third chapter will consider the impact of the Restoration upon these

conflicts, and the role of these and other New England problems in the determination of Charles II's first moves in colonial affairs. The result of these initial exchanges with the colonies was the decision to send a royal commission to New England in 1664; in the fourth chapter the composition and aims of the commission will be discussed, and also its early activities. The following chapter will look at the commission's proceedings in Maine, leading up to the establishment of a temporary settlement; the sixth chapter will deal with the undermining and subsequent collapse of that settlement under pressure both from within Maine and from other colonies, most notably Massachusetts.

In conclusion, an interpretation will be advanced of the nature of the conflict in Maine, and the royal efforts to deal with the situation, largely through the royal commission, will be evaluated as an example of Charles II's colonial policy at that time, or his lack of it.

The study will be tied closely to primary sources, since secondary literature is in short supply. The conventional terminology of colonial history will be used only insofar as it is useful to the subject in hand.

The words 'Puritan' and 'Puritanism,' for example, will not be found in the text.— This does not imply a denial of the value of such concepts in the study of other aspects of New England history, but simply that they do not contribute to an understanding of Maine and the royal commission of 1664-66.

The principal manuscript sources used will be those in the Massachusetts State Archives, the Maine Historical Society Archives, the British Public Record Office, the British Museum and the Bodleian Library. All of these will be used to shed light on the broader political aspects of the subject as well as upon more finely detailed points. The town records of Kittery, York and Saco will be used for local detail, especially concerning allocations of land. A number of printed primary sources will also be used, most notably the Maine Province and Court Records and the Records of the Governor and Company of Massachusetts Bay. Quotations will be partially modernised: standard abbreviations will be expanded; the thorn will be changed to 'th'; where they are interchangeable, the letters 'v' and 'j' will be changed to 'u' and 'i'; superscript letters will be lowered to the line. Dates will be rendered in the

Old Style, except that the years will be modernised to begin on 1 January.

My thanks are due to Dr Ralph T. Pastore for his guidance at every stage of this study; to Dr Charles E. Clark for valuable advice on a number of points; to the staff of the Maine Historical Society Library, and especially to Mr Thomas L. Gaffney; to the staff of the Massachusetts State Archives, and especially to Mr and Mrs Leo Flaherty; to the Town Clerks of Kittery and York; to Mr E. Wolfertz, President of the Biddeford Historical Society, and Mrs Wolfertz; to the staffs of the Public Record Office, the British Museum and the Bodleian Library; and to the Memorial University of Newfoundland for the Fellowship which made the entire project possible.

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LIST OF FREQUENTLY USED ABBREVIATIONS

- MCR** **Massachusetts State Archives, Massachusetts
Colonial Records.**
- PCR** **Maine Province and Court Records.**
- PRO** **Great Britain, Public Record Office.**

CHAPTER I

THE RESTORATION: ENGLAND AND NEW ENGLAND

The circumstances of the Restoration

The events leading up to the English Restoration of 1660 were characterised by speed and unpredictability. Less than a year previously, in August 1659, John Lambert's army had easily and thoroughly suppressed a series of royalist rebellions in England, thus aborting a plan for a French-supported invasion under James duke of York.¹ At this time, the royalist cause seemed once again to have collapsed.

Internal disunity, however, was still an inherent tendency of the anti-royalists who controlled the government. On surrendering in 1646 the commander of the last royal army of the first Civil War, Sir Jacob Astley, had admonished the victors that "you have now done your work and may go play, unless you will fall out amongst

¹Godfrey Davies, The Early Stuarts, 1603-1660 (Oxford, 1937), pp. 235-58. Extensive use has been made of this work throughout this section.

yourselves."¹ His words were again in 1659 shown to be well justified, as the army's various factions began in earnest to quarrel amongst themselves and with the Rump Parliament.

Hostility between the Rump and sections of the army under Lambert and Charles Fleetwood culminated in October in the violent 'interruption' of the Parliament by the southern army under Fleetwood. George Monck, however, the commander of the army in Scotland, was known as a supporter of the Parliament and entered into negotiations in the north with Lambert. In London, the actions of Fleetwood's army had incurred popular hostility and the soldiery was becoming openly mutinous, while in Ireland the army was in support chiefly of the Parliament. In the face of gathering pressures, Fleetwood recalled the Rump.

Immediately on recall of the Rump, Monck began to march south from Scotland and reached London unopposed in February of 1660. As yet there was no hint of restoration of Charles II; in addressing the Rump, Monck demanded its dissolution and the election of a full and free Parliament. As a preliminary, he required and enforced the readmission of those Members of Parliament

¹Ibid., p. 140.

excluded by the various purges of the Interregnum, and with the help of these reinstated Members the Rump was dissolved on 16 March.

By now, Monck had decided that the restoration of Charles II offered the only possibility of a stable solution; he still made no public affirmation to this effect, though, despite the fact that Charles's Declaration of Breda on 4 April was based on his verbally-conveyed advice. The Declaration promised a free and general pardon, confirmation of all sales of land during the civil wars, prompt payment of the army's arrears of pay, and liberty of conscience in religion, subject in each case to the wishes of Parliament.¹ On the basis of this declaration, support for restoration became overwhelming and was reflected in the composition of the Convention Parliament which met on 25 April: by now the terms of the restoration were the only subject for serious controversy, the restoration itself having become a foregone conclusion. The ensuing invitation to Charles II resulted in his return to London on 29 May 1660.

Thus, only some ten months after the ignominious failure of royalist rebellions and only weeks after

¹Andrew Browning, ed., English Historical Documents, 1660-1714 (London, 1953), pp. 57-58.

restoration had appeared as a serious possibility, Charles II returned to the throne.

Charles II's inheritance

The implications of the manner of Charles II's restoration were of great significance for the practical beginnings of his reign. The Restoration was, as has been suggested above, in large measure a hastily arrived at response to the threat of anarchy. The speed at which events had moved had given Charles little time for preparation, and his major initial problem was simply that of manning his administration.¹ This in turn raised fundamental considerations which would apply to every branch of the Restoration settlement. First, since the Restoration was a response to the threat of anarchy rather than a strong positive movement in favour of Stuart government, it was not open to Charles to revert entirely to the policies, attitudes and personnel of his father; indeed, he had himself excluded this as a possibility in the Declaration of Breda, and a certain degree of continuity was thus inevitable. Secondly, however, Charles must rapidly take

¹George Norman Clark, The Latter Stuarts, 1660-1714 (2nd ed.; Oxford, 1955), pp. 1-25. Extensive use has been made of this work throughout this section.

a firm grasp upon the government, both to stave off the threat of anarchy and to demonstrate positively that a beneficial change had taken place. The question of change and continuity, therefore, was central to the Restoration settlement. It is the purpose of this section to survey briefly the various issues in which the question presented itself, and to indicate the course which was followed in each case, before going on to give more detailed consideration to the situation in the colonies.

It has been noted that Charles's most pressing problem initially was to man the administration. In this matter, a sound balance was reached between those men who had served the king in exile and those who had become royalists only shortly before the Restoration. Dominating the government was Edward Hyde, soon to be created Earl of Clarendon, who had been Charles's leading advisor in exile and Lord Chancellor since 1658.¹ Sir Edward Nicholas, a former Secretary of State under Charles I who had served Charles II in exile, became principal Secretary of State,² while the other Secretary

¹Sir Sidney Lee, ed., Concise Dictionary of National Biography (2nd ed.; London, 1906), p. 668.

²Ibid., p. 944.

of State was Sir William Morrice, a relative of Monck who had sat in Parliaments throughout the Interregnum before playing an active part in promoting the Restoration.¹ Monck himself was content with the lord lieutenancy of Ireland, command of the armed forces and the title of Duke of Albemarle.² Edward Mountagu, a successful Parliamentary general in the Civil War, member of the Council of State and naval commander under Cromwell, who had also played a leading part in the Restoration, became Earl of Sandwich and lieutenant-admiral to the Duke of York.³ Sir Anthony Ashley-Cooper, later the Earl of Shaftesbury, is another example of a man prominent during the Interregnum who was successfully reconciled with Charles II in 1660,⁴ while Sir Henry Bennett, keeper of the privy purse from 1660 and later to be Secretary of State as the Earl of Arlington, had been a consistent royalist and had served Charles II in Madrid.⁵

¹Ibid., p. 904.

²Ibid., p. 886.

³Ibid., p. 890.

⁴Ibid., p. 275.

⁵Ibid., p. 89.

Thus, while old and faithful servants of the crown obtained high appointments in the restored government, like positions were given out in the spirit of the Declaration of Breda that "henceforward all notes of discord, separation and difference of parties be utterly abolished amongst all our subjects."¹ Apart from the filling of administrative posts, though, there were substantive matters to be settled, many of which required action of Parliament, and until December 1660 the Convention was retained for this purpose. Among its most important pieces of business was the Act of Indemnity. This was again in accordance with the Declaration of Breda, in which Charles had promised "a free and general pardon ... excepting only such persons as shall hereafter be excepted by Parliament."² The Act passed in August 1660 excepted from pardon some fifty individuals, chiefly regicides, who were placed in various categories for punishment.³ Once again the emphasis was on pardon and oblivion; but the few who were excepted were pursued and punished with all possible speed and severity. One

¹Browning, English Historical Documents, pp. 57-58.

²Ibid., p. 57.

³David Ogg, England in the Reign of Charles II (2 vols., 2nd ed.; Oxford, 1955), I, 154-55.

reason for this was no doubt the possibility of renewed rebellion with foreign aid, a possibility which the king could never entirely ignore while such regicides as Algernon Sidney and Edmund Ludlow were active in Europe;¹ it was also a chance for Charles to show his strength and resolution.

In the settlement of land, continuity and change were once again blended. Lands which had been seized during the Interregnum from crown or church were to be restored, as were those other lands directly confiscated by those holding them at the time of the Restoration. Lands wrested from their owners by indirect means, such as by forced sale, were not to be restored. Although some interests were bound to be adversely affected, a rough balance was achieved between old and new landowners, providing as far as possible for "the just satisfaction of all men who are concerned," as had been promised in the Declaration of Breda.²

Most essential to the success of the Restoration, however, was the amicable settlement of the great basic issues upon which the Civil War had been fought: those of government and religion. In legal theory there was no

¹Keith Feiling, British Foreign Policy, 1660-1672 (London, 1930), pp. 10-11.

²Browning, English Historical Documents, pp. 57-58.

need for a new settlement of the constitution, since none of the acts of the Interregnum which would normally have required the royal assent could be considered valid. In theory, and according to Parliament's proclamation of 8 May 1660, Charles II's right and title to his crown "is and was every way completed by the death of his most royal father of glorious memory."¹ Nevertheless, the restored monarchy could never be the same as that of Charles I, since the legislation of the Long Parliament in 1641 and 1642 was unquestionably valid, notably the Act destroying prerogative courts. Although Charles II later made a successful effort to have the 1641 Triennial Act repealed, much of the legislation of the immediate pre-revolutionary period remained in force and Charles II contented himself with the extensive powers which remained to him.

Vital to the maintenance of these powers was an adequate supply, needed on a regular basis and especially needed in 1660 to pay off the army and to clear the accumulated debts of Charles I and Charles II. Once again the events of the previous twenty years were not denied an influence. Parliament's position and prestige had been strengthened and this was reflected in the

¹Ibid., pp. 58-59.

king's surrender of certain feudal dues, including wardships, tenures in capite and knight service. The remaining hereditary revenues of the crown were combined with parliamentary grants to produce an agreed annual revenue of L1,200,000.¹ That the means for raising this sum, as well as the sum itself, would be inadequate was not foreseen at this time.

While the Convention Parliament thus achieved some settlement of the revenue, albeit one which later proved unsatisfactory, it settled little on the question of religion. In this, as in the other points of the Restoration settlement, it would seem that Charles II looked for balance and compromise. A royal declaration of November 1660 envisaged the comprehension of both Anglicans and Presbyterians into a national church with an episcopacy limited by diocesan synods. The forms of worship and belief were to be worked out at a national synod, which met in April 1661 in the form of the Savoy conference. Meanwhile, the influence of the court was exerted against the embodiment of the declaration into immediate legislation.²

¹Clark, The Later Stuarts; p. 7.

²Ibid., pp. 20-21.

A religious settlement along these lines, though, was becoming more and more unlikely as time went on, and the Cavalier Parliament began its first session in a growing wave of pro-Anglicanism. The Savoy conference ended without agreement and necessitated a parliamentary settlement, which took the eventual form of the Clarendon Code. How far Clarendon himself was responsible for the 'Code' which bears his name is debatable,¹ but it seems that a settlement along strictly Anglican lines was the overwhelming wish of the Parliament and contrary to the preference of the king. When in 1662, however, Charles declared his intention, in view of his promises in the Declaration of Breda, to invite Parliament "to concur with us in the making some such Act for that purpose as may enable us to exercise with a more universal satisfaction that power of dispensing which we conceive to be inherent in us,"² Parliament replied sharply to the effect that the Declaration of Breda merely set forth the king's own inclinations, which were subject to the wishes

¹See George Ross Abernathy, "Clarendon and the Declaration of Indulgence," Journal of Ecclesiastical History, XI (1960), 55-73; also Dennis Trevor Witcombe, Charles II and the Cavalier House of Commons, 1663-1674 (Manchester, 1966), pp. 8-10, 221.

²Browning, English Historical Documents, pp. 371-74.

of Parliament. When the Bill to allow the king to dispense with the Act of Uniformity failed in Parliament the king took the matter no further, preferring on this occasion the sacrifice of prerogative to a conflict with Parliament.

In religion, therefore, Charles was flexible even to the point of agreeing to an unpalatable inflexibility. A flexible attitude was also adopted with regard to foreign affairs. The Restoration had been achieved without foreign intervention and the restored monarchy was therefore free of the restraints which would have been thus imposed. Continuity with the foreign policies of the Interregnum was an important influence, as is clear from the continued employment of various prominent individuals. Cromwell's envoy at the Hague, George Downing, returned there for another four years to represent Charles II. John Thurloe, Cromwell's secretary and foreign minister, drew up notes on relations with France and Holland, and bequeathed the names of his secret agents. The first resident ambassador sent to Paris was Denzil Holles, who twenty years earlier had been one of the five Members of Parliament whom Charles I had attempted to seize.¹ Although one of the first actions

¹Feiling, British Foreign Policy, p. 3.

of the restored government was to ask for a cessation of arms in the war with Spain, an understanding was soon reached with France and Portugal which was in line with the pro-French policy of the Protectorate. As was to be especially important for the American colonies in the form of the English annexation of New Netherland,¹ hostility towards the Dutch was also to be continued. In this, as in every field of government interest, the developments of the Interregnum were not cancelled, but blended as far as possible into the new situation.

It is in this context, then, that the policy towards the colonies must be considered. At the Restoration, the need for adjustment was universally admitted; but there was no question of a total return to the monarchy as it had existed before the Civil War, just as there was to be no wholesale punishment, either judicial or in loss of estates, of those who had taken part in the events of the past twenty years. The emphasis was on a search for solutions in each branch of government and administration which would give effect to the change back to royal government while making the transition as easy as was consistent with that end.

"Confidence is our joint and common security":

¹See below, pp. 124-25.

Charles II's words, repeated at successive Parliaments in 1660 and 1661,¹ summed up at least the ideal of the Restoration settlement.

The Restoration and the Plantations

Along with his kingdoms in the British Isles, Charles II in 1660 regained authority over a series of plantations which straggled down the east coast of North America from Newfoundland to Virginia,² as well as several Caribbean islands, the Bermudas, and Surinam in South America. It is with the New England colonies that this section is chiefly concerned.

The colonies presented the restored government with similar problems to those encountered in other aspects of the Restoration settlement, with the added refinement of distance and the consequent slowness and uncertainty of communications, which had been recognised since the reign of James I to lead potentially to dangerously independent tendencies. This had been demonstrated as early as 1624 when the Virginia Company, the first to establish a colony of any size, was dissolved by

¹Sir Arthur Bryant, ed., The Letters, Speeches and Declarations of King Charles II (2nd ed.; London, 1968), pp. 106, 111.

²See Map 1.

a quo warranto suit.¹ At this early stage the government's dilemma was between the desirability of asserting royal control over the colonies and the financial necessity for their foundation by private enterprise.²

New England had in 1620 been entrusted to a "Council for New England," vested with powers for "the planting, ruling, ordering and governing of New-England," that name being applied to all of America between the latitudes of forty and forty-eight degrees.³ Sir Ferdinando Gorges, a west country knight who was the chief moving force behind the council, envisaged the financing of the government of New England by a tax on the profits of the New England fishery, which was by 1620 well established.⁴ This plan, however, was stalemated and eventually destroyed by the combined action through Parliament of the Virginia Company and the western

¹See Herbert Levi Osgood, The American Colonies in the Seventeenth Century (3 vols.; New York, 1904), III, 25-53.

²Ibid., pp. 55-56.

³Patent printed in Mary Frances Farnham, ed., Documentary History of the State of Maine, Maine Historical Society Collections, Series II, Vol. VII (Portland, 1901), pp. 24-25. (Hereinafter cited as "Farnham Papers.")

⁴Charles McLean Andrews, The Colonial Period of American History (4 vols.; New Haven, 1934), I, 301, note 2.

towns,¹ and the negation of the scheme left the council without means to play any practical part in the government of New England, its only effective function being to grant land. For some ten years this situation continued, with effective government being provided in New England, if at all, by the individuals or groups holding patents from the council.

Among the patentees was the Massachusetts Bay Company, which in 1628 acquired through Sir Henry Rosewell a grant of lands in New England which was in 1629 confirmed by a royal charter.² The Massachusetts colony quickly became the largest and most powerful in New England: seventeen vessels left England for Massachusetts in 1630, carrying over one thousand settlers, and the population of the colony was to continue apace in the following years.³ The Massachusetts grant, however, as embodied in the royal charter, conflicted with certain prior grants, including that of Robert Gorges, son of Sir Ferdinando. This, along with the complaints of disaffected persons from

¹See Richard Arthur Preston, Gorges of Plymouth Fort (Toronto, 1953), pp. 165-96.

²Ibid., pp. 266-78.

³Andrews, Colonial Period, I, 395. See also Table I.

Massachusetts itself, quickly brought about opposition to the Bay Company, and in 1632 Gorges and others petitioned the king, making a number of allegations to the effect that Massachusetts was on the point of rebellion.¹ While this petition was rejected after a Privy Council hearing, its spirit was shortly revived with the powerful support of Archbishop Laud. In February 1634 the Privy Council ordered the production of the Massachusetts charter and in April a royal commission was issued appointing Laud and eleven other Privy Councillors as a board for trade and plantations, with extensive powers for regulating the internal affairs of all existing or prospective colonies.² Despite the obviously serious intent of the government, the Massachusetts colony, helped by the fact that its charter had actually been transported to New England, was successful in a policy of delay and evasion, even in the face in 1635 of a writ of quo warranto, and at the Restoration it was treated as in full legal existence.³

¹Osgood, American Colonies in Seventeenth Century, III, 59-61.

²Ibid., pp. 62-64.

³Ibid., pp. 69-71.

Concurrently with efforts to strike at the charter of Massachusetts, plans were being made by Laud and Gorges to establish a general governorship in New England. On 12 May 1634 Gorges wrote to the king suggesting the appointment of a Lord Lieutenant or Lord Governor to provide for closer royal supervision of New England,¹ and in March of the following year he mentioned in a letter to Secretary Windebank that it was the king's pleasure to assign him to this post.² In June of that year the patent of the Council for New England was surrendered in order to clear the way for the appointment;³ the appointment, however, was never made. That it was still the king's intention in July 1637 is established by a royal manifesto on the subject,⁴ but nothing more was heard of the proposal and it was eventually lost in the crisis which led up to the Civil War.

¹W. Noel Sainsbury, ed., Calendar of State Papers, Colonial Series, America and West Indies, 1574-1660 (London, 1860), p. 178.

²Ibid., p. 200.

³Farnham Papers, pp. 203-05. Osgood, American Colonies in Seventeenth Century, III, 65.

⁴Sainsbury, Calendar, 1574-1660, pp. 256-57.

During the reigns of the early Stuarts, therefore, royal policy towards New England entailed the strong assertion of central authority, but this was never successfully put into practice. During the Interregnum period, whatever efforts had been made toward that end were undone. The Civil War prevented the paying of any great attention to New England by either king or Parliament. In November 1643 the Long Parliament appointed six lords and twelve commoners as a board of commissioners for the plantations, but authorised them if necessary to delegate powers to officials of the colonies themselves. This they did, with the result that, especially in New England, the colonies enjoyed unusual freedom.¹ Indeed, even the pro-royalist colonies went unmolested. The establishment of the Commonwealth produced some change, the royalist colonies being subjected to economic sanctions, but New England was unaffected by this and received friendly assurances of its immunity.

The Interregnum period, however, did see one important development in colonial policy: the passage of the Navigation Act of 1651. The Act of 1650 prohibiting

¹Osgood, American Colonies in Seventeenth Century, III, 107-08.

trade with the royalist colonies, Barbadoes, Antigua, the Bermudas and Virginia, paved the way for the more permanent Act of the following year. Trade between the English colonies and the Dutch had greatly increased during the Civil War and infringed the interests of English merchants; the Act struck directly at the Dutch trade, forbidding ships of foreign nations to trade with any of the English colonies without a license from Parliament or the Council of State. No administrative machinery was provided for the enforcement of the Act, however, and in spite of the occasional use of the navy in the Caribbean to do so the Dutch trade continued covertly.¹

When Charles II regained the throne, therefore, the factors influencing the formation of his attitude towards the colonies were several. His father's government had tried hard to impose direct rule upon New England. Not only had this failed, but the freedom from interference which the colonies had enjoyed during the Interregnum had widened the separation between realm and plantations. This freedom, according to petitions which the king received from various quarters, had also led Massachusetts to add to its position as the most powerful

¹Ibid., pp. 204-06.

New England colony at the expense of its neighbours and to oppress those New England inhabitants who would not comply with its civil and religious precepts.¹ In various matters of trade and economy, moreover, Massachusetts was suspected in late years of flouting the regulations laid down in England. The urgent tasks which faced Charles were, first, in certain respects, and especially that of trade, to formulate policies regarding the plantations; secondly, to gather accurate information regarding the plantations; and thirdly, to take steps to ensure that his authority was respected there insofar as he chose to exercise it.

The first of these was quickly put in hand with the passage in late 1660 of a Navigation Act which expanded and systematised the principles laid down in 1651, prohibiting foreigners from trading to English colonies. To this was added the conception of 'enumerated goods'; such goods were not to be exported from English colonies elsewhere than to England, Ireland or some other English colony, though this had little effect on New England, which produced no commodity which was susceptible of import to England on a commercial

¹See below, pp. 75-80.

basis.¹ The Act enunciated clearly, then, an aspect of the policy of Charles II's government towards the colonies. Nevertheless, it was an aspect on which there was within England little controversy, and one which continued the trade policies favoured sporadically by the early Stuarts and consolidated during the Interregnum. There remained the more general task of working out the governmental relationship between England and the colonies and, especially in New England, that between the colonies. It is this aspect, rather than that of trade, with which this study will be chiefly concerned.

Essential to the king's task was the gathering of information, and it is significant that the prime initial function of a Council for Foreign Plantations established in December 1660 was, as stated in its commission, to "drawe those our distant Dominions and the severall Interests and Governments thereof into a nearer prospect."² The composition of the council displayed once again a blend of change and continuity; Hyde and Nicholas were among the high officers of state included,

¹See George Louis Beer, The Old Colonial System, 1660-1754, Part I, Vol. I (New York, 1913), pp. 58-73.

²Great Britain, Public Record Office, COL/14, No. 59, pp. 1-4. ("Great Britain, Public Record Office" hereinafter abbreviated to "PRO.")

but several merchants were also members, including, for example, Thomas Povey, who provided a direct link with the colonial policy of the Interregnum.¹

The council's first task was to draw up reports on the state of affairs in each group of colonies. Among the difficult questions which would inevitably be raised by the writing of such a report on New England was that of the status of the Province of Maine, claimed both by Massachusetts and by Ferdinando Gorges, grandson of Sir Ferdinando, who claimed a proprietary right to the province. It is to the history of the growth of this conflict that the next chapter will be devoted.

¹Ibid. See also Osgood, American Colonies in Seventeenth Century, III, 141-42, 145-46.

CHAPTER II

MAINE: THE GROWTH OF THE PROBLEM

Settlement and development

All the early explorers of the Maine coast agreed on its great potential value as a fishing ground. "I am persuaded," wrote John Brereton, describing in 1602 the earliest recorded voyage to the New England coast, that of Bartholomew Gosnold and Bartholomew Gilbert, "that in the moneths of March, April and May, there is upon this coast, better fishing, and in as great plentie, as in Newfound-land: for the sculles of Mackerell, herrings, Cod, and other fish, that we dayly saw as we went and came from the shore were woonderfull...."¹ Martin Pring, writing of his own voyage a year later, agreed that here was "an excellent fishing for Cod";² and James Rosier, having voyaged to New England with Captain George

¹John Brereton, "A Brief and true Relation of the Discovery of the North part of Virginia . . .," in Forerunners and Competitors of the Pilgrims and Puritans, ed. by Charles Herbert Levermore (New York, 1912), p. 33.

²Martin Pring, "A voyage set out from the citie of Bristoll . . .," in Levermore, Forerunners and Competitors, p. 61.

Waymouth in 1605, was impressed by "how great a profit the fishing would be, they being so plentiful, so great and so good, with such convenient drying as can be wished, neere at hand upon the Rocks."¹

Rosier noted that in no place explored by Waymouth did they find any signs that "ever any Christian had beene before; of which either by cutting wood, digging for water, or setting up Crosses (a thing never omitted by any Christian travellers) we should have perceived some mention left."² In the ensuing years, though, the fishery developed rapidly,³ and there is evidence of year-round fishing settlements on the Maine coast as early as 1610, 1614 and 1616.⁴ In their early stages, however, such settlements cannot be regarded in any sense as stable communities; they were, rather, convenient extensions of temporary bases made during the fishing season. Their every aspect was ruled by the

¹James Rosier, "A true relation of the most prosperous voyage . . .," in Gorges and the Grant of the Province of Maine, ed. by Henry Sweetser Burrage (Portland, 1923), p. 61.

²Ibid., p. 66.

³See Andrews, Colonial Period, I, 301, note 2.

⁴Charles Edwin Clark, The Eastern Frontier: The Settlement of Northern New England, 1610-1763 (New York, 1970), p. 14.

exigencies of the English-based fishery, and while they were 'permanent' in the sense that they continued from year to year, there is no evidence that any individuals resided in them permanently.

Gradually the Maine settlements developed more stable characteristics and took root on the land. Of many of the settlers no record has remained. An exception is George Cleeve, who in 1630 settled near Casco Bay¹ and who later became a landowner and a prominent figure in political conflicts. His later prominence ensures to the historian some firm knowledge of Cleeve; but it is reasonable to assume that he started as only one of a number of independent fishermen, farmers and Indian traders on the Maine coast at this time. Identification of such men is difficult, as they left little or no record of their lives, but occasional references do establish their existence. Dixie Bull the pirate, for example, was described in 1633 by John Winter, manager of a fishing operation on Richmond's Island,² as

¹James Phinney Baxter, George Cleeve of Casco Bay, 1630-1667 (Portland, 1885), pp. 26-28, 42-44. See also Map 2.

²See Map 2.

"on [e] that was a trader for bever."¹

There were also a number of commercial ventures which essayed settlement of Maine. An early example is the small fishing base set up in 1623 by David Thompson, partnered by three Plymouth merchants, at Odiorne's Point on the Piscataqua river.² This settlement was short-lived, however, and by 1626 Thompson had settled at Massachusetts Bay.³ In 1629 Sir Ferdinando Gorges and his partner John Mason initiated the activities of the Laconia Company, which, from a base on the Piscataqua river, sought to exploit the fur trade.⁴ When this hope was soon disappointed the main emphasis of the company was laid upon fishing, until in 1634 the London merchants associated with the venture became disillusioned with the lack of profit and caused the bankruptcy of the company

¹James Phinney Baxter, ed., Documentary History of the State of Maine, Maine Historical Society Collections, Series II, Vol. III (Portland, 1884), p. 23. (Hereinafter cited as "Trelawny Papers.")

²Levermore, Forerunners and Competitors, pp. 826-31. See also Map 3.

³Charles Knowles Bolton, The Real Founders of New England (Boston, 1929), p. 90.

⁴See Map 4.

by withdrawing their support.¹ A longer-lived enterprise was the fishing venture at Richmond's Island, based upon a grant of the Council for New England dated 1 December 1631 to the Plymouth merchants Robert Trelawny and Moses Goodyear,² and administered on their behalf by John Winter. This operation survived and flourished for several years, although by 1642 it was affected by a general economic depression in New England which caused Winter to comment that "theris a great many weary of this Country";³ after the deaths of both Winter and Trelawny soon after, there is no further record of the plant as a working concern.⁴

While these enterprises had short working lives, they contributed significantly to the settlement of Maine, both in terms of numbers and in the rooting of population on the land. The Laconia grant, for example, prescribed that the company must within three years have settled ten families on its lands, and built and

¹Richard Arthur Preston, "The Laconia Company of 1629: an English attempt to intercept the fur trade," Canadian Historical Review, 31 (1950), 125-44.

²Farnham Papers, pp. 152-58.

³Trelawny Papers, p. 309.

⁴Ibid., pp. 365-70 and notes.

garrisoned a fort.¹ By late 1630 it had sent out sixty-six men and twenty-two women to the colony.² That these colonists practised agriculture at least to some degree is evident from the division of a portion of the company's land amongst the surviving members in late 1633, when some swine were also shared out.³ On the Trelawny patent, agricultural pursuits were invariably accorded an important place in Winter's reports to Trelawny. In October 1634, for example, he reported that "I do not sett nor sow any seed but doth prosper very well, & hedges [hogs] doth prosper well, and I thinke so will Cattell also, yf they weare heare."⁴ In an inventory of the goods on the Trelawny patent in 1648, after the deaths of Winter and Trelawny, forty-two cattle of various designations were included, along with fifty-two pigs and eighteen goats.⁵

Even when such commercial ventures failed, they were not broken up without trace. Of thirty-eight

¹Farnham Papers, p. 105.

²Preston, "The Laconia Company," p. 138.

³Ibid., p. 142.

⁴Trelawny Papers, p. 53.

⁵Ibid., pp. 374-75.

persons, for example, known to have gone to New England in the employ of the Laconia Company,¹ seven survived to be included in lists of Maine inhabitants made up for political purposes by Massachusetts officials some thirty years later.² The population brought to Maine by the commercial enterprises was supplemented after 1635 by the efforts of Sir Ferdinando Gorges, who on the surrender of the patent of the Council for New England acquired a personal grant of an area which he named 'New Somersetshire.'³ This area was to become the major part of the Province of Maine, granted by royal charter to Gorges in 1639,⁴ and is today the southern part of the State of Maine. An example of Gorge's concern to populate his land in New England is found in

¹Sybil Noyes, Charles Thornton Libby and Walter Goodwin Davis, Genealogical Dictionary of Maine and New Hampshire (Portland, 1928-39), p. 9.

²Massachusetts State Archives, Massachusetts Colonial Records, Vol. III, ff. 194-205, 246-47. (Hereinafter cited as "MCR, III.") The seven were William Chadbourn, Thomas Spencer, John Heard and Thomas Withers, all of Kittery; Edward Godfrey and Thomas Crockett of York; and Henry Jocelyn of Scarborough.

³Preston, Gorges, p. 308. See also Map 5.

⁴Charter printed in Charles Thornton Libby, ed., Province and Court Records of Maine, Vol. I (Portland, 1928), pp. 9-29. (Hereinafter cited as "PCR, I.") See also Map 6.

John Winthrop's journal entry for August 1636, noting the arrival at Boston of a ship from Bristol, "but she had delivered most of her cattle and passengers at Pascataquack for Sir Ferdinando Gorges his plantation at Agamenticus."¹ It must be remembered, however, that Gorges had only a short while to supply the needs of his province before the outbreak of the Civil War.

A further important stage in the consolidation of settlement in Maine was the growth of indigenous enterprise, as distinct from the ventures discussed above, which were all based in England. John Winter noted, for example, in his report to Trelawny of 28 June 1636 that a ship had come to Saco² "to lade Clawboard & is bound for Malaga with yt." This was the result of a partnership formed the previous year by Richard Williams and Peyton Cooke.³ Saw mills were also being established on Maine rivers, the first one possibly as early as 1623.⁴ This process was still under way in April 1651, when William Chadbourn was granted by the town of Kittery

¹Winthrop's Journal, ed. by James Kendall Hosmer (2 vols.; New York, 1908), I, 190. See also Map 2.

²See Map 2.

³Trelawny Papers, p. 88 and note.

⁴Clark, Eastern Frontier, p. 26.

"a place for a saw mill in any place where he shall make choice upon the great river of Nichewanick with good priviledges of timber felling."¹ In the same order of the town, Thomas Spencer and Humphrey Chadbourne were allotted "Tom Tinkers swamp and five hundred pine trees besides" for better supply of the saw mill they had already built.² Shortly after, in September 1653, the town of Saco felt itself to be in a strong enough bargaining position to impose strict conditions on a grant to Roger Spencer of the right to erect a saw mill in the town. In the work of construction, it was stipulated, "the Townsmen shall be imployed in the worke before a stranger, provided that they doe their worke so cheape as a stranger," and when the mill started to operate, "all Townsmen shall have bordes 12d. in a hundred cheaper than any stranger."³ Samuel Maverick, a resident of Boston, wrote in 1660 of the "Excellent Saw Mills" of Kittery;⁴ by this time the exploitation of the

¹See Map 2.

²Office of the Town Clerk, Kittery, Maine, Kittery Town Records, Vol. I, pp. 1-2.

³Biddeford, Maine, Historical Society, Saco Town Records, Vol. I, pp. 6-7.

⁴Samuel Maverick, "A Briefe Description of New England," British Museum, Egerton MSS, Vol. 2395, f. 398.

forest had clearly become an organised and profitable business.

Thus society on the Maine coast developed away from exclusive reliance upon fishing. There was also another factor in this process, that of immigration from the south, which often had no connection with the fishery. At Wells in 1643, for example, the Antinomian John Wheelwright settled and gathered a church, having come to Maine from New Hampshire, following that region's absorption by the Massachusetts Bay colony which had expelled him in 1637.¹ In the early years, moreover, Maine was used on occasion as a refuge for non-religious refugees from Massachusetts. John Winthrop recorded in 1641 that one John Baker of Newbury, Massachusetts, "fell into ... evil courses," but "rescued himself out of the officer's hands and removed to Agamenticus [the Maine town later to be renamed York], where he continued near two years...."²

Immigration from the south was not, however, invariably forced. This can be exemplified by two new

¹William Durbee Williamson, The History of the State of Maine: from its first Discovery, A.D. 1602, to the Separation, A.D. 1820 (2 vols.; Hallowell, Me., 1832), I, 293-94. See also Map 2.

²Winthrop's Journal, II, 29.

inhabitants of Kittery in 1651. Hugh Gunnison had been an early settler of Massachusetts, a freeman in 1636, and had owned the King's Arms tavern in Boston. In 1651 he moved to Kittery to take over the tavern there.¹ Richard Leader had been an ironworks manager at Lynn, Massachusetts, since 1644, had lived in Boston from 1650 to 1651 and then moved to Kittery and received a large grant of land on which to erect a saw mill.² The flow of such immigration was no doubt increased after Massachusetts asserted its political authority over Maine in 1652,³ and formed a significant part of the population of the north-eastern region.

In 1638 John Josselyn, an English gentleman who made a voyage to New England in that year, described the coast between Boston and Black Point, a settlement just south of Casco Bay,⁴ as "a meer Wilderness, here and there by the Seaside a few scattered plantations, with as few houses."⁵ Revisiting Maine between 1667 and 1671 he

¹Noyes & others, Genealogical Dictionary, p. 292.

²Ibid., p. 421.

³See below, pp. 50-55.

⁴See Map 2.

⁵John Josselyn, "An Account of Two Voyages to New-England," in Massachusetts Historical Society Collections, 3rd series, III, 226.

noted several settlements which he described as towns, of which Kittery was the most populous. East of Kittery were situated York, Wells and Cape Porpoise: "all these towns have store of salt and fresh marsh with arable land, and are well stockt with Cattle." Winter Harbour was "a noted place for fishers," while the adjoining town of Saco he described as "well stored with Cattle, arable land and marshes, and a Saw-mill." Black Point, where Josselyn was staying with his brother Henry, was stocked with horses, "sheep near upon Seven or Eight hundred," arable and marsh land and a corn mill, and the scattered town of Casco similarly contained "Cattle, Sheep, Swine, abundance of marsh and Arable land, a Corn-mill or two, with stages for fishermen."¹

Josselyn thus emphasised the importance of both fishing and agriculture. In accordance with this he analysed the population of the region into "Magistrates, Husbandmen or Planters, and fishermen." On the magistrates he elaborated no further, except to observe that "some be Royalists, the rest perverse Spirits," but the other two groups were treated in greater detail. The planters' daily tasks included "providing for their Cattle, planting and sowing of Corn, fencing their

¹Ibid., pp. 344-45. See also Map 2.

grounds, cutting and bringing home fuel, cleaving of claw-board and pipe-staves, fishing for freshwater fish and fowling," which should take up "most of their time, if not all," if the planter and his family wished to avoid shortage during the winter. The fishermen "take yearly upon the coasts many hundred kentals of Cod, hake, haddock, polluck &c.," and made substantial profits, though at the mercy of grasping merchants for their supplies. There were also men whom Josselyn described as "planters and fishers both"; it seems that most fishermen were also landholders, since the fate which befell any fisherman who became excessively indebted to a merchant was to have the merchant "seize upon their plantation and stock of Cattle, turning them out of house and home, poor Creatures." This danger, of course, also faced a negligent planter.¹

Seventeenth century Maine, therefore, was a society in which land assumed an increasing economic importance. From the transient fishing settlements of the early days developed the communities described by Josselyn on his second voyage, in which fishing, agriculture and exploitation of the forest were all of vital importance. As settlement stabilised in Maine the

¹Josselyn, "Two Voyages," pp. 348-52.

possession of land became not only a measure of social status, as it was for all seventeenth century Englishmen, but an invaluable aid to economic security for each settler.

Land and government to 1652

The government of seventeenth century Maine was from the first closely bound up with land ownership. Although an attempt had been made in 1607, largely prompted by Sir Ferdinando Gorges, to settle a small colony at Sagadahoc on the Maine coast, this had proved unsuccessful and was later described by Gorges as "a wonderful discouragement to all the first undertakers, in so much as there was no more speech of settling any other plantation in these parts for a long time after."¹ The real impetus for the settlement of New England came from the charter of 1620 which granted both land and powers of government to the Council for New England. The "Great Patent of New England" was issued on 3 November 1620² on the petition of "Sir Ferdinando Gorges, Knight . . . , certain the principal Knights and Gentleman Adventurers

¹Sir Ferdinando Gorges, "A Brief Relation of the Discovery and Plantation of New England, 1620," in Burrage, Gorges, p. 142. See also Preston, Gorges, pp. 141-48.

²Farnham Papers, pp. 20-44.

of the said Second Collonye [i.e. New England, Virginia being the first colony] ... and by divers other Persons of quality."¹ As has been noted above,² the Council created by the patent was entrusted with powers for "the planting, ruling, ordering and governing" of all of America between the latitudes of forty and forty-eight degrees. All of that territory, including "Havens, Ports, Rivers, Waters, Fishings," was granted to the Council to hold "as of our manor of East Greenwich, in our County of Kent, in free and common socage,"³ the easiest possible form of tenure.⁴ Rights were included to regulate completely all forms of activity within the grant.⁵

The Council for New England had power to grant land to its members and to others, and it was partially by this means that New England was intended to be settled. Government was to remain in the hands of the Council. In the event, owing to the lack of means to finance either a

¹Ibid., p. 22.

²Above, p. 15.

³Farnham Papers, pp. 33-34.

⁴See Preston, Gorges, p. 170, note 20.

⁵Farnham Papers, p. 37.

government of New England or to dispatch settlers,¹ the Council operated only as a land-granting agency. Even in this capacity it had limited success; Captain John Smith, a prominent propagandist in favour of colonisation, complained in 1630 that the Council "fed me with delays, promises, and excuses, but no performance of any thing to any purpose."² In 1622 the Council granted to Sir Ferdinando Gorges and his partner, John Mason, all the land on the sea coast between the Merrimack and the Sagadahoc rivers, and westward to three miles beyond the heads of these rivers, to be known as the Province of Maine.³ Although it was a condition of the grant that at least ten families should be settled there within three years, no such settlement resulted.

Indeed, the only settlements in Maine at this time which achieved any degree of permanence were those under the commercial enterprises discussed in the previous section, and the practical responsibility for government devolved upon each of these on its own land.

¹See above, pp. 15-16.

²John Smith, "The True Travels, Adventures, and Observations of Captaine John Smith," in Levermore, Forerunners and Competitors, p. 750.

³Grant printed in Burrage, Gorges, pp. 167-73.

Formal recognition was given in 1635 to the impotence of the Council for New England in the surrender of its patent. Complaining of frequent troubles and great charges, the Council on 25 April of that year confessed its inability to exercise any authority over New England and announced its wish to surrender the whole business into the king's hands.¹ A petition to the king was drawn up to that effect the following day,² and the act of surrender was dated 7 June.³ The surrender was accompanied by a division of the Council's territory among eight of its members, Gorges acquiring his Province of New Somersetshire.⁴

The Province of New Somersetshire was essentially proprietary, with ownership of the land inseparable from powers of government, both reposing with Sir Ferdinando Gorges. This was confirmed in 1639 when Gorges received a royal charter for the area to be known as the Province of Maine, which included the whole of New Somersetshire. The charter granted to Gorges, his heirs and assigns full

¹Farnham Papers, pp. 196-200.

²Ibid., pp. 201-02.

³Ibid., pp. 203-05.

⁴See Preston, Gorges, pp. 300-08.

powers of government, legislation and jurisdiction, along with liberties as enjoyed by the bishopric of Durham, as "the true and absolute Lordes and Proprietors of all and every the aforesaid Province of Mayne."¹ The province continued to be ruled under this charter until 1652, when Massachusetts intervened, although certain adjustments were made by the inhabitants in order to deal with the disruption of communications caused by the Civil War. In 1649, for example, the inhabitants, unable since the death of Sir Ferdinando Gorges in 1647 to make contact with his heirs, established a voluntary government, pending instructions from England, "to see thes partes of the Cuntery and province regulated according to such lawes as formerly have binne exercised and such other as may be thought meet not repugnant to the Fundamentall lawes of our Nation and Cuntery."²

For the theoretical structure of government in the Province of Maine under Gorges's charter, the best authority is Gorges himself. Writing about 1640, Gorges described in detail the projected system of government for his province. The most powerful body was to be a Council, to include Gorges's Lieutenant, a Chancellor

¹PCR, I, 9-29.

²Ibid., p. 133.

a Marshal, a Judge-Marshal, an Admiral, a Master of Ordnance and a Secretary. To these were to be added eight deputies, one from each of eight counties, elected by the freeholders.¹ There is no evidence that any such council ever came into existence. For the administration of justice, Gorges projected the appointment of one lieutenant and eight justices, and it was this provision which was to form the basis of government when the province actually came into being. In a commission of March 1640, Gorges appointed seven members of a "Councell in my said Province for the due execution of justice there . . .," equipped with full powers to proceed against pirates, to judge cases both civil and criminal, and to imprison offenders.² Beyond this no powers were granted, and it would seem that throughout the period up to 1652 the government of Maine consisted basically of government by a judiciary.

If government and land ownership during this period were inseparable in the person of Sir Ferdinando Gorges, it is equally true that he generally delegated

¹Sir Ferdinando Gorges, "A Brief Narration of the Original Undertakings for the Advancement of Plantations in America," in Maine Historical Society Collections, Vol. II (Portland, 1847), pp. 55-56.

²PCR, I, 36-41.

each to the same men, thus ensuring that the two were also inseparable at a local level. A list is appended¹ of all who sat as magistrates in the courts of which record has survived prior to the Massachusetts annexation in 1652. It will be noted that of twenty-three magistrates, fifteen were patentees, substantial landowners by direct grant from Gorges, or close associates of such. Two of the remaining eight, Basil Parker and Edward Rishworth, were court recorders. Richard Leader and Abraham Preble are more difficult to account for, though both had connections with Edward Godfrey, the most frequent magistrate; Leader was a political associate of Godfrey,² while Preble held most of his land from Godfrey in return for rents and services. The other four magistrates made only five appearances on the bench between them. Two (Henry Boade and Ezekiel Knights) were inhabitants of Wells and sat on the bench only twice and once respectively between 1646 and 1648, immediately before that settlement seems to have withdrawn from practical allegiance to the

¹Appendix I.

²See below, pp. 50-53, 62-64.

Province of Maine.¹ The remaining two (Richard Banks and Anthony Emery) made only one appearance each in 1652, immediately before the annexation. It would seem to be a reasonable conclusion to draw that Maine governments at this time were dominated by large landowners and their close associates, although occasionally they might include others at times when their power was threatened. Such a situation was also in line with conventional practice in England, where landed property was an essential prerequisite for the holding of official position.

The intimate relation between government and land in Maine at this time can further be exemplified in the activities of George Cleeve. For some years Cleeve was in conflict with Trelawny and Winter over land which both claimed at Spurwink and Casco.² At a Court of Pleas on 8 September 1640 judgement was given for Cleeve.³ Winter and Trelawny, however, repeatedly refused to accept the court's decision as final,⁴ and this prompted Cleeve to

¹PCR, I, 133, note 49. See also Robert Earle Moody, "The Maine Frontier, 1607 to 1763," (unpublished Ph.D. thesis, Yale University, 1933), p. 73.

²See Map 2.

³PCR, I, 58-64.

⁴Trelawny Papers, pp. 248, 279.

favour the establishment of a new province, a separate governmental unit from the Province of Maine, as the best means to secure his land claim. Returning to England, he persuaded Alexander Rigby, a Member of Parliament, to buy in 1643 from the original grantees an old patent, dating from 1629, which gave title, as they claimed, to a substantial portion of Gorges's province, including the lands which Cleeve claimed; this area they named "the Province of Lygonia." After a series of conflicts with the Maine magistracy, Rigby and Cleeve obtained from Parliament on 27 March 1647 a confirmation of the independence of Lygonia.¹ From that time until the Massachusetts annexation the government of Lygonia, with George Cleeve as Deputy Governor the chief resident officer of the province, covered Saco, Black Point, Blue Point, Cape Porpoise, Spurwink and Casco. Wells, as has been noted, withdrew itself from Maine at about the same time, so that that province was left for the time being with only Kittery and Agamenticus.

In Maine between 1636 and 1652, therefore, government was conducted chiefly by magistrates who were also large landowners. Exactly how effectively this

¹Henry Sweetser Burrage, The Beginnings of Colonial Maine, 1602-1658 (Portland, 1914), pp. 293-99, 325-27. See also Map 7.

government worked is a question which it is impossible satisfactorily to answer from the surviving records. Conflicting speculations may be made on the basis of court records; more direct are John Winter's repeated asseverations that, for example, "yt is a bad kind of livinge to live in a place where is neather law nor government amonge people,"¹ although these remarks were usually made by Winter in the context of some circumstance adverse to his own business. On the whole, it is probably more sound to concentrate not on what the governments of Maine did or were prevented from doing, but on what they were; that is, their domination by large landlords. This ensured, albeit in a negative way, that while government and the landed interest were identified under the proprietary system there could be no change in land allocations, that renting and sub-letting would continue to be at the heart of the system.

This situation contrasted with that which was developing in Massachusetts, where the newly-established towns had assumed control of the land within their respective boundaries in order to distribute it free of encumbrance to the inhabitants. This custom, once it had grown up in Massachusetts, was recognized by

¹Trelawny Papers, p. 171.

a statute of that colony in 1635.¹ It has rightly been described by one historian as "a virtual social revolution," in that "the inhabitants of an English town were assuming that each adult male would be granted some land, free and clear."²

In Maine, which was becoming increasingly rooted in the land, it was more likely than not that a system which concentrated large areas of land in a few hands would cause tension; and there is evidence that this very soon came about. In 1640 Edward Godfrey, the prominent magistrate and patentee, wrote to the patentee Trelawny regarding the latter's dispute with Cleeve, giving the following advice: "Yf Sir Fardinando Gorges Cannot rectify you, then make you remonstrance to the Lords Comitioners, get a Comition to those that have pattentes, other wyse noe help; for here planters would have all Common."³ Godfrey, then, believed that the entrenched position of the patentees could be maintained only if

¹Darrett Bruce Rutman, Winthrop's Boston: Portrait of a Puritan Town, 1630-1649 (Williamsburg, Va., 1965), pp. 66-67. See also Osgood, American Colonies in Seventeenth Century, I, 428.

²Sumner Chilton Powell, Puritan Village (Middletown, Conn., 1963), p. 107.

³Trelawny Papers, pp. 240-41.

they acted in concert. This defensive feeling is evidenced also in a letter of Robert Jordan, Winter's son-in-law, to Trelawny on 31 July 1642: in these parts, he wrote, "actions are passed according to the concejpts of unknowing Planters, without the least referenc to the law, right or conscienc."¹

Further light is possibly shed on the position of the Maine patentees by a letter to Governor Winthrop of Massachusetts in 1645 from the Rev. Thomas Jenner, a minister at Saco, in which Jenner ascribed much of the alarm of the Maine magistrates at the claims of Cleeve to "their manifold debts in the Bay and els wher. Now, so long as they have the stafe in their own hands, they care not. No man scarce durst to ask for his owne, much [less] to sue for it."² Francis Champernowne, a patentee at Kittery and the only one whose financial position is reliably indicated by surviving record, was certainly deep in debt during this period. On 14 December 1648 he mortgaged half of his lands in Kittery to a Newbury, Massachusetts, merchant, Captain Paul White,³ for a debt

¹Ibid., p. 314.

²Printed in Baxter, Cleeve, pp. 253-54.

³See Noyes & others, Genealogical Dictionary, p. 292.

of £200.¹ In October 1652 White agreed to relinquish his claims to this land in return for a series of staggered payments between then and June 1656; but White's making over of the mortgage to one Richard Walderne of New Hampshire,² who was still in possession of it in 1662,³ shows that Champernowne defaulted on this arrangement. Champernowne eventually died possessed of the land, as appears from his will dated 16 November 1686,⁴ but at this early stage he was clearly substantially indebted.

This is not in itself evidence that Champernowne and his fellow patentee-magistrates were motivated as Jenner asserted, and other corroborative evidence for Jenner's statement is lacking. Nevertheless, it may well be that the patentees of Maine were at this time being pressed from two fronts: by their fellow inhabitants for 'common' distribution of the land and by creditors in Massachusetts and elsewhere. It is in this context that the events of 1652 should be viewed.

¹Maine Historical Society, York Deeds, Vol. I (Portland, 1887), Part I, f. 8.

²Maine Historical Society Archives, Champernowne/Gerrish/Pepperrell Papers, 67-2342-14.

³Ibid., 67-2342-32.

⁴William Mitchell Sargent, ed., Maine Wills, 1640-1760 (Portland, 1887), pp. 121-23.

Annexation by Massachusetts

In late 1651 the Massachusetts General Court decided to act upon an interpretation of the bounds of its patent which would bring the Maine settlements within its jurisdiction:¹ on 31 October of that year the General Court ordered that "a loving letter and friendly" be sent to Maine to inform the inhabitants that they were within the northern line of the Massachusetts patent and that a committee had been appointed "to treat with them." The considerations prompting this step, according to the Court, were, first, "the comodiousnes of the River of Piscataque and how prejudiciall it would be to this government if the aforesaid place and river should be possessed by such as are no friends to us" and, secondly, the information that "there hath been a late endeavor of severall persons thereabouts to draw the inhabitants of Ketterey &c. who govern now by combination, to peticon the Parliament of England for a graunt of the said place."²

The latter information was shown to be well founded when the Maine magistrates, under their Governor, Edward Godfrey, took steps to defend their authority.

¹See Appendix II.

²Nathaniel Bradstreet Shurtleff, ed., Records of the Governor and Company of the Massachusetts Bay in New England (5 vols.; Boston, 1853-54), IV(1), 70.

A petition was drawn up by Godfrey and two colleagues, Richard Leader and Nicholas Shapleigh, to be sent to Parliament, dated 5 December 1651.¹ The petition explicitly characterised Godfrey's government as a combination of patentees. Expressing willingness to submit to the Commonwealth, "as it is now established without a king or house of lords," the petition went on to describe how "diverse of the inhabitants of this province by vertue of sundrey pattents & otherwise, have this twenty years ingaged our lives, estats & industry here, & regulated under the pouer & Commission of Sir ffordinan: Gorges." The conclusion was a request for recognition of the immunities, privileges and rights of the Province of Maine: the appeal was firmly rooted in property.

Nothing seems to have come of this petition, however,² and in May 1652 Godfrey wrote in similar vein

¹York Deeds, I, Part I, ff. 23-24. See also PCR, I, 171-72 for the order that the petition be drawn up. It seems likely that the date of this order was 3 December, rather than 30 December as printed in PCR, as the petition itself was dated 5 December.

²It has been suggested that this was the result of royalist persuasions on the part of the petitioners. See Charles Edward Banks, History of York, Maine (2 vols.; Boston, 1931-35), I, 183-84. If the petitioners were royalists, however, they were certainly not afraid to compromise their principles by affirming wholehearted adherence to the Commonwealth. The true reasons for the

to Secretary Edward Rawson of the Massachusetts General Court, who wrote back on 12 June denying any intention "to bereave you of any of your just rights, imunitys or priveleges, which you say you have soe dearly bought."¹ In due course the Massachusetts commissioners, Hawthorne, Leveret and Bartholomew, arrived in Kittery and there ensued further paper warfare. Once again the Massachusetts promise was repeated that the inhabitants of Maine "shall freely & quietly possess & enjoy all the Lands goods, & chattles apprtaining two, & possessed by any [or] every of them";² and once again Godfrey, together with his colleagues Richard Leader, Nicholas Shapleigh, Thomas Withers and Edward Rishworth, affirmed the independence of Maine and rehearsed the great sacrifices made by the patentees over a twenty year period, £35,000 having been spent by them.³

petition's failure are not apparent from existing records, but it may be suspected that they were less dramatic than Banks suggested: possibly bureaucratic inertia, or the simple inability of the Council of State to find time during a period of crisis to deal with the problems of small settlements on the New England coast.

¹York Deeds, I, Part I, f. 21.

²MCR, III, f. 183.

³Ibid., f. 184.

Neither side having given way, the commissioners returned whence they came and the situation was one of temporary stalemate, with the promise of further Massachusetts action to come. On the same day, 9 July, Godfrey wrote again to Rawson to restate his case. He argued against certain of the technical grounds of the Massachusetts claim and went on in defiant vein to refer to its "pretended Jurisdiction over our persons & lands not appropriated as you say: They are appropriated to us, & must not soe easily be parted with."¹ Here again the reference to landed property was quite explicit. This argument was repeated in a further petition to the Council of State, signed by Godfrey on 6 November 1652 in the name of the Maine General Court. The petition again emphasised the province's loyalty to Parliament, again recited and rejected the Massachusetts claim, and asked for an audience for "our Agent Mr Richard Leader."²

Despite this resistance, however, Maine eventually submitted to the authority of Massachusetts. The ease and speed of the submission contrasts with the

¹Ibid., ff. 185-86.

²Printed as an appendix to Charles Edward Banks, "Edward Godfrey: His Life, Letters and Public Services, 1584-1664," in Maine Historical Society Collections, Vol. IX (Portland, 1887), pp. 342-44.

previous opposition of the patentees and gives further evidence of division within Maine, in that the bulk of the inhabitants clearly preferred Massachusetts rule, with its prospect of the release of land from the grip of the patentees. The Massachusetts commissioners of November, Bradstreet, Symons, Wiggin and Pendleton, held a court at Kittery on the 16th of that month and took the submission of the town.¹ On the 22nd, they took the submission of Agamenticus--"onely mr Godfrey did forbear untill the vote was past by the Rest and then Imediately he did by word & vote expresse his Consent also"--and renamed it York, the whole Province of Maine being redesignated the county of Yorkshire.²

In May of the following year, petitions were sent to the General Court at Boston from two prominent inhabitants of Wells, one of them being in the name of the town as a whole, asking that Massachusetts jurisdiction be extended to that town.³ Accordingly, commissioners took the submission of the town in July

¹MCR, III, ff. 189-90.

²Ibid., ff. 206-07. See also Map 8.

³From Henry Boade and Thomas Wheelwright. MCR, III, ff. 211, 213.

1653, along with those of Cape Porpoise and Saco.¹ In the statement of the General Court ratifying the return of these commissioners, George Cleeve was marked out especially as a man not to be obeyed;² this indication that Massachusetts regarded him as a formidable opponent is borne out by the delay which preceded the annexation of the remaining Lygonia settlements. Although the General Court informed Cleeve by letter in 1653 that it intended to assume jurisdiction throughout Lygonia,³ it was not until 1658 that this was successfully done. In July of that year, Massachusetts commissioners received the submissions of Black Point and Blue Point, henceforth to be known as Scarborough, and Spurwink and Casco, henceforth to be known as Falmouth; among those submitting was George Cleeve.⁴ This completed the annexation of the entire settled area of Gorges's Province of Maine.

¹Ibid., ff. 218-32.

²Ibid., f. 233.

³Ibid., f. 234.

⁴Ibid., ff. 246-47. See also William Scott Southgate, "History of Scarborough," in Maine Historical Society Collections, Vol. III (Portland, 1853), p. 44. See also Map 8.

Maine under Massachusetts

The underlying reasons which prompted the General Court of Massachusetts to move to annex Maine are not fully apparent from surviving records. The stated motive of controlling the strategic value of the Piscataqua river was no doubt a powerful one, especially in the light of possible pressure from Indians, French or Dutch. This was emphasised by the Massachusetts commissioners of November 1652, whose purported ends were "to advance the glory of god & the mutuall strengthening of the English against any enemies that may else more easily make a pray of us."¹ That this was a concern also of the Maine inhabitants is shown by a petition the following year of the towns on the Piscataqua river, requesting the General Court to fortify the river in order to secure it against any possible foreign invasion;² self-defence was inevitably an important matter to the small and vulnerable Maine settlements.

The strategic explanation does not, however, wholly account for the efforts made by Massachusetts to extend its authority as far north as Casco Bay, and it may well be that the natural resources of Maine were

¹MCR, III, ff. 194-205.

²Ibid, f. 212.

powerful inducements. Maine, for example, was rich in salt marshes, which were of great importance for grazing cattle; it may be also that the decline of fur-bearing animals in Massachusetts encouraged men to look northward for a revival of the fur trade. The lumber trade in the forests north of the Piscataqua river may have been regarded as another source of potential prosperity for immigrants from Massachusetts. It may also be that the General Court felt it advantageous to exert political authority over an area which was rapidly coming to be dominated economically by Boston.¹ Informed in 1641 that Trelawny had some thought of selling his patent, Winter, while holding it to be "the best plantation in the land," believed that "this country will hardly afford a Chapman [i.e. a buyer] for yt, except the gentell men in the Bay [Massachusetts] will Joine together to buy yt."² By 1664 Ferdinando Gorges, the grandson of Sir Ferdinando, was referring to "the great Inconveniency they [the inhabitants of Maine] are at by being forced to carry their goods to the Bay of Boston & there also to buy at Second or Third Hand all such goods of [those] parts as

¹See Bernard Bailyn, The New England Merchants in the Seventeenth Century (Cambridge, Mass., 1955), p. 95.

²Trelawny Papers, p. 284.

are necessary for them...."¹ It is certain that Massachusetts was in every way more powerful than the Province of Maine, and it may be that the tendency of a larger and more powerful colony to absorb a smaller one to some degree accounts in itself for the annexation.

Clearly, however, the General Court was anxious that the annexation should be carried through with the minimum of upheaval. It has been noted in the previous section that prior to the submissions of Kittery and Agamenticus the Massachusetts authorities were at great pains to stress that they had no intention of depriving any man of his estates or liberties. Immediately following the submission of Agamenticus, Edward Godfrey invited the Massachusetts commissioners to underwrite a statement reciting his services as "ever a great furderer for propagating and popelating the Country in general to his great charge," and confirming his lands in detail according to his patent from the Council for New England.² In their reply, the commissioners, while refusing to endorse the statement since they had no way of ascertaining its accuracy, "thought meet to expres our desires that neither mr Godfrey nor any other may be

¹PCR, I, 206.

²MCR, III, ff. 192-93.

injured nor suffer any damag by reson of his Change of Goverement."¹

The commissioners' goodwill was further shown in their nomination of Godfrey, along with Edward Rishworth and Nicholas Shapleigh from among the other former Maine magistrates, to serve on the bench of the county of Yorkshire.² At the next three county courts all three officiated,³ and Rishworth and Shapleigh continued to make regular appearances until 1661, joined from 1656 by another former Maine justice, Abraham Preble.⁴ Henry Jocelyn and Robert Jordan, former officials of the Province of Lygonia, both officiated at courts in 1659 and 1661,⁵ and George Cleeve was also appointed a magistrate,⁶ although he is not known to have been active in that capacity.

¹Ibid.

²Ibid., ff. 206-07.

³Charles Thornton Libby, ed., Province and Court Records of Maine, Vol. II (Portland, 1931), pp. 11, 19, 25. (Hereinafter cited as "PCR, II.")

⁴Ibid., pp. 33, 47, 55, 61, 72, 88, 97, 361, 364, 366, 369, 371.

⁵Ibid., pp. 361, 369.

⁶See Shurtleff, Records, IV(i), 360.

The grants of liberties to the various towns established by Massachusetts in the newly-created county of Yorkshire give further evidence of a desire to conciliate the former rulers of Maine, in that property rights were to be firmly upheld unless otherwise determined by due course of law.¹ It is interesting to note that no religious qualification was stipulated for taking the oath of freemen, which in Massachusetts itself was usually confined to church members; the non-enforcement of this in Maine was one obvious concession to Maine as a separate society.²

The transference of authority, then, from the magistrates of the Province of Maine to the appointees of the General Court of Massachusetts was, on the surface, accomplished smoothly and with surprisingly little rancour. Subsequent events, though, were to show that the matter was not so simple. It has been noted that throughout the controversies leading up to the annexation of Kittery and York in 1652, the Maine magistrates were at great pains to defend the status quo of landed property, and that the first action of Edward Godfrey

¹MCR, III, ff. 194-205.

²See Moody, "Maine Frontier," pp. 84-85, for a fuller account of the terms of the submission.

after submitting was an attempt to have his lands confirmed in writing. This suggests that the patentee-magistrates, and especially Godfrey, were fearful of losing their estates; and in Godfrey's case the fears were soon shown to be well grounded.

The most important factor in the easy success of Massachusetts in absorbing Maine was popular support¹ and the chief reward for this support was the introduction of Massachusetts land customs. As has been noted,² the towns of Massachusetts, rather than seeking profit from their land, granted it out without encumbrance, each settler receiving a portion. When, therefore, the towns of the county of Yorkshire were granted "the priviledges of a Towne as others of the Jurisdiccon have & doe enjoy,"³ this implied power to allocate the land within the town's boundaries, either directly through town meetings, or through selectmen, officials elected by the town. No matter how much it might be protested that no man was to be deprived of his property, the fact was that there now existed in Maine two land systems, the old proprietary system of patents, and that of the town governments. The

¹See PCR, II, Preface, pp. xxxiff.

²Above, pp. 46-47.

³MCR, III, ff. 194-205.

two systems did not necessarily conflict in every particular; but it was inevitable that in places there should be confusion and conflict.

In Kittery, such confusion seems to have been kept to a minimum. The two largest landowners in the town, Nicholas Shapleigh and Francis Champernowne, were apparently little affected by the change, perhaps because of the availability of land elsewhere in the town.¹ Champernowne eventually died in possession of the island which formed the bulk of his estate in Kittery, and after having received substantial town grants from both Kittery and Portsmouth, New Hampshire.² It should be noted that, although there is no original record of its incorporation, Kittery had since 1648 been granting land to its inhabitants on the Massachusetts pattern, and that Nicholas Shapleigh had been among the first selectmen appointed in that year.³

Here, therefore, there was clearly little conflict, with one exception which is difficult to

¹Byron Fairchild, Messrs William Pepperrell: Merchants at Piscataqua (Ithaca, N.Y., 1954), p. 7.

²Charles Wesley Tuttle, Captain Francis Champernowne (Boston, 1889), pp. 110, 121, 335-37.

³Kittery Town Records, I, 1-3.

evaluate. Richard Leader, as has been mentioned,¹ had settled in Kittery in 1654 to set up a saw mill. He had quickly become a magistrate and had been chosen to go to London as the agent of the Maine government in November 1652. In December of that year, a few weeks after the submission to Massachusetts, twenty-two inhabitants of Kittery (including twenty of the forty-three who had signed the submission, but not including Leader, Shapleigh or Withers, the three former Maine magistrates who had submitted at Kittery) petitioned Parliament, accusing Leader of having "intruded himself amongst us by such as had no Just power to dispose of our lands" and "deprived some of the inhabitants of their just rights and possetions." Leader was alleged to be seeking further power over the town; the inhabitants desired for ever to remain under the government of Massachusetts.²

The difficulty in interpreting this dispute is that Leader's grant of land was apparently from the town itself, dated 16 September 1651,³ although it was never recorded in the town book; whether this omission signifies that the deed was invalid in the view of the

¹Above, p. 34.

²MCR, III, ff. 208-09.

³York Deeds, I, Part I, f. 162.

town is impossible to determine with certainty. The dispute is an example, however, of the use of the Massachusetts annexation by the inhabitants of Kittery for protection of the town lands against a man who, at least by political association, was identified with the patentee-magistrates. It would seem that the matter was eventually resolved, as in August 1653 Leader was granted land in Kittery for an annual rental of L15 and later received other town grants.¹

The Isles of Shoals, a cluster of small islands a few miles from the mouth of the Piscataqua river, which had long been used as a base for fishing,² were not in 1652 given the privileges of a town, though brought within Massachusetts jurisdiction,³ and petitioned in May 1653 for such privileges.⁴ The petition was not wholly granted, though powers were granted for the

¹Kittery Town Records, I, 5ff.

²For an account of the early history of the Isles of Shoals, see the earlier chapters of John Scribner Jenness, The Isles of Shoals (New York, 1873.) See also Map 2.

³MCR, III, ff. 194-205.

⁴Ibid., ff. 214-15.

hearing of minor judicial cases.¹ Though supporting a large transient population, the Isles of Shoals were for all practical purposes only tenuously linked to the government of Maine;² they will not, therefore, be extensively treated in this study. Half of the islands had originally been attached to New Hampshire and they reverted to that colony in 1679, at which time the Maine half became virtually depopulated.³

York, the town so renamed in 1652 by the Massachusetts commissioners, was the scene of a dispute between the inhabitants and Edward Godfrey, the clearest case of conflict between town and patentee. The Massachusetts land allocation system was apparently entirely new to York⁴ and the town was not long in beginning to exercise its new powers: on 8 December 1652 a town meeting made nine grants for house-lots of ten

¹Shurtleff, Records, IV(i), 135-36. Jenness asserts that the islands in 1659 became a township. Jenness, Isles of Shoals, pp. 93-94. His reference to the Massachusetts records, however, seems to contradict this directly. Shurtleff, Records, IV(i), 375.

²Clark, Eastern Frontier, p. 29.

³Jenness, Isles of Shoals, pp. 93-94.

⁴Office of the Town Clerk, York, Maine, York Town Records, Vol. I, p. 7.

acres each;¹ on 10 January following five further grants were made, totalling 126 acres.² Further grants were made by town meetings in March and June, and in early July of 1653 came the first batch of grants by the selectmen. Between the 2nd and the 5th of that month, six grants were made of upland, totalling 70 acres, one grant of $\frac{3}{4}$ acre of meadow, and seventeen grants of marshland, totalling 28 $\frac{3}{4}$ acres.³

That these grants infringed on Godfrey's property is made clear by a petition from him which was considered by the Massachusetts General Court on 30 October 1654. He complained that "the Inhabitation have binne soe Bould as amongst them selves to share and devid these lottes & pportions of land as ware soe long time sence allotted being not proportionable & Considerable to our great Charge"; he asked that "his Cause may be heard & Judicated by this Ho. Court." The petition was endorsed to the effect that it should be heard by the whole court, and on 2 November the magistrates at Boston ordered the appointment of a commission to look into the question.⁴

¹Ibid., p. 8.

²Ibid., pp. 8-9.

³Ibid., pp. 9-15.

⁴MCR, III, f. 235.

The return of this commission was dated 20 April 1655 and favoured Godfrey's claims, even to the extent of ordering him to be reimbursed at the town's expense for his expenditures in attending their hearing.¹ In addition to confirming large tracts of land to Godfrey, the commission confirmed certain grants which Godfrey had made to inhabitants of York. Although the commission's report did not specify the dates of these grants, those which dated from before 1652 no doubt included provisions for rents or services in return. Of the grant, for example, of 30 acres to Edward Wanton on 13 November 1651, 20 acres were to be recompensed by two days' labour, the remaining 10 acres by one day's labour;² the grant of 50 acres to William Ellingham and Hugh Gale on 25 June 1652 required the payment of "fivety peece or the valew thereof p. Ano," payment to begin after seven years.³ Two deeds made by Godfrey after 1652, both on 7 July 1654--of 40 acres each to Richard Burgess and Henry Norton--were made without obligation.⁴ It would

¹Ibid., f. 238.

²Ibid. Also York Deeds, I, Part I, f. 64, and Part II, f. 13.

³MCR, III, f. 238. Also York Deeds, I, Part I, f. 20.

⁴York Deeds, I, Part I, ff. 117, 125.

clearly have been impossible at this time for Godfrey to have put obligations on the land, and it may be that these two grants were a vain attempt to placate the inhabitants of York; but it does seem that before 1652 it was Godfrey's practice to require rents or services in return for land tenure. This is borne out not only by the grants mentioned above, but by others not included in the list made up by the commissioners of 1654: a grant of 12 acres to Thomas Waye on 16 February 1650, for example, involved the payment of two days' labour,¹ and a grant to Robert Heatherstill on 13 November 1651 required one day's labour.²

It is a reasonable surmise, then, that most of the grants made by Godfrey and recommended by the commission of 1654 for confirmation "according to his agreement with them" were made in return for services, and it is not surprising that such a complete endorsement of Godfrey's complaints gave rise to a counter-petition from the inhabitants of York. Contesting the fairness of the hearing, they requested the General Court to consider "how little safety must follow the Confirming of unknown grants, how great praejudice must redowne to the well

¹Ibid., f. 13.

²Ibid., Part II, f. 13.

being of a Towne...." The petition carried twenty-three signatures,¹ including all the seven selectmen responsible for the town grants mentioned above.² This figure of twenty-three compares unevenly with the fifty names listed by the Massachusetts commissioners of 1652 in their "imperfect list" of the inhabitants of York,³ but it may be that the twenty-three names were not meant to be comprehensive; they included half of the eighteen known recipients of Godfrey's own grants.

The petition succeeded insofar as the General Court on 26 May 1655 ordered the commissioners to review the case.⁴ The exact nature of the final decision has not survived on record. If, however, Godfrey lost the case when it was reviewed, this was no doubt disastrous for his personal solvency; the claim in his petition of 1654 that his "Rentes & acknowledgements [were] detayned having not marsh left him to keep 5 head of Cattell"⁵ is

¹MCR, III, f. 237.

²Peter Weare, Nicholas Davis, Robert Knight, John Allcock, Richard Banks, Arthur Bragdon and William Hilton. York Town Records, I, 9-15.

³MCR, III, f. 193.

⁴Ibid., ff. 239-40.

⁵Ibid., f. 235.

perfectly consonant with the potential results of the actions of the inhabitants of York. It is probable that this was indeed what prompted Godfrey to return to England in 1655: in a petition of 1659 he mentioned having been in England four years,¹ going on to complain of his "extreame poverty." In an appeal to "His Highnes" (presumably either Oliver or Richard Cromwell) which was probably written about the same time, Godfrey specifically stated that he had been "forced to leave" New England by the taking away from him of "the greatest part of my lands Marshes and all priviledges"; his whole family was "utterly ruined."² The fact that by 5 October 1661 he was in Ludgate, the debtors' prison,³ indicates that this was not merely a tactical cry of hardship. This is further confirmed by a report presented to Charles II in 1662 by certain doctors of laws appointed to look into New England affairs, in which they described how Godfrey "hath been utterly outed and

¹Printed as an appendix to Banks, "Godfrey," pp. 346-50. The date can be conjectured from the endorsement on the petition to the effect that "This was after Richard Cromwell was out."

²Ibid., pp. 364-65.

³As appears from a letter to the younger John Winthrop. Ibid., pp. 326-27.

dispossessed of his lands and estate" as a result of the annexation.¹

Though Godfrey's case is the clearest and best documented example of open conflict between inhabitants of Maine and the old patentees, it seems that the years 1658-60 saw great corresponding confusion in the north-eastern parts. As late as September 1657, George Cleeve was leasing land in the name of the Province of Lygonia, as is shown by a deed made out to one "Abraham Joslin mariner."² Absorption of Lygonia by Massachusetts followed in 1658 and on 16 October 1660 commissioners appointed by the Massachusetts General Court, to investigate a complaint by Cleeve, recommended that "Townsmen of Falmouth be ordered not to dispose of any lands which are within the Boundaries of the Patents or Grants of the said Mr George Cleves untill this court take further Order therein."³ Unfortunately the lack of surviving early town records from Falmouth precludes precise statement as to the details of the dispute. The

¹PRO, COL/16, No. 18. See also Moody, "Maine Frontier," p. 90.

²Maine Historical Society Archives, Scarborough Papers, principally from the Maybery estate, 1640-1818, Indenture, 3 September 1657.

³Massachusetts State Archives, Massachusetts Colonial Records, Vol. VI, f. 463.

situation was complicated by the revival by Robert Jordan, heir of John Winter, of the old Cleeve-Trelawny dispute, and it is clear that a section of the inhabitants of Falmouth were more fearful of Jordan than of Cleeve: a petition of 30 May 1660, signed by nine inhabitants, complained that "iff that mr Jordanes paten and claime hould with mr Cleves the towne is over trowen and noe man shall in Joy what he hath labered uppon and possessed ounley it be uppon ther teremes and at their Wiles and pleasures but we hope that we shall injoy our preveleges and toune a fares with the rest of the townes in the Dueredicon."¹

At Falmouth, therefore, the evidence, although scanty, indicates confusion and tension caused by conflict between the town organisation and both of the rival patentees. At Saco, the situation was more tranquil. Here the town organisation had been operating since 1653, though its grants of land had been on a much smaller scale than those of York and Kittery.² When in 1658 one William Phillips of Boston bought the old Vines patent from Beex & Co.,³ which covered a considerable

¹MCR, III, f. 248.

²Saco Town Records, I, 1-27.

³See Moody, "Maine Frontier," p. 101, note 77.

part of the town of Saco, the inhabitants confined their efforts to the retention of their former leases under the patent, remaining willing to pay services in return.¹ Although this did cause some litigation,² the matter was soon resolved and Phillips became a frequently-elected town officer.³

The effects of the Massachusetts annexation upon Maine were not, therefore, uniform, and the amount of conflict caused varied according to locality. The conflict chiefly came not from the annexation itself but from the social forces which it unleashed. The freeing of land from the grip of the patentees, which one historian has called "a revolution,"⁴ was of material benefit to very many of the inhabitants of Maine, and yet in 1656 Edward Rishworth had great difficulty in finding signatories for a petition to Oliver Cromwell in favour of the annexation:⁵ it was the land distributions which involved popular concern, rather than government by

¹Saco Town Records, I, 27-28.

²Ibid., pp. 32-33, 35.

³Ibid., pp. 38ff.

⁴Moody, "Maine Frontier," p. 91.

⁵MCR, III, f. 243.

Massachusetts per se. Inevitably, though, the grievances of the former patentees were directed largely against Massachusetts itself, as the instrument of the downfall of the government and the land system which they had headed.

Already in the last years of the Protectorate, such grievances were being actively promoted in London. In 1659 a petition was submitted to the Parliament of the Commonwealth in the names of "Edward Godfrey, Oliver Godfrey [the son of Edward], Ferdinand Gorges, Robert Nason, and Edward Rigby, Henry Gardner, and sundry others of patentees and inhabitants of the Provinces of Mayne and Lygonia in New England." Complaining of the "loss of nigh L100,000" in the settlement of New England, the petitioners recalled their quiet and peaceful demeanour "by derivation from England, and power of our priviledges by Pattents."¹ After May 1660, the potential source of redress was the king.

¹Printed as an appendix to Banks, "Godfrey," p. 346.

CHAPTER III

ENGLAND, NEW ENGLAND AND MAINE, 1660-64

Anti-Massachusetts propaganda in London

The Restoration of Charles II brought a renewal of complaints against Massachusetts, in both vigour and volume. It will be the purpose of this chapter to trace the continued development of the dispute over Maine in its context as an aspect of that growing tension between the royal government and New England which led to the dispatch of the royal commission in 1664.

Edward Godfrey was quick to enter the post-Restoration fray, with a letter to Secretary of State Nicholas in which he emphasised the damage done to the king's interests by the continued rule of Massachusetts over Maine. Massachusetts he characterised as "Gente inemica to loyalty in practice to bee a free state," while portraying himself as "an object of pittty ... for all my services for my Cuntery like to perish for want...."¹ Also written in 1660 was "New England's

¹PRO, COL/15, No. 20.

Vindication," a tract written under the name of Henry Gardiner, but possibly written in reality by Godfrey,¹ which elaborated on the same grievances; indeed one of the writer's main sources for the tract was "the Relation of an Old Gentleman," named as Mr Godfrey, "well known to have merited of his own Countrey, in other parts, here, and in New-England 27 years in person."² The device used to emphasise the injustices suffered by the original patentees of Maine was to portray the actions of Massachusetts as fundamentally contrary to the interests of the king. "There is some good Gentlemen yet [in Massachusetts]," the tract affirmed, "but they have no power, the Country acts as a Free State." When "the Ministers and Deputies enter on men's Estates and Lands, as they have done, as I shall shew, and subjugate all other Pattents and make them Town-ships . . .," this could lead to such a concentration of power that in twenty years Massachusetts might become "invincible States of America."³ Gardiner, or Godfrey, outlined some "Queries"

¹Henry Gardiner, New England's Vindication, ed. by Charles Edward Banks (Portland, 1884.) Banks believed that the tract had in reality been written by Godfrey. See Introduction, pp. 8-12.

²Gardiner, New England's Vindication, p. 13.

³Ibid., pp. 35-36.

which might be raised against the actions of the Massachusetts colony, "as for instance three or four, denying Appeals, Printing, Coining, and that his Majesties Coyne from 12d to 9d, the Jurisdiction of Admiralty, English Collors."¹

The attempt, therefore, was to persuade the royal government that its interests were the same as those of the dispossessed Maine patentees. Other enemies of Massachusetts were concurrently making similar efforts. Samuel Maverick, for example, was a long-standing resident of Massachusetts Bay who had clashed in the past with the authorities of that colony over the question of civil and religious liberties for those who were not church members.² He was also a former partner of Godfrey in a patent at Agamenticus, now York.³ Maverick was in England at the time of the Restoration and commenced a correspondence with the Earl of Clarendon which was to bring him considerable influence in the formation of royal policy regarding New England. Linking the necessity for firm regulation of the Massachusetts colony with that of

¹Ibid., pp. 33-34.

²Andrews, Colonial Period, I, 340-41. Osgood, American Colonies in Seventeenth Century, I, 257-58.

³Maverick, "Briefe Description," f. 398.

overthrowing the Dutch rule of New Netherland,¹ Maverick urged the sending of a royal governor or commission to accomplish both purposes. In Massachusetts, he believed, the king's principal concerns should include the extension of full civil and political liberties to those who were not church members, the enforcement of the right of appeals from New England to England, and the direct assumption of control over the Massachusetts militia. These arguments were reinforced by the relation of numerous incidents which indicated an anti-monarchic disposition in Massachusetts.²

The restored royal government, therefore, was quickly acquainted with the grievances of those who felt themselves oppressed by the power of Massachusetts. Such assertions of usurpation of subjects' rights and property clearly demanded investigation, and this was promptly put in hand under the Council for Foreign Plantations commissioned on 1 December 1660; it has been noted³ that the council's prime initial function was to gather

¹See Map 9.

²The correspondence is preserved among the Clarendon MSS in the Bodleian Library, Oxford. See especially Vol. 74, ff. 238-56, and Vol. 102, f. 5d-g. See also Maverick, "Briefe Description," ff. 403-05.

³Above, pp. 22-23.

information and draw up reports on the state of affairs in each group of colonies.

Early in 1661 the council was presented with a petition of "divers persons who have been sufferers in New England,"¹ in which Edward Godfrey joined with a number of other "sufferers"; notable among these was John Gifford, who in 1654 had been imprisoned in Massachusetts after being successfully sued for £13,000 of which it was alleged he had defrauded the ironworks at Lynn.² In Massachusetts, asserted the petition, "multitudes of the King's subjects have been most unjustly and grievously oppressed contrary to their own laws and the laws of England, imprisoned, fined, fettered, whipt, and further punished by cutting off their ears, branding the face, their estates seized and themselves banished the country." The authorities of the colony were assuming the privileges of a "Free state," to make or break laws at pleasure. The petitioners asked relief of their oppressions and the appointment of a "Governor in general" in New England.

On 19 February, Godfrey weighed in once again, directing to the council an "Information of a Committee

¹PRO, COL/15, No. 31, p. 1.

²See Osgood, American Colonies in Seventeenth Century, III, 158.

sitting at Coopers Hall on behalfe of the Massachusetts."¹ Though lacking in coherence to the point of near-unintelligibility, the "Information" once again accused Massachusetts of being a "free Stat" and suggested that the influence of Hugh Peters, a regicide whose name was therefore odious to the royal government, was partially responsible for this. Godfrey again rehearsed his own grievances before giving the names of the committee alleged to be meeting in London on behalf of the Massachusetts colony; in closing the piece he recalled "Great mulcts and fines uppon thos of the Church of England [in New England] onely for petitioning to have the liberty of free born Englishmen...."

The Council for Foreign Plantations resolved on 4 March 1661 to begin its detailed consideration of New England the next week, and, "being informed that one Captaine Bredon, Mr Godfrey, Mr Gifford and Mr Maverick were able to informe them thereof," it instructed these four to attend with "such papers and writings as together with their own particular knowledge may give information of the present State condition and government of the several Colonies commonly known by the name of New

¹PRO, COL/15, No. 19.

England."¹ The following week, Breedon, Godfrey and Gifford gave evidence to the council. Breedon, a disaffected resident of Boston, submitted a written brief in which he recommended the taking of "a speedy Course ... for settling & Establishing this Cuntry in dew obedience & subjection to his Majesty." His most damaging accusations were that Massachusetts was attempting to be a free state and that it had knowingly harboured the regicides Whalley and Goffe; he also discussed the restriction of office in Massachusetts to freemen and suggested that the many non-freemen there would welcome the sending of a royal governor.²

Breedon, Godfrey and Gifford were again requested to attend the council on 14 March, as also were Maverick and three others, including John Leveret,³ who had been the agent of Massachusetts under the Protectorate. For this meeting Godfrey prepared a "Letter and Information," which he sent to Thomas Povey. As well as repeating his own complaints and his allegations that "Boston would be a free stat," he made some specific remarks about

¹PRO, COL/14, No. 59, p. 22.

²PRO, COL/15, No. 30.

³PRO, COL/14, No. 59, p. 22.

Leveret's deliberate inattention to his just cause.¹ Procrastination continued to be Leveret's tactic when summoned before the council. At the meeting on the 14th he was ordered to attend again on the 18th and to bring "the copy of the patent for New England which he acknowledges to have."² In the end, though, the council reported that it could not obtain any information from Leveret, as he claimed that his agency had ceased and that he had no instructions from Massachusetts. The council reported its suspicion that Massachusetts had deliberately withdrawn all means for its affairs to be judged or disposed of in England;³ such a policy of delay and evasion was, of course, quite in line with the tactics successfully used by the colony in its struggle with Laud before the Civil War.

In view of the paucity of information from Massachusetts, the council ordered on 18 March the drawing up of a letter to be presented to the king for transmission to the colony.⁴ The draft of this letter was entered in

¹PRO, C01/15, No. 32.

²PRO, C01/14, No. 59, p. 23.

³PRO, C01/15, No. 42.

⁴PRO, C01/14, No. 59, p. 23.

the council's minutes for 1 April. After affirming the king's great concern for the welfare of his colonies, the letter informed the Massachusetts colony of complaints that it had taken upon itself recently "to extend and exercise a Jurisdiction beyond the limits and Authorities which are originally granted unto you and contrary to the tenor & meaning thereof," so that certain men "are dispossessed of their freeholds & other parts of their estates as being over-ruled by power." The colony was advised both to send a written reply and to appoint a representative in London.¹

Meanwhile, Ferdinando Gorges, claimant to his grandfather's Province of Maine, was also active in pursuit of his interests. His petition of 4 April 1661, referred by the king to the Council for Foreign Plantations, recalled the vital and costly role played by his grandfather in the discovery and settlement of New England. Massachusetts had taken advantage of the Civil War in England to encroach upon his property; others, "who at most were tenants," were laying claim to the land; whereby his patent would be rendered unprofitable unless he obtained redress from the king.² Receipt of

¹Ibid., p. 24.

²PRO, COL/15, No. 31, pp. 7-8.

the petition was acknowledged by the council on 29 April¹ and its consideration deferred until 13 May, when it was put in the hands of a committee of the council.²

In late May, however, the New England question was taken out of the hands of the Council for Foreign Plantations. The council's report, submitted to the king in mid-May along with the proposed letter to Massachusetts,³ was definite that the Massachusetts government "hath in these late times of general disorder strayed into many enormities, and hath invaded the rights of their neighbours." No communications, though, had been obtained from Massachusetts, making well-informed policy formation impossible. On 17 May an Order in Council created a committee of the Privy Council "touching the Settlement of the Government of New England." The membership of the twelve man committee underscores the importance which the Privy Council at that time attached to the issue: it consisted of the Lord Chancellor, the Lord Treasurer, the Lord Privy Seal, the Duke of Albemarle, the Duke of Ormond, the Lord Chamberlain, the Earl of Anglesey, the Lord Viscount Say

¹PRO, COL/14, No. 59, p. 28.

²Ibid., p. 29.

³Ibid.

and Seale, Lord Hollis, Lord Cornwallis, Sir Edward Nicholas and Sir William Morrice. They or any four of them were made responsible for drawing up proclamations and orders for the king's signature for the government of New England, and afterwards for meeting occasionally "untill they have perfected that Affairs."¹

Three days later, on the 20th, it was reported to the Council for Foreign Plantations by a Mr Froude that the Privy Council had taken New England into its consideration.² Though this minute clearly envisaged that the Council for Foreign Plantations would continue to deliberate on Gorges's petition and also on the plight of Quakers in Massachusetts, the council's minute book reveals no further substantive consideration of New England affairs. Except for one occasion in the following November when Froude was ordered to attend the Secretary of State for the purpose of informing the Council for Foreign Plantations on an address made by Massachusetts to the king,³ the council was from that time on concerned chiefly with the West Indies and not at all with New England.

¹PRO, CO5/903, pp. 1-3.

²PRO, CO1/14, No. 59, p. 30.

³Ibid., p. 39.

For the remainder of 1661, little action was taken on the New England question, save the issue of an order in September that convicted Quakers should be sent from Massachusetts to England for trial.¹ Edward Godfrey, though now in debtors' prison, continued to prosecute his cause. In October he wrote to the younger John Winthrop, the Governor of Connecticut, who was at that time in London, complaining of his "utter ruen." He requested Winthrop "to give me a vissett in this place & desyer Mr Sa: Mavericke to doe the like; it may be worth this labor."²

Whether Godfrey and Maverick actually met is unknown. No more record survives of Godfrey's cause until February 1662, when a report was presented to the king by a number of doctors of laws commissioned to investigate petitions by Godfrey and by Robert Mason, who was pressing a proprietary claim to New Hampshire and was himself one of the lawyers commissioned. The report strongly favoured both petitioners. It recalled how Godfrey had been in undisturbed possession of great tracts of land in Maine and had discharged the office of

¹Osgood, American Colonies in Seventeenth Century, I, 286.

²Printed as an appendix to Banks, "Godfrey," pp. 358-59.

Governor "with much reputation," only to be usurped by Massachusetts. Godfrey "hath been utterly outed & dispossessed of his lands and estate in that country." Turning to the more general implications, the report feared that the Massachusetts colony had for some years "endeavoured to model themselves into a free state," issuing writs in its own name, imposing oaths which contravened the oath of allegiance, minting its own coins and disallowing appeals to England. The report confined itself to the relaying of information, refraining from making recommendations "in a business of so high importance."¹ Its underlying opinion, however, was quite clear and strongly opposed to Massachusetts.

Since the Restoration, then, the royal government had been subject to the unopposed pressure of the enemies of Massachusetts. In this as in all the other aspects of the Restoration settlement, however, the question of change and continuity was a complex one. It was essential to the king in colonial matters that his authority should be respected insofar as he chose to exercise it, and an ill-advised attempt to use excessive force might be as disastrous as neglect. When, therefore, the Massachusetts General Court decided at length to send

¹PRO, COL/16, No. 18.

agents to London,¹ their arrival in the spring of 1662 was met with a cordial welcome. When the two agents, Simon Bradstreet and John Norton, returned to Boston they bore with them a letter from the king to the Governor of Massachusetts, dated 28 June 1662.

This letter may be regarded as the first ranging shot of the battle which was to develop between Charles II and Massachusetts. In gracious and indeed friendly terms, the king represented the mission of Bradstreet and Norton as very acceptable to him, and professed himself well satisfied with the expressions of loyalty, duty and good affection which they had brought with them. He promised his protection to the colony and confirmed its charter. The fact that the colony may in some respects have departed from that charter during the Interregnum the king imputed "rather to the iniquity of that time" than to any evil intention, and he proclaimed a free pardon for all offences committed during the late troubles, excepting only those attainted of high treason.

Thus far the king, in line with his expressed desire to build confidence and unity, had emphasised his goodwill. He then got down to terms. His favour would depend upon the repeal of all laws and ordinances made

¹Shurtleff, Records, IV(ii), 37, 39.

during the late troubles which were contrary and derogatory to royal government. The oath of allegiance was to be duly observed and justice administered in the king's name. Freedom of conscience and worship were to be extended to Anglicans, as indeed were civil liberties: all Protestant freeholders of competent estates were to have the vote, regardless of their church affiliation. These things done, the king's grace and protection were assured.¹

The king, therefore, was attempting to move cautiously. Such caution did not recommend itself to Samuel Maverick, who wrote to Clarendon in the summer of 1662 to report that "I heare Mr Norton and Bradstreete boast much that ... they have obtained what they came for." He implored Clarendon to "Consider from whome they were sent."² Despite the friendly tone of the royal letter, though, the king's requirements of Massachusetts were far-reaching; indeed, they had been taken very largely from a memorandum sent by Maverick to Clarendon at the latter's request shortly before.³ The difference between Maverick's wishes and royal policy at this time

¹PRO, COL/16, No. 66.

²Bodleian Library, Clarendon MSS, 74, ff. 243-44.

³Ibid., ff. 251-52.

was in the means envisaged to enforce the king's demands. While Maverick advocated the immediate sending of royal commissioners to reduce the colonies to obedience,¹ the king for the time being preferred to use his favour as a lure. To this end, the more direct recommendations of the Council for Foreign Plantations, and those of Maverick, were toned down. How long the king's favour would be continued, however, would depend upon the response in Boston.

Renewed conflict in Maine

In the meantime, events had not stood still in New England itself. Ferdinando Gorges, not placing exclusive reliance upon his petition to the king, in May 1661 issued a commission for the government of his Province of Maine. The commission itself has not survived on record, but the result on 27 December was "an agitation att a meeting holden at Wells ... by the Trustees of ffardinando Gorges Esqr according to commission under his hand and Seale...."² The account of this meeting was signed by four trustees: Francis Champernowne, Henry Jocelyn, Nicholas Shapleigh and

¹Ibid.

²PRO, COL/15, No. 96.

Robert Jordan. It is noteworthy that all four were former magistrates of the Province of Maine and large landowners under the proprietary system.¹

The purpose of the meeting at Wells was to make arrangements for the resumption of governmental power by commission from Gorges. The first resolution adopted provided that Charles II was to be proclaimed "throughout the Province of Maine." The meeting then proceeded to the land question: "to the Second Article it is resolved that our diligence and care shall be exercised in searching and enquiring after all such Arrears of Rent as shall be found due from any of the Inhabitants or others within this province according to Charter." The aim, therefore, was not only to reinstate the former government, but to search out ten years' arrears of rent. The meeting resolved further "that Wee will maintaine and defend to the uttermost of our power and best skill all such Rights, Liberties, and priviledges whatsoever properly belonging either to the Lord Proprietor of the Province of Maine, or the freeholders thereof." Civil and military officers were to be chosen by the freeholders and invested with powers to execute their offices. In the meantime Major Shapleigh was empowered

¹See Appendices I, III and IV.

to muster and command the militia in case of any disturbance, taking advice if possible from the other commissioners Jocelyn and Jordan. A general court was to be held at Wells on 25 May 1662, to which each town was permitted to elect a deputy to take part in legislation.¹

On 30 January 1662, warrants were issued by Jocelyn and Jordan, "Commissioners in his Majesty's name and under the authority of Ferdinando Gorges Esq.," for the election of deputies to the general court at Wells and for the production of all land records at that court.²

Numbers of the inhabitants were clearly unwilling to comply with the latter requirement, as the commissioners were necessitated on 11 March to issue a warrant to Nathaniel Masterson, Marshal of the Province of Maine, for the forcible seizure of all public records dating back to 1634. Many records "have been and still are surreptitiously, and clandestinely kept away from their common officers, by which means common Justice and equity cannot be administered, properties nor priviledges preserved & maintained, and anie sence and understanding between Governor and Governed produced...." Among the offenders was Edward Rishworth, Recorder under the

¹PRO, CO1/15, No. 96.

²PRO, CO1/16, No. 11.

Province of Maine and subsequently under Massachusetts, whose papers Masterson reported on 15 May that he had seized.¹

Gorges's commissioners, then, gave every evidence of determination in their efforts to restore proprietary government. Their calling of a general court at Wells in May could not but be seen in Boston as a direct challenge, and the Massachusetts General Court determined to respond. On 17 May it voted a commission to three men, Daniel Dennison, William Hawthorne and Richard Walderne, to proceed to Wells "so as yow be there at or before the 26th of Instant May when a Generall Court is (as this Court is Credibly informed by the Authority of Henry Jocelin Esqr mr Robert Jordan & mr Nicholas Shapleigh summoned to meete together to exercise Government over the good people of that County ...) and to Inquire into the Grounds of such their declinings from the observance of their oathes & duties...."²

On 26 May the rival commissioners met at Wells and commenced a correspondence. The opening exchanges contained statements of the respective positions and challenges to the respective commissions. On the 27th the

¹Ibid., No. 33.

²MCR, III, f. 253.

tone became sharper as the Massachusetts commissioners characterised the "Late proceedings" of their rivals as "Iniurious to the authoritie of that Court [the General Court at Boston], tending to the disturbance of the peace of the Inhabitants of Yorkshire & Contrarie to your solemne engagements...." Jocelyn, Jordan and Shapleigh replied immediately in kind, requiring the Massachusetts commissioners "in his Majesties name to abstaine from unjust molestations of us or the good people of this province."

Gorges's commissioners' moral authority must have been severely injured later that day, however, when the eleven deputies from the Maine towns refused to acknowledge their authority. The deputies resolved, with one contrary vote, "that as our subscriptions & oaths have Ingaged us to the Massachusetts Authoritie wee humblie conceive itt most Agreeable to right reason & the Cuntries saftie to Equesse under the sayd Authoritie untill opportunitie give a seasonable time of triall to the gentlemen of the Massachusetts & your worships of this Cause before his Majestie...." Though hardly an enthusiastic endorsement of Massachusetts rule, the resolution was directly adverse to Gorges and it is not surprising that on the same day, the 27th, Gorges's commissioners castigated it as "destructive and averse to the Liberties

of the freeholders of this province & against the honour properties & rights of our Lord Confirmed unto him by supream Authoritie & Condescended unto by the freeholders of the Province."

In the end, Gorges's commissioners spoke loudly enough to gain at least a stalemate. The two sides met in conference on the 28th and agreed that the next court at York should be kept by Jocelyn and Shapleigh along with Walderne and Robert Pike of Massachusetts; all public records were to be produced at that court. That this was to be only a temporary arrangement was made clear by the specific provision that "this agreement shall nott prejudice the right and Interest of any partie Claming Jurisdiction over the sayd Countie or Province."¹ In early July, Jordan emphasised the continuance of the Gorges claim by issuing a declaration of requirements for the administration of justice in the Province of Maine, including a provision to exclude from the magistracy any non-resident of that Province.²

Nevertheless, the joint court convened as arranged on 1 July and dealt with a substantial number of cases

¹The entire proceedings at Wells on 26-28 May 1662, as recorded by Francis Neale, are in PRO, COL/16, no. 56.

²Ibid., No. 69.

before adjourning until 4 November.¹ In the meantime, on 8 October, the Massachusetts General Court determined to resume full power in Maine by means of a commission to Richard Walderne to go to the adjourned court prepared to administer oaths to judicial commissioners for York County, thus restoring the Massachusetts dominance.² When the court met, it dealt with a handful of cases before Walderne swore in Edward Rishworth and Humphrey Chadbourn as Associates under the Massachusetts authority. Both men had been among the deputies to the Maine general court in the previous May. With that the court was further adjourned until the following June, leaving Jocelyn and Shapleigh to protest "under the Authority of Fardinando Gorges Esq" that Walderne's acts were "Contrary to our former Articles & a Collaterall agreement with our Comissioners at Wells."³

Thus in name at least the power of Massachusetts was restored. The indications are that the attempt to reimpose the proprietary system with all its roots and branches had met with much popular opposition. Even in the body of deputies elected by their own order, Gorges's

¹PCR, II, 113.

²Shurtleff, Records, IV(ii), 69-70.

³PCR, II, 128-29.

commissioners had been able to muster only one vote for the recognition of their authority. In October 1662, moreover, a petition carrying 107 signatures had gone from four Maine towns to the Massachusetts General Court requesting protection from the "pretended power of Esq. Gorges Commissioners," who were threatening "Inextricable & prejudicial Injurys" to the inhabitants.¹ In the absence of precise population figures for the settlements it is difficult to estimate what proportion of the inhabitants were associated with the petition. With the overall population of Maine probably little over one thousand,² it seems likely that the thirty-one signatures from Kittery, thirty from York and twenty-nine from Falmouth represented a majority of the adult males in each respective settlement. The seventeen signatures from Wells indicate more division of opinion there, as is further borne out in a letter of 24 November from George Cleeve to the Massachusetts General Court in which he exemplified Wells as a settlement where it was feared that Massachusetts might not afford protection.³ In general, though, Richard Walderne was probably not

¹Ibid., I, 198-99.

²See Table I.

³MCR, III, ff. 259-60.

seriously mistaken in observing in his report to the General Court in December 1662 that "those that doe sticke Close to the bay ... is almost all...."

Walderne's letter also provides evidence of the chief reason for this support: "if thes distractors [Gorges's commissioners] be let alone it is to be feared will Ruin many in ther Estats...."¹ Successful reinstatement of the proprietary system, with the collection of arrears of rent, was a profound threat to many of the inhabitants of Maine.

Even in the face of popular opposition, however, Gorges's commissioners could do much to make their efforts felt. The year 1662 was the first since the original submission that no Maine deputies went to the Massachusetts General Court.² Similarly, there was a gap in the holding of Associates' Courts, local courts held in Maine under the Massachusetts jurisdiction for summary treatment of minor cases, lasting from 6 November 1661 to 29 September 1663.³ The year 1662 was also the first since

¹Ibid., f. 262.

²Shurtleff, Records, IV(ii), 40-41. A list of all Maine deputies to the General Court between 1653 and 1667 is to be found in Maine Historical Society Archives, Andrew Hawes Collection, Box 3/11.

³PCR, II, 375-76.

1652 that nothing was recorded in the York town book; this gap lasted from 9 October 1661 to 12 October 1663, the latter entry being a single 12-acre grant, after which there was a further gap until 1 October 1665.¹ The town of York was no doubt particularly affected by the uncertainties of the situation, as it was the site of Ferdinando Gorges's original personal grant of land in 1631.² It was also, as has been noted,³ at the centre of controversy over the claims of Edward Godfrey. It would seem, though, that Gorges and Godfrey were no longer acting in harmony: Godfrey was still in Ludgate in April 1663 when he wrote to Thomas Povey complaining that "Gorges grandees have plundered my house in New England."⁴ In February of the following year Godfrey died.⁵

The weapon which could be used by Gorges's commissioners to give force to their claims was fear arising from uncertainty. When certain prominent individuals in a remote and isolated group of settlements

¹York Town Records, I, 26-27.

²Farnham Papers, pp. 159-61.

³Above, pp. 65-71.

⁴PRO, COL/17, No. 17.

⁵Banks, History of York, Maine, I, 239.

claimed power to act in the king's name for the government of the region on the basis of a commission from England, the inhabitants were forced to weigh up the comparative dangers to be feared from either opposition or support: survival, rather than political principle, was what was at stake. Gorges's commissioners had the advantage of being on the spot, while the distance from Boston hampered Massachusetts in its efforts to retain control. As the petition of the four towns noted in October 1662, "some through feeres of there [Gorges's commissioners] Insulting threates, & combineings against your authority: others fearing your Indisposedness to carry on your owne power, are ledd into mistrustful discontents: which has provoked much disorder & alienations amongst us."¹ Walderne, in his report on the adjourned court in November, observed that Nicholas Shapleigh "with his great words puts the pepell into such a feere that they know not what to doe...."² George Cleeve, writing to the General Court on 24 November, accused Jocelyn of spreading rumours that Massachusetts had deserted the Yorkshire settlements, so that the inhabitants "ar put to agret stand fearing that the

¹PCR, I, 198-99.

²MCR, III, f. 262.

Massachusetts Collony doe deale dublie with them...."

Jocelyn had also, Cleeve went on, been spreading rumours of the imminent arrival of "mr Mavarick with four other Comishners in too great friggets to countermand your authority in this your Jurisdiction."¹ Cleeve rightly dismissed this rumour, although less than two years later it would have been substantially accurate.

Gorges's commissioners were able to enforce their authority also by individual example. Daniel Goodwin, for instance, constable of Kittery, was imprisoned on Shapleigh's order in December 1662 for proclaiming a town meeting to publish an order of the Massachusetts General Court.² By such means the commissioners made their presence felt in the Maine settlements. Although there is no evidence that they carried on any realistic government, they were able to ensure that Massachusetts was similarly disenabled.

Their success in this no doubt played a part, together with the king's announcement in April 1663 of his intention to send commissioners to New England, in prompting the Massachusetts authorities to make a conciliatory approach to Gorges in June of that year.

¹Ibid., ff. 259-60.

²Ibid., ff. 261-62.

This was effected through Daniel Gookin, a Boston minister and a prominent member of the General Court, who wrote to Gorges offering "a few considerations touching this affaire...." Reviewing the growth of the conflict, Gookin recalled how "the body of the people" of Maine had "made their earnest application to the jurisdiction of the Bay for protection and government" and had been accepted. These settlements had "remained in a quiet posture for sundry years, but of late they have been interrupted upon pretence of commission from yourself, whereof hath tended much to the disturbance of the peace and good government of that place, and I believe hath brought but little profit to yourself, for the body of the people in conscience to their oath and articles still adhere to the Government of the Bay for justice and protection, and you do not have strength and interest enough to compose and satisfy them." Assuring Gorges that he was writing with his own interests at heart, Gookin urged him to sell his patent to Massachusetts for the good price that colony was prepared to pay, and thus to make an "honourable composition."¹ Gorges's reply, if he made one, is not on record; but he did not accept the offer.

¹PRO, COL/17, No. 57.

This attempt to persuade Gorges to sell out was accompanied in Maine itself by strong action against his commissioners and their supporters. Gookin mentioned in his letter that Jordan was "secured" in order to preserve the public peace. On 27 May Shapleigh had been stripped of his commission as major of the Yorkshire county militia, being replaced by William Phillips of Saco,¹ who had been speaker of the deputies at the Maine general court of one year previous. The General Court which effected Shapleigh's dismissal was attended by three deputies from Maine: Roger Plaisted of Kittery, Edward Rishworth of York and George Cleeve of Falmouth.² All three had been signatories to the petition of the four towns in October. The emergence of Cleeve as a strong supporter of Massachusetts is a new development, but is explicable in terms of his long-standing and continuing dispute with Jordan, about which he had petitioned the General Court as recently as October 1662.³

On 6 June 1663 the General Court commissioned Thomas Danforth, William Hawthorne and Eliazer Lusher to proceed to Yorkshire "to keepe a court for the said

¹Shurtleff, Records, IV(ii), 75-76.

²Ibid., pp. 71-72.

³MCR, III, ff. 255-58.

county." All the inhabitants were ordered to return to their allegiance to Massachusetts and all officers "to attend the faithfull dischargd of their respective places, according to the usuall course to them directed by warrant from Edward Rishworth, the present county recorder...." The determined intent of the General Court to reassert its authority was displayed in a provision that any inhabitant swerving from his lawful obedience was to be tried and sentenced.¹

When the county court met at York on 7 July under Hawthorne and Lusher, assisted by George Munjoy, Humphrey Chadbourn and Rishworth, the result was indeed a series of presentments arising out of the late disturbances. Champernowne, Jocelyn, Jordan and Shapleigh were jointly presented "for Acting against this Authority Wee are under & soe renouncing the authority of the Massatusetts, useing meanes for the subvirting thereof under pretence of a sufficient power from Esqr Gorges to take off the people which is manifest to the contrary." James Wiggin, the officer under Gorges's commissioners who had carried out the arrest of Daniel Goodwin, was presented for this and other offences; these included an occasion when "being asked by Goody Greene whither sayd Wiggin would

¹Shurtleff, Records, IV(ii), 76-77.

carry in a dish of meate to the bay Magistrates, hee answered by god if it were poyzen hee would Carry itt to them." Wiggin was sentenced to fifteen lashes and bound over in the sum of L20, though the court altered this to a L10 fine after being assured of his submission. Jordan was also convicted of several offences, including "saiing the Governor of Boston was a Roge," though no sentence is on record. A number of other presentments were made arising out of the disturbances and were in the main lightly punished. Robert Corbine of Casco, for example, was discharged with an admonition "for breach of oath to this Goverment, & saiing hee would breake the hedge of Goverment." The court's aim was clearly to make a show of firmness tempered with lenity.¹

It would seem that in this they were successful. The towns of York, Kittery and Wells duly submitted lists of town officers who were, with three exceptions out of twenty-two, signatories to the petition of October 1662.² Although the towns of Scarborough and Falmouth had made a joint declaration, on 4 July of their disinclination to take sides in the dispute,³ attorneys appeared on their

¹PCR, II, 130-46.

²Ibid., p. 133.

³Ibid., I, 184.

behalf on the 7th to "acknowledge ourselves subject unto & Ingage to remaine obedient to the Lawes & ordinances of his Majesty, as now established under the authority of the Massachusetts, untill his Magesty otherwise Command us...."¹ Only Saco appears to have made no contact with the court, and accordingly the freemen of the town were presented for non-performance of civic duties, though upon conviction they were discharged by the court.² It is worth observing here that neither Saco nor Scarborough sent any deputy to the Massachusetts General Court between 1660 and 1670.³

With the exception of Saco, however, the county court of July 1663 apparently succeeded in restoring the authority of Massachusetts, and it left an order that any future intruders "upon the pretence of any power (except Immediately from his Magesty)" who should "disturbe, Interrupt or any way Molest his Magesty's peace" should be imprisoned in Boston.⁴ At the next county court in July 1664, the name of Henry Jocelyn appeared as a

¹Ibid., II, 135.

²Ibid., p. 140.

³See list in Maine Historical Society Archives, Andrew Hawes Collection, Box 3/11.

⁴PCR, II, 136.

commissioner for the towns of Scarborough and Falmouth.¹ At the same court, Robert Jordan was plaintiff in a number of suits; he was at least willing to plead through the Massachusetts court, though he lost them all.² Even the town of Saco submitted a list of town officers.³

The indications were, therefore, that by mid-1664 Gorges's commissioners had demonstrably failed to make good their claim to authority in Maine. Their attempt to reinstate the proprietary system both of land and of government had aroused popular opposition which allied with a hardening resolve in Boston to frustrate this. Jocelyn, Jordan and Shapleigh were able for a time to disrupt the Massachusetts rule of Maine, but were unable to destroy it. As events were to turn out, the conflict was not in fact over; but the causes of its reopening must be sought not in New England but in London.

Developments in London

Throughout the earliest years of his reign, Charles II experienced the frustrations of attempting to rule New England from a distance. The disadvantages of

¹Ibid., p. 156.

²Ibid., p. 149.

³Ibid., p. 156.

this had been made all the more apparent by the receipt from Boston of an unsatisfactory reply to the letter of 28 June 1662.¹ One obvious solution to the problem of distance, long advocated by Samuel Maverick, was the sending of a royal commission, and the taking of such a course by the king was foretold in strong rumours before it came about in April 1663. George Cleeve reported such rumours to the General Court of Massachusetts in November 1662, Maverick being said to be the leading commissioner.² On 7 April 1663, Edward Godfrey closed a letter to Thomas Povey with a postscript to the effect that "nuse is brought me that one Mr Nicoles belonging to the Duke of York is to goe for New England"; Godfrey offered his services to aid the commission.³

On 10 April, an Order in Council formally announced the king's intention to send commissioners to New England: "his Majesty (present in Councill) did declare That he intends to preserve the Charter of that Plantacon, & to send some Commissioners thither speedily to see how the Charter is maintained on their part & to

¹PRO, COL/18, No. 53.

²MCR, III, ff. 259-60.

³PRO, COL/17, No. 17.

Reconcile the differences at present amongst them."¹ No names were mentioned, but when the commission itself was issued a year later the rumours were found again to be substantially correct; Nichols and Maverick were named, along with George Cartwright and Sir Robert Carr.²

The qualifications of these men and their task as commissioners will be discussed in the following chapter. While they were at sea, however, another important development took place in London in the form of a report to the king by the Attorney-General, Sir Geoffrey Palmer, on the petition of Ferdinando Gorges. Confirming the legality of the grant of the Province of Maine to Gorges's grandfather in 1639, Palmer recalled that the late Sir Ferdinando had expended some £20,000 on this plantation before becoming a "great sufferer" in the royal service in the Civil War. His losses thus sustained and the discouragement of the Parliamentary government of the time had brought about his loss of possession of Maine, whereupon the government of Massachusetts had stepped in. Efforts by the younger Gorges to regain control through commissioners in recent

¹PRO, C05/903, pp. 10-11.

²PRO, C01/18, No. 48.

years had been frustrated "by said Governor of Massachusetts."¹

While not directly offering recommendations, this report was clearly an endorsement of Gorges's position and on 11 June, three days after its presentation, this was reflected in identical letters from the king to both the Governor of Massachusetts and the inhabitants of Maine. Adhering closely to the substance of Palmer's report, the letters concluded with the king's requirement "that yow forthwith make restitution of the said province unto him [Gorges] or his commissioners, & deliver him or them the quiet & peacable possession thereof, or otherwise that, without delay, yow shew us reason for the contrary; & so wee bid yow farewell."²

Ferdinando Gorges was quick to issue, on 21 June, a new commission to his supporters in Maine to take possession of the province according to the king's letter.³ Unless, therefore, Massachusetts elected to give in without a fight, renewed conflict in Maine was inevitable; and, especially when presented with an opportunity for procrastination in the phrase "or otherwise that, without

¹PRO, CO1/18, No. 70.

²Ibid., No. 72.

³PCR, I, 200-02.

delay, yow shew us reason for the contrary," it was unlikely that Massachusetts would give in.

Thus the royal commissioners, who arrived in New England in late July,¹ were already assured of the hostility of Massachusetts on this important issue, since they could not but be seen as the emissaries of a royal policy aimed directly against that of the General Court. It is to the composition and aims of the commission itself that detailed attention must now be given.

¹PRO, CO1/18, No. 86.

CHAPTER IV.

THE ROYAL COMMISSION

The Commissioners

The four royal commissioners to New England in 1664 were seemingly chosen for a variety of reasons. Colonel Richard Nichols, the commissioner who was empowered "upon equal divisions of opinions to have the casting and decisive vote" and who was intended to be party to all the commission's acts,¹ perhaps commanded the widest respect. Born in 1624, Nichols commanded a troop of royalist horse during the Civil War and continued his military career with the Stuarts in exile; he served in the Duke of York's household under Marshal Turenne and at the Restoration became groom of the bed-chamber to the duke.² The Duke of York had an especial interest in the royal commission of 1664 since it was intended, in addition to its task in New England, to

¹PRO, COL/18, No. 48.

²Sir Leslie Stephen and Sir Sidney Lee, eds., Dictionary of National Biography (22 vols.; London, 1885-1901), XIV, 497-98.

subdue New Netherland to English rule under a patent granted to him.¹ As a professional soldier in the duke's employ, it was no doubt Nichols's qualifications to lead such an expedition that led to his employment at the head of the commission. In the event, most of his time was indeed spent in New Netherland, so that the bulk of the work in New England fell upon the other three commissioners.

Sir Robert Carr, described by one historian as "undistinguished by principle or ability,"² may well have owed his appointment as a commissioner to his connection with Sir Henry Bennett earl of Arlington, Secretary of State since 1662, to whom he was related by marriage.³ In the course of the commission's work Carr was frequently on the look-out for sources of personal gain, though in 1666 Nichols reported to Arlington that after some early misdemeanours "he [Carr] hath upon better Consideration served his Majestie in following his

¹James Phinney Baxter, ed., Documentary History of the State of Maine, Maine Historical Society Collections, Series II, Vol. IV (Portland, 1889), pp. 190-95. (Hereinafter cited as "Baxter MSS, IV.") See also Map 10.

²Osgood, American Colonies in Seventeenth Century, III, 172.

³PCR, I, Preface, p. xlv.

commission ever since to the best of his skill and faculties."¹ George Cartwright, another of the commissioners, is something of an enigma. A younger son of Thomas Cartwright of Ossington in Nottinghamshire,² he may have been the George Cartwright who in 1661 wrote and dedicated to Charles II a tragic drama entitled "The Heroick Lover, or the Infanta of Spain."³ Cartwright's career as a commissioner also had its aspects of heroic tragedy: returning for England in 1665 with reports from the commission, his ship was taken by a Dutch privateer to his great loss and suffering, as he later complained to Arlington.⁴

Samuel Maverick was the only commissioner who was a recognised expert on New England. As has already been noted,⁵ he was a long-time and influential advocate of an English reduction of New Netherland and of strong royal measures against the Massachusetts colony. It was with

¹PRO, CO1/20, No. 42.

²PCR, I, Preface, p. xlvi.

³Dictionary of National Biography, III, 1133.

⁴PRO, CO1/19, No. 143.

⁵Above, pp. 77-78.

reason that that colony regarded him as its "known and professed enemy."¹ That his zeal was unabated was shown by a petition to the king of August 1663, in which he described how "himselpe & many thousands more of your Majesties Loyall Subjects there have for about thirty yeares past been debarred all Liberty Civill and Ecclesiasticall by some of their Countrymen, who have alwayes seemed to me to be disloyall to your Majesty."² On 1 September 1663 he wrote to Clarendon of the "daylie and earnest expectation [in New England] there is (by the Loyall partie there) for the arrivall of his Majesties Commissioners."³ While the later difficulties encountered by the commissioners in Massachusetts were to show his optimism to be somewhat excessive, the eagerness of his tone clearly demonstrated where his sympathies lay.

Maverick, therefore, was patently no neutral in questions involving Massachusetts. He also had a personal involvement in Maine, in that his daughter was married to Francis Hooke,⁴ an inhabitant of Saco and one

¹PRO, CO1/18, No. 127.

²PRO, SP44/13, pp. 356-57.

³Bodleian Library, Clarendon MSS, 80, ff. 169-70.

⁴PCR, I, Preface, pp. xlvii-xlviii.

of the commissioners named by Ferdinando Gorges in his commission of June 1664.¹ Indeed, Maverick himself had been a partner in an early patent at York and, though there is no evidence that by 1664 he retained an interest in this, he had referred in a tract of 1660 to its being "swallowed up by the Massachusetts."² It is hardly surprising that the Massachusetts authorities regarded Maverick with hostility and this was no doubt an obstacle to the royal commission's chances of success. The royal government clearly felt his long experience of New England affairs to outweigh such a consideration, although in 1665 Clarendon warned him that "if you should reveng any old discourtesies at the King's charge, and as his Commissioner should do any thing upon the memory of past injuries the King would take it very ill, & doe himselfe Justice accordingly...." Clarendon confided that Maverick would not be "lyable to any of these Reproachs; However the advertisement I am sure can do you no harme & proceeds from much kindness."³

The appointments of these four royal commissioners have been described as "as wise as under the

¹PCR, I, 201.

²Maverick, "Briefe Description," f. 398.

³PRO, COL/19, No. 37.

circumstances could reasonably be expected."¹ With the exception of Maverick, they were substantially unknown in New England, though Nichols was soon to establish a high reputation for his leadership of the conquest of New Netherland. Their task was set out in detailed instructions issued with their commission, which must now be examined.

The commission's task

The aims of the royal commission were variously set out in a number of documents, both open and secret, dated 23 April 1664. The commission itself traced the sending of the commissioners to "severall adresses from our subjects in severall Colonies in New England," some requesting renewal of charters, others complaining of "differences and disputes." The chief end of the commission was "that we may be truly informed of the state and Condition of Our good subjects there, that so we may the better know how to contribute to the further improvement of their happiness and prosperity." Powers were granted to the commissioners "or any three or two of them, or the Survivour of them (of whom we will the said Col. R. Nicholes during his life shall be always one ...)" to visit each New England colony to obtain

¹Osgood, American Colonies in Seventeenth Century, III, 172.

information, to determine "all Complaints and appeals" and to "proceed in all things for the providing for and settling the peace and security of the said Countrey...."

These duties were to be carried out according to the commissioners' instructions, and according to their discretion.¹

The commissioners' "Publick Instructions," intended not only for their own guidance, but also to be presented to the authorities of the various colonies visited, elaborated further. Specifically directed towards Massachusetts, the instructions absolutely denied any thought in the king's mind of "abridging or restraining them from any Priviledges or Liberties graunted ... in his [Charles I's] charter." The commissioners were ordered to manifest the king's "tenderesse care and affection towards them" in such a way as to remove all "Jealousies and misunderstandings." They were instructed to investigate Indian affairs, to ensure that the Indians were being fairly treated and that the work of converting them to Christianity was proceeding satisfactorily. They were further instructed "in due Season and after you have entered into a good conversation and Acquaintance with the Principall persons

¹PRO, CO1/18, No. 48.

there" to turn to the provisions of the king's letter of 28 June 1662, to ensure that these had been acted upon; due enquiry was also to be made as to whether any regicides were being harboured in New England. The commissioners were to ensure "that the Act of Navigation be punctually observed," since the king "cannot but take notice how much that Act is violated and transgressed there."

It was also the duty of the commissioners to "thoroughly inform your selves" of the constitution and government of Massachusetts, its taxation system, its trade, its militia, and of any other useful information. Their most important specific task regarding Maine, though, was to obtain "a Draught or Mapp of their [Massachusetts'] Limitts and Jurisdiction they lay claime to, and that they informe you what Pretence or Titles any of their Neighbours lay thereunto." They were empowered to settle any such questions which could be determined quickly and easily, but to reserve judgement to the king in any cases which presented more difficulty.¹

The substance of these public instructions formed the basis of a letter which the commissioners were to bear to the Governor and Council of Massachusetts. Once

¹Ibid., No. 51.

again the king's friendship and protection were emphasised, though a sterner note was struck when the king referred to the colony's answer to his letter of 28 June 1662, "of which we shall only say that the same did not answer our expectation nor the profession made by your ... messengers."¹ Letters addressed to the colonies of Connecticut, New Plymouth and Rhode Island contained the expressions of affection without the hint of rebuke.² A separate set of instructions had been issued for Connecticut, of which the major content concerned a dispute over land at Narragansett Bay.³ As for New Plymouth and Rhode Island, the commissioners were to observe as far as was applicable the instructions given for Massachusetts and Connecticut, "and for any thing else that should be applied to either of them, Wee referre you to your owne discretion."⁴

The secret instructions to the commissioners were more explicit both as to the general and to the

¹Ibid., No. 53.

²Ibid., Nos. 55, 56, 57.

³Ibid., No. 54. See also Map 11.

⁴PRO, CO324/1, p. 244.

particular aims of the commission:

The maine end and drift of your employment is to informe yourselves and us, of the true and whole state of these severall Colonies and by insinuateing yourselves by all kind and dextrous Carriage into the good opinion of the principall persons there, that soe you may (after a full observation of the humour and interest both of those in Governement, and those of the best quality out of Government and generally of the people themselves) Lead and dispose them to desire to renewe their Charters, and to make such alterations as will appeare necessary for their owne benifit.

The particular "alterations" which the king had in mind were expressed as "two points wee could heartily wish should be gained upon them." The first was that he should choose the governor of each colony from three names submitted to him by the colony near the end of a three to five year term; this would be "more easily consented to, then the remitting the entyre Choice to us." Secondly, "the Militia should bee putt under an Officer nominated or recommended by us." In addition, the commissioners were to take steps to ensure, as was emphasised in the public instructions, that the colonial charters were punctiliously observed, "reducing to that rule whatsoever hath swerved from it," especially in those matters covered by the king's letter of 28 June 1662.¹

¹PRO, CO1/18, No. 52.

How to accomplish these things was left in large measure to the commissioners' "skill and dexterity." Certainly the difficulty of their task was not underestimated. The reduction of New Netherland, an important end in itself, was suggested in the secret instructions as a means of winning the confidence of the New England colonies. The instructions were also full of warnings to the commissioners of pitfalls they must avoid. They were instructed, for example, "to be very carefull amongst yourselves and with all persons who have any relation to, or dependence upon any of you, that nothing be said or done from or by which the People there may thinke or imagine that there is any purpose in us to make any alteration in the Church Government." Again, "it will concerne you to be very wary in your Conversation, that being sent as persons equall to determine Controversyes amongst them, you may not bee thought to encline to a party...."¹

Indeed, a hesitant tone pervaded the entirety of the commissioners' instructions, both public and secret. Not only was the specific problem of Massachusetts a delicate one, but the concept itself of sending a commission in the king's name to distant colonies was of

¹Ibid.

necessity a new and untried one. It was the king's wish that he should "looke hereafter upon our Colony of the Massachusetts as within the same limits of affection Duty and obedience to our person and Governement, as if it were as neare us as Kent or Yorkshire, and they againe with the same confidence of our care and Protection as the other doe;"¹ but there was clearly little precise thinking on exactly how this lofty end was to be accomplished. On the one hand, the commissioners' "skill and dexterity" were to be relied upon. On the other hand, any issues of real complexity, as was that of the expanded boundaries of Massachusetts, were reserved to the king for final judgement. The commissioners' task was quite clearly practicable given goodwill on either side, and in certain of the colonies this could justifiably be expected. But how strong the commission would be if it met with deliberate obstructionism remained to be seen.

Early work of the commission

The early months of the commission's work were its most plainly successful, though even during this phase there were disquieting signs of troubles to come.

¹Ibid., No. 51.

The first landing of the commissioners was at Piscataqua on 20 July 1664, whence Maverick wrote to Thomas Breedon of Boston, the same who some three years earlier had testified before the Council for Foreign Plantations, to intimate their present arrival.¹ Maverick took the opportunity at that time to write to Robert Jordan,² and in a letter to Sir William Coventry the following day he expressed great hopes for the success of the commission in establishing the royal authority in northern New England, "of which I have already received great Testimonies;"³ but the chief initial business was the reduction of New Netherland. On 23 July, Carr and Maverick wrote to an English inhabitant of Long Island, John Rickbell, desiring him to spread the word of their approach there and of the favour with which they would repay support.⁴

The conquest of New Netherland was carried out with expedition. In late August the commissioners deployed their four frigates to block New Amsterdam

¹PRO, COL/18, No. 86.

²Ibid.

³Ibid.

⁴Ibid.

harbour,¹ while their ground forces prepared to lay siege to the town. The Dutch, in a militarily hopeless position, decided after some disagreement among themselves to surrender.² The instrument was signed at the house of Peter Stuyvesant, governor of New Netherland, on the 27th; among the signatories were Nichols, Carr, Cartwright and representatives of the colonies of Connecticut and Massachusetts.³ With the capture of Fort Orange⁴ in September by Cartwright and that of Delaware by Carr in October, the conquest of New Netherland was complete.⁵

While this rapid success no doubt gained prestige for the commissioners in New England and gave them an opportunity to co-operate with the Massachusetts and Connecticut colonies on a matter of common concern, the repercussions upon their task in New England were not all favourable. One result was a quarrel between Sir Robert Carr and the other commissioners over Carr's actions in

¹See Map 9.

²Andrews, Colonial Period, III, 62-63.

³PRO, COL/18, No. 107.

⁴See Map 9.

⁵Andrews, Colonial Period, III, 62-63.

Delaware. "I cannot but look upon it as a great presumption in Sir Robert Carr," reported Nichols to Arlington with reference to Carr's assumption of powers to dispose of property captured in Delaware; "though Sir Robert Carr stayed aboard the Guinea whilst his soldiers took the fort [New Amstel, Delaware],¹ he came early enough to the pillage, and says it is his own, being won by the sword...." More important for New England was the paralysis of the commission by Carr's stay in Delaware. Nichols observed to Arlington that "by Sir Robert Carr's absence his Majestyes Commission cannot be pursued in the severall Colonyes of New England, unlesse I should leave New Yorke, and thereby put to hazard the security of all...."²

This latter point was soon taken up by the other commissioners. Maverick wrote to Nichols from Boston on 20 December, urging him to "hasten away Sir Robert Carr."³ In January 1665 Cartwright reported both to Arlington and to Nichols that Carr was still in Delaware and that consequently nothing could be done by the commissioners.⁴

¹See Map 9.

²PRO, COL/18, No. 107.

³Ibid., No. 156.

⁴PRO, COL/19, Nos. 8,9.

In early February, Carr finally met Cartwright and Maverick in Boston.¹ The episode delayed the commission's work and no doubt hindered its effectiveness by straining relations among the commissioners; Carr's later plea, in a letter to Clarendon, that "I had received a fall, by which I had hurt my leg at Delaware, and that kept me so long,"² was apparently an afterthought. More important in the long term, the commission was shown to be undermanned for its task, since the absence of Carr could frustrate the whole of its work. This was also true of the stay of Nichols in New York.

Nichols, writing to Arlington in October 1664, expressed the view that for him to leave New York "and thereby put to hazard the security of all at once contrary to the opinion of Colonel Cartwright, Mr. Maverick, and all the Reson, which God hath given mee...."³ That the king and Arlington agreed can be inferred from a letter of 28 January 1665 addressed by the king to Nichols and the rest of the commissioners, containing a warning of the approach of the Dutch admiral de Ruyter, who could be expected to attempt a reconquest

¹Ibid., No. 20.

²Bodleian Library, Clarendon MSS, 83, ff. 323-24.

³PRO, COL/18, No. 107.

of New Netherland as well as to attack New England. The commissioners were instructed to look to the defences in all of these parts.¹ The commission of 23 April 1664, however, had provided that in the acts of the commissioners "the said Col. R. Nicholes during his life shall be always one,"² so that there was technical ground for a claim of invalidity of any of the commission's work in his absence. It seems also that Nichols enjoyed greater prestige than his colleagues: Cartwright, writing in April 1665 to implore his presence in Massachusetts, observed that "though they should refuse all us three, having a prejudice against us; you, whom they respect and honour, might be prevalent with them, because acceptable to them."³ Although Nichols did manage to spend a month in Boston soon after this, New York occupied him throughout the rest of the time, and the commission was certainly thus weakened.

The depleted commission commenced its work in New Plymouth. On 7 February 1665 Cartwright reported to Arlington that, having been joined by Carr, they proposed

¹PRO, COL/19, No. 10.

²PRO, COL/18, No. 48.

³PRO, COL/19, No. 49.

to go to Plymouth "presently"; they had desired that colony to call a General Assembly for 20 February.¹ At Plymouth, the commissioners were received with all the respect promised them in a resolution of the United Colonies of New England in September 1664.² Indeed, they described in their interim report to Arlington in May how they had been received in Plymouth, Rhode Island and Connecticut with great expressions of joy and loyalty in all three colonies.³ At Plymouth, they reported, they heard of few complaints, though the colony was very poor. Their full report to Arlington, delivered by Cartwright in December 1665 after several adventures at sea,⁴ recorded that the administration of justice and the allocation of civil and religious liberties at Plymouth were satisfactory. The commissioners' offer to the Plymouth authorities that their charter would be renewed at the royal expense if they agreed to the choice of their governor by the king from three names every three to five years they greeted with thanks, but preferred to

¹PRO, COL/19, No. 22.

²PRO, COL/18, No. 101.

³PRO, COL/19, No. 66.

⁴Ibid., No. 143.

remain as they were. This matter the commissioners did not press, and it was Cartwright's opinion, in a letter to Nichols on 4 March, that the results of their visit to Plymouth would satisfy the royal expectation.¹ The fact remained, though, that Plymouth had refused, however politely, to acquiesce fully in the royal wishes. This was not a good omen for the commissioners' success in the much more hostile colony of Massachusetts.

From Plymouth, though, the commissioners proceeded to Rhode Island. Their first business there was to essay an agreement between these two colonies on their boundary; for this purpose the Governor of Plymouth had accompanied them.² Maverick, reporting to Nichols on 5 March, was optimistic enough to hope that "to-morrow an end may be made."³ Their report to Arlington, however, reveals that in fact no agreement was reached and that the matter was referred back to the king for judgement.⁴

In spite of this setback, the commissioners' stay in Rhode Island was an encouraging one. This had been

¹PRO, COL/19, No. 34.

²Ibid.

³Ibid., No. 35.

⁴Ibid., No. 143.

foreshadowed as early as September 1664 in the sending by the Rhode Island colony of two envoys to the commissioners. Both before and after the dispatch of the envoys, the colony wrote to the commissioners in terms of fulsome loyalty and willingness to be of service.¹ Sir Robert Carr, passing through Rhode Island on his way from Delaware to Boston in late January 1665, was by his own account made very welcome at the governor's house there.² The favourable disposition of the Rhode Islanders was reflected in their ready submission to the hearing of appeals by the commissioners, even in cases involving their governor; these were disposed of "to the general satisfaction of them all," the commissioners reported to Arlington. In Rhode Island the matters of administration of justice, civil and religious liberties and conformity of the laws to royal government were all considered satisfactory.³

Thus encouraged, the commissioners moved on to yet another friendly welcome in Connecticut. This colony had already shown its disposition by appealing to the

¹PRO, COL/18, Nos. 102, 122.

²PRO, COL/19, No. 15.

³Ibid., No. 66.

commissioners about a particular grievance in February,¹ and it was predictable that all was found there to be consonant with the royal wishes. A claim by the Duke and Duchess of Hamilton to a patent which included Connecticut territory was not recommended by the commissioners, since it was not known in New England to have been possessed by the Hamiltons, and since the Connecticut colony claimed to have bought the land from certain other patentees.²

So far, therefore, the commissioners' work in New England had been attended by considerable harmony. Controversy was aroused, however, when they turned to the problem of the Narragansett country. That tract of land, containing the settlements around Narragansett Bay, was claimed by Massachusetts, Connecticut and Plymouth in opposition to Rhode Island.³ In 1659 a company had been formed in Massachusetts under Humphrey Atherton, consisting largely of Massachusetts and Connecticut men, to take over this area. Claims and counter-claims were revived, so that the United Colonies of Massachusetts,

¹Ibid., No. 14.

²PRO, COL/18, Nos. 61, 62; PRO, COL/19, No. 143.

³For an account of the growth of this conflict, see Osgood, American Colonies in Seventeenth Century, I, chap. viii.

Plymouth and Connecticut were soon ranged against Rhode Island,¹ which claimed the territory by purchase from the Narragansett Indians in 1644. The king sent word on 21 June 1663 to the colonies recommending the Atherton company to their protection against the "unreasonable and turbulent spirits" of Rhode Island.² By the time he issued his instructions to the commissioners in April 1664, however, he had clearly become unsure of the rightness of that view, and gave orders for the full investigation of the matter.³

In the event, the commissioners gave no countenance to the claims of Atherton and Massachusetts. Confirming the submission of the territory to Charles I by the Narragansett sachems in 1644, of which the deed had survived, and naming the region "The King's Province," they at the same time declared Atherton's purchases invalid.⁴ They recognised that the Narragansett country was essential to Rhode Island, which "cannot subsist without it," and therefore empowered the

¹Ibid., pp. 367-69.

²PRO, C05/903, pp. 22-23.

³PRO, C01/18, No. 54.

⁴PRO, C01/19, Nos. 39, 40.

magistrates of that colony to exercise jurisdiction in the newly-created King's Province.¹ The commissioners had thus stepped into a bitter dispute in such a way as to arouse further hostility in Massachusetts. It seems, moreover, that their intervention had only a limited success. An order for the Massachusetts settlers in the Narragansett region to remove themselves immediately, for example, was revoked by the commissioners in August, pending further royal instructions.² In late May, moreover, Cartwright wrote to Samuel Gorton, a leading opponent of the Atherton claim, to inform him regretfully that, on certain personal grievances against Massachusetts which had arisen from the dispute, "at present we can do nothing in your behalfe."³ Again, this did not bode well for the success of the commissioners in Massachusetts.

When, therefore, the royal commissioners prepared in late May of 1665 to face the Massachusetts General Court, their major success, the reduction of New Netherland, had receded into the past, and their achievements since that time had lacked solidity. In

¹Ibid., No. 143. See also Map 11.

²PRO, COL/19, No. 89.

³Ibid., No. 65.

visiting the other colonies first they had hoped to return to Boston with increased prestige and the ability to put pressure upon Massachusetts by citing the submissions they had already received.¹ In fact, though they had been well received in the colonies of southern New England, they had prompted no substantive changes. In no colony, for example, had the power of choosing the governor and militia commander been ceded to the king. In February, prior to the commissioners' departure for Plymouth, Cartwright for one had not been optimistic concerning their task in Massachusetts and had reported that in Boston "are ... severall whisperings, & laying of wagers, that we shall never sit here as Commissioners."² Back in Boston in April, he wrote again to Nichols in similar vein. A campaign of calumny had been commenced in Boston by which, for example, Sir Robert Carr was reputed to keep "a naughty woman." Faction and rebellion were in the air, Cartwright sensed. In sum, "by how much these people are more richer, more proud & factious then the other, by so much, the more difficulties we shall find...."³

¹Ibid., No. 143.

²Ibid., No. 20.

³Ibid., No. 49.

The commission in Massachusetts

Although the Massachusetts colony was associated in the resolution of the United Colonies of New England on 1 September 1664 that the royal commissioners must be treated "as becometh our subjection to his Majestie our dread soveraigne,"¹ it was maintaining in the following month that the commission was likely to submit it to "the arbitrary power of strangers."² There can be no doubt that the latter represented its true and consistent attitude. It is not proposed here to consider in great detail the transactions of the commissioners in Boston, but rather to indicate the main lines of argument with particular reference to their bearing on the commissioners' subsequent visit to Maine.

The debate between the royal commissioners and the Massachusetts authorities was preceded by an exchange between the latter and the royal government in England. On 19 October 1664, Governor Endicott forwarded to the king a "humble Supplication of the General Court of the Massachusetts Colony," which represented the royal commission as a profound threat to the very being of the

¹PRO, COL/18, No. 101.

²Ibid., No. 127.

colony.¹ As Endicott summed the matter up in his covering letter to Sir William Morrice, the purpose was to ask "that we may not be deprived at once of all that was worthy our travels and hazard to and in this wilderness, which is threatened by a Commission granted to four gentlemen come into these parts...."² This central point of the petition was hedged around by professions of wholehearted loyalty "to your Majesty according to our charter"; and the General Court took the precaution the same day, 19 October, of voting £100 for the entertainment of the commissioners.³ The presence of royal commissioners in Massachusetts, however, was clearly a lethal danger to the policy of procrastination with which Massachusetts had hitherto fended off all unwelcome royal attentions; the intention to fight the commissioners if necessary was quite patent.

That the king took that view is shown by the unwonted sharpness of his reply, made through Morrice. The king did not, wrote Morrice, impute the petition to the colony as a whole, "amongst whome he knowes much the major part consists of men well affected to his service

¹Ibid.

²Ibid., No. 126.

³Shurtleff, Records, IV(ii), 134.

and obedient to his Governement, but he hath commanded me to let you know, that he is not pleased with this Petition, and looks upon it as the contrivance of a few persons who have had too long authority there...." The commissioners "are so far from having the least authority to infringe any clause in the said Charter, That it is the principall end of their Journey so chargeable to his Majesty to see that the Charter be fully and punctually observed." The king would promise gracious protection, countenance and encouragement in return for cheerful obedience.¹

In the light of this letter, the Massachusetts authorities clearly decided that their best course was to attack the commissioners on grounds of strict observance of their charter; and accordingly much of the debate centred on interpretations of that document and of the commissioners' instructions. The commissioners, now joined by Nichols, raised certain other matters initially when the sessions started on 3 May. These included personal calumnies against them, rumours that their commission had been made "under an old hedge" and rumours that the king was going to demand, through them, exorbitant taxes. They hoped for punishment of the

¹PRO, CO1/19, No. 30.

originators of these falsehoods,¹ to which the General Court heartily agreed, though it pointed out that it was "extreamly difficult, if not impossible to Trace those wilde and absurd rumours to their first fountaine."²

Little controversy was raised by the commissioners' enquiries regarding education in Massachusetts and the measures taken for the conversion of the Indians,³ though the commissioners did make some disparaging remarks on these subjects in their report.⁴

A more meaty issue was that of the Narragansett plantations, on which the commissioners proposed to conduct hearings to investigate some complaints against Massachusetts. The reply characterised any such interference by the commissioners as contrary to the Massachusetts charter; there followed a sharp but inconclusive exchange.⁵ The commissioners then turned to the king's letter of 28 June 1662, with its various

¹Ibid., No. 56, pp. 1-2. This is the account of the commissioners' transactions as found in the Colonial State Papers.

²Ibid., p. 21.

³Ibid., pp. 28-30.

⁴PRO, COL/19, No. 143.

⁵Ibid., No. 56, pp. 31-32.

requirements. The General Court defended itself under several heads, of which one example will suffice: the court's claim to have implemented the king's order that all civil men of competent estates should be eligible for freemanship.¹ On 3 August 1664, it had indeed entitled any householder over twenty-four years of age who was orthodox in religion, not vicious, and either rateable at ten shillings in a single country rate or a Church member, to petition to be made a freeman.² The commissioners pointed out, however, in their report to Arlington, that "scarce three in 100" paid ten shillings at a single rate, while any church member might still be a freeman.³ On this as on the other matters in the letter of 28 June 1662, the commissioners could do nothing but threaten: "The Answers are so farr from being probable to satisfy the King's expectations, that wee feare they will highly offend him; abuse not the King's clemency too much...."⁴

So far, therefore, the commissioners were being baulked at every turn by the simple refusal of

¹Ibid., pp. 34-37.

²Shurtleff, Records, IV(ii), 117-18.

³PRO, CO1/19, No. 143.

⁴Ibid., No. 56, p. 40.

Massachusetts to admit to any faults and the colony's defiance of any suggestion to the contrary by the commissioners. On the question of the harbouring of regicides, the colony maintained that strenuous but unavailing measures had been taken to apprehend Whalley and Goffe, the only regicides to have set foot in New England.¹ The commissioners firmly believed this to be untrue,² but they could do nothing. On the enforcement of the Navigation Act, Massachusetts flatly denied that any infringement had taken place.³ On this topic, however, the commissioners did have a further recourse, since they had been instructed to look specifically into a case involving the merchants Thomas Deane and Joshua Scottow,⁴ which involved Deane's accusation that Scottow had in 1661 smuggled French goods into New England contrary to the Act.⁵ The commissioners therefore

¹Ibid., p. 41.

²PRO, COL/19, No. 143.

³Ibid., No. 56, p. 44.

⁴PRO, COL/18, No. 51.

⁵See Bailyn, New England Merchants, p. 122, note 24.

determined to reopen this case and to adjudicate it as a court of appeals.¹

By so doing, they ensured an open conflict with the General Court, for it was central to the Massachusetts position that they uphold their interpretation of their charter and, in turn, it was central to that interpretation that they should enjoy exclusive jurisdiction within their own territory. That the commissioners should attempt to reopen the case of Deane v. Scottow directly challenged this. Moreover, the commissioners also planned to hear the appeal of one John Porter Jr., convicted in Boston of rebellion against his parents, imprisoned and then banished from the colony, who had petitioned that they hear his case.² The General Court, therefore, inveighed against these proposed proceedings on the ground that they tended to the subversion of the king's authority in Massachusetts, as expressed in the charter. The commissioners, it argued, were thus acting in defiance of their own instructions, which enjoined that the charter should be exactly observed and that the

¹PRO, COL/19, No. 56, p. 49.

²PRO, COL/19, No. 42. Shurtleff, Records, IV(ii), 137.

commissioners should adjudicate on no matter which did not involve a direct breach of that charter.¹

The commissioners, on the other hand, maintained their commission "to bee of full force, to all the intents and purposes therein contained,"² and stood firm in their intention to sit as judges. On 23 May they issued a warrant for Scottow to appear before them at the house of Thomas Breedon, where they were staying, to answer Deane's charges.³ On the same day, the General Court issued a public denunciation of this, and of the commissioners' hearing of Porter's case, as a violation of the charter.⁴ On the 26th, the General Court issued a warrant for Deane to plead his case there, giving notice of this to the commissioners. The latter were outraged, protested, and took no further action.⁵ In short, they had lost.

Time was to show that they had not been defeated so completely as at that time it seemed, since they had

¹PRO, C01/19, No. 56, pp. 51-54.

²Ibid., p. 50.

³Shurtleff, Records, IV(ii), 208-09.

⁴PRO, C01/19, No. 62.

⁵Ibid., No. 56, pp. 56-57.

at any rate stirred up some opposition to the authorities in Boston. Simon Bradstreet and Daniel Denison, prominent magistrates, challenged the governor in the General Court in late May over the Deane case, with some, albeit incomplete, success;¹ by October 1666 sufficient prominent inhabitants of Massachusetts were disturbed at the colony's defiance of the king to petition the General Court on the matter.² Nevertheless, for the moment, the commissioners had lost. Reporting on 27 May to Arlington, they related their actions in the colonies of southern New England and added that their success in Massachusetts had not been "answerable" thereto.³ Their fuller report to Arlington catalogued many misdemeanours of the Massachusetts colony, which they had been unable to rectify. Although, they believed, the king had many loyal subjects in that colony, they were overawed by the power of the ruling faction. It was the intention of that faction, they further reported, to tire the king by further procrastination, thus to "spin out time."⁴

¹PRO, COL/19, No. 72.

²PRO, COL/20, No. 160. For an interpretation of the forces at work behind these movements, see Bailyn, New England Merchants, pp. 121-24.

³PRO, COL/19, No. 66.

⁴Ibid., No. 143.

Richard Bellingham, the newly-elected governor of Massachusetts, wrote on 31 May to Sir William Morrice. The letter was in form a reply to Morrice's of 25 February, but its tone and content were much influenced by the recent dealings with the royal commissioners. Bellingham denied the assertion that the colony's former petition had been the work of a few, since it had been voted by the entire General Court. Attributing the king's displeasure to the colony's "unskillfulness in actions of so high a nature," he entreated that "it may be imputed to a passionate solicitude for our liberties...." Professing reluctance to say so, he informed Morrice that the commissioners' actions "have sufficiently showed that our fears were not causeless." He enumerated the respects in which they had attempted to subvert the government of Massachusetts, described their efforts to curtail the liberties of the colony by sitting in judgement, and replied briefly to their charges. In the Deane case, for example, the complainant had not pursued the case, and so there was no opportunity for a verdict. As for the Narragansett country and other lands claimed under the charter, the colony adhered firmly to its own interpretation.¹

¹Ibid., No. 68.

The Massachusetts colony, therefore, had survived the visit of the commissioners so successfully as to be able to write back to Morrice without making any concession whatsoever, while the commissioners themselves could only protest and complain. In the absence of any strong statement from the king, they had had power neither to take decisive action nor convincingly to threaten decisive action from England. In colonies where they had met with goodwill they had been successful; but the deliberate obstruction carried out by Massachusetts, which included using their own instructions against them, had left them impotent. There remained only one field in which they could relieve their frustration, that is, in successful implementation of royal policy in northern New England.

Massachusetts had made consistent efforts to separate this issue from the task of the commissioners. The latter reported to Arlington that "on the east they have usurped Capt. Mason's and Sir Ferdinando Gorge's patents, and sayd that we had nothing to do betwixt them and Mr. Gorge, because his Majesty had commanded them [in his letter of 11 June 1664] either to deliver possession to Mr. Gorge or give his Majesty reasons."¹ Bellingham

¹Ibid., No. 143.

emphasised this point by writing separate letters to Morrice, one on 30 May 1665 regarding Maine, and a second on 31 May regarding the more general issues and the visit of the commissioners.¹

The commissioners did recognise this to be a problem. Cartwright, for example, had observed to Nichols on 4 February that "the difference betwixt Mr. Gorges's patent & this does seeme by the kinges letter to [be] reserved to himselfe," though he hoped that further instructions might remedy this.² In the event, the commissioners clearly decided that their original instructions would suffice and in early June Carr, Cartwright and Maverick set off for the north-east, Nichols having returned to New York to await the Dutch. Cartwright, recovering from a severe attack of gout,³ was not optimistic. He reported to Nichols on 3 June the rumour that the General Court "have ordered some members of that court to watch our goings, & when we come into the greater towns, they are to keep courts there, & to give order that none make any complaint or appeal to us;

¹Ibid., Nos. 67, 68.

²Ibid., No. 20.

³Bodleian Library, Clarendon MSS, 83, ff. 180-81; 84, f. 17.

nor obey any orders from us...." Which, he went on, "if it be true, will make our business short in the Eastern parts."¹ Thus in some disarray and discouragement the commissioners travelled north-eastwards.

¹PRO, CO1/19, No. 72.

CHAPTER V

THE ROYAL COMMISSION IN MAINE: A SETTLEMENT

Gorges's second commission

On 21 June 1664, some two weeks after the presentation of the Attorney-General's favourable report on his petition and while the royal commissioners were at sea on their way to New England, Ferdinando Gorges had issued a further commission for the governance of his Province of Maine. This section will examine that commission, the instructions which Gorges issued with it and the events which arose from these up until the time of the arrival of the royal commisssioners in Maine.

By 1664 Gorges was showing some signs of a willingness to be conciliatory. With his commission to thirteen men to reassert his claim to the Province of Maine and to govern in his name,¹ he ordered an oblivion on all previous activities in favour of Massachusetts rule, "which I am more ready to look upon as the Influence of the Disorders of the late Tymes than any

¹PCR, I, 200-02.

Disaffection to me...."¹ The choice of his commissioners apparently bore out this intention, the clearest example being the inclusion of Edward Rishworth. Rishworth, although he had served before 1652 as Recorder of the Province of Maine, had since that time been closely identified with Massachusetts. Nine times a deputy to the General Court at Boston,² almost continuously a selectman of York,³ and frequently on the bench as a magistrate,⁴ he had been one of the Massachusetts commissioners who took the submission of Scarborough and Falmouth in 1658⁵ and had played a leading part in the defeat of Gorges's first commission in 1662-63.⁶ It may well be that in appointing him as a commissioner Gorges was bowing to necessity, since Rishworth was clearly an extremely influential man in Maine.

¹Ibid., p. 202.

²Maine Historical Society Archives, Andrew Hawes Collection, Box 3/11.

³Noyes and others, Genealogical Dictionary, p. 588.

⁴PCR, II, 11, 19, 24, 33, 47, 55, 61, 72, 88, 97, 361, 364, 366, 369, 371, 376, 390, 400.

⁵MCR, III, ff. 246-47.

⁶See above, pp. 90-107.

Gorges's commissioners as a whole were by no means a uniform body. John Archdale, one of the thirteen, was clearly a separate case, since he had never resided in Maine but came there in late 1664 as Gorges's brother-in-law and agent. Of the remaining twelve, six had no close connection with the proprietary system; that is, they were not patentees, substantial direct grantees from Gorges, nor relatives or close associates of such. Four of the twelve had held office as selectmen of Kittery, York or Wells. Though Rishworth was the only commissioner who had been a county court magistrate under Massachusetts (Jordan and Jocelyn had officiated at associates' courts, though only in 1659 and 1661,) only six of the twelve had held like office under the Province of Maine. The twelve commissioners were also widely distributed geographically, three from Kittery, two from York, one each from Saco and Wells and the remaining five from different settlements in the north-east; it would seem that the commission was a carefully calculated attempt to appeal for as wide a body of support in Maine as was possible.¹

The instructions with which Gorges accompanied his commission, directed to the commissioners, were also

¹See Appendix III.

conciliatory in tone; they emphasised positively the development of the Province of Maine, rather than punishment of the adherents of Massachusetts. Steps had to be taken, for example, to halt the practice by which "some of the Inhabitants of the said Province do at their Pleasure in severall Places of the Province fell vast Quantities of Tymber as if they were the Lord Proprietors of the said Province or rather as if there were no such Thing as a Proprietor of the said Province"; but the practice should not be stopped outright, as this would be "very prejudiciall to men who are in a Way of Trade...."¹ In his more general observations on government, Gorges ordered the holding of a representative assembly in his province and invited suggestions from the inhabitants as to the final form his government would take. To emphasise his regard for the inhabitants, he recalled "with how much Respect and Kindness the Commission by me sent since his Majesty's happy Restoration was embraced by the Universality of the People of that Province."² This was clearly a conciliatory fiction.

There was, however, a limit to the concessions which Gorges was prepared to make. He enjoined the

¹PCR, I, 205-06.

²Ibid., p. 208.

inhabitants "to remember that I am singly the Lord Proprietor of that Province whereas in other adjacent Governments the Property is in the Commonalty of the Inhabitants."¹ Concession and conciliation lay uneasily with the proprietary system, and nowhere was this more obvious than in Gorges's detailed proposals for the settlement of the land question. The Lord Proprietor professed himself willing to confirm grants of land which had been made outside the proprietary system to those who were in actual possession; any such landholder was invited to apply to Gorges's commissioners. Then came the rub: the commissioners were instructed, on receipt of any such application, to enquire what rent the landholder was prepared to pay and, depending on this, to issue a provisional title, which would then be subject to confirmation or repudiation by the Lord Proprietor in England. The land was, therefore, no longer to be free and its tenure no longer to be controlled in New England. Moreover, Gorges's commissioners were ordered "to have a special Regard to preserve the Right & Tytle of all Persons to any Lands Tenements or Hereditaments lawfully claimed by Grants from Sir Ferdinando Gorges my

¹Ibid.

Grandfather or John Gorges Esquire my Father or by any Power lawfully deriving Authority from them...."¹

Gorges's instructions, then, were not as innocuous as their tone might suggest. Together with the king's letter of 11 June 1664,² however, which was delivered in November by Archdale, they did persuade at least eight of the thirteen commissioners, including Rishworth, to commence acting on Gorges's behalf. On 5 November 1664, a letter was directed to the Governor and Council of Massachusetts by Jocelyn, Archdale, Jordan, Rishworth, Raynes and Withers in their capacity as commissioners. Requesting that Massachusetts should receive their agents Archdale and Hooke, the commissioners tendered "a gracious order from his said Majesty, humbly Attended with a Letter from the sayd Ferdinando Gorges Esqr." In the name of themselves and of the people of Maine, they invited "your Courteous & peaceful disceadure from further comanding us & them...."³ On the same day, the commissioners of Gorges issued a protest against Massachusetts rule of Maine. Presumably intended for the inhabitants of Maine, this

¹Ibid., pp. 204-05.

²See above, pp. 110-11.

³MGR, III, f. 263.

document was more vigorously worded than the letter:

"Wee Do ... give notice to all persons of the unlawfullness of any such Act [of usurpation], more particularly to the Governor & Councell of the Massachusetts Colonie; protesting against their intermeddling with the government thereof, as they will answer to the Contrary att his Majesties indignation...."

The protest, signed by the same commissioners who had signed the letter, with the addition of Champernowne, closed with a confident appeal to the royal commissioners for support.¹

The Governor and Council of Massachusetts were unimpressed. On 30 November, in answer to the letter of Gorges's commissioners, the Council declared that "the lands conteyned in the County of Yorke by them called the Province of Maine, were & are claimed as part of the Patent graunted to the Massachusetts which Patent preceds the Patent granted to Sir fferdinando Gorges...." The king, it believed, had been misinformed on this matter; but he had given Massachusetts leave to "vindicate their right." The inhabitants of that region should therefore "continew in their subjection to the Massachusetts" and should give no aid to Gorges's commissioners. If the

¹Ibid., f. 264.

latter's actions should cause any "evill & Inconvenience," they "must be accounted the authors thereof & expect to be accomptable to his Majesty for the same."¹

The Massachusetts colony continued to be unwavering in its defence of its claim to Maine. On 30 May 1665 it fulfilled its intention to explain to the king its reasons for not surrendering the Province of Maine to Gorges. Governor Bellingham, writing to Sir William Morrice, rehearsed once again the Massachusetts interpretation of its charter and appended five documents in support. Three of these dated from the early 1650's, being reports of surveyors sent at that time to discover the head of the Merrimack river. The remaining two documents were recent depositions on the same subject, one by Richard Walderne, the same who had been the Massachusetts commissioner to Maine in 1663, and the other by Peter Weare, a resident of York who was a consistent supporter of the Massachusetts authority.²

Once again, then, the rival positions had been stated. There is reason to believe that once again Gorges's commissioners made a significant practical

¹Ibid., ff. 265-66.

²PRO, COL/19, No. 67.

impact upon Maine. In the York town book, for example, nothing was recorded from October 1663 until October 1665.¹ Neither were any grants of land made by the town of Kittery in 1664, a gap from February 1663 until September 1665 being broken only by two grants in January 1665.² The series of York county courts was broken after 5 July 1664 and that of the associates' courts after 13 September 1664, neither resuming until 1668.³

Certainly the General Court at Boston, in a statement of 25 May 1665, betrayed considerable concern over the Maine issue. The court noted "the distracted condition of the people of the county of Yorkshire, occasioned by some persons presuming to claime & exercise government amongst them by a pretended power derived from Ferdinando Gorges Esq."; some of the officers there "have neglected their trust & former obligations, to the great offence of this governement...." Massachusetts, the court declared, was still the legal power there, and a county court would be held as usual in 1665. Rishworth was singled out as having revolted from his former allegiance, and it was ordered that, unless he

¹York Town Records, I, 27.

²Kittery Town Records, I, 15-17.

³PCR, II, 162-63, 400-01.

immediately resumed his duties as Recorder, he should be replaced by Peter Weare.¹

The General Court's unaccustomed agitation is evidence of effective disruption of Massachusetts rule in Maine by Gorges's commissioners. Once again, however, there is no evidence that they had any positive success in establishing an alternative government. Two deputies from Maine went to the General Court in May 1665: one was Peter Weare on behalf of York, the other Francis Littlefield of Wells;² both men were consistent supporters of Massachusetts government. This would seem to bear out the assessment of Cartwright, in a letter of 30 January 1665 to Nichols: Archdale, wrote Cartwright, had gone to Maine "& showed them the King's letter to them; Since, these gentlemen [the Massachusetts authorities] have written to the Church members, & military officers, & now they stand out, & will not submit to their peculiar patent, but will adhere to the government of this jurisdiction."³

¹Shurtleff, Records, IV(ii), 151-53.

²Maine Historical Society Archives, Andrew Hawes Collection, Box 3/11.

³PRO, COL/19, No. 11.

In short, confusion and stalemate prevailed. Both Gorges's commissioners and the Massachusetts General Court claimed to have the force of right and the king's support, with the implied threat of baleful consequences for any who opposed them. Neither was for the moment able to enforce its claim to authority, so that the task of picking the winning side was for the inhabitants virtually an impossible one. Their dilemma is clear in a petition of 1 August 1665 to the king from twenty-two inhabitants of Casco, including George Cleeve. The petitioners expressed a preference for the government of Massachusetts, under which they had "found God's blessing in our lawfull callings and endeavours more in one yeare then in severall before or since our late troubles." Nevertheless, "haveing nothing to say against Mr. Gorges or his government," they undertook that they would "willinglie and chearfullie submitt to itt" if this should be the royal wish.¹ There were clearly great attractions and advantages in having nothing definite or binding to say either way.

Such was the situation in Maine which the royal commissioners faced when they began their journey north-eastwards from Boston in early June of 1665. It was

¹Printed as a "collateral document" to Baxter, Cleeve, pp. 318-22.

their exacting task to find some workable solution to a conflict which was already almost fifteen years old and which, since the Restoration, had been productive of nothing but confusion. Perhaps Cartwright might have been excused if, under his pessimism, he harboured some small feeling of comfort at the prospect that Massachusetts action might "make our businesse short in the Eastern parts."¹

The royal commissioners in Maine: their settlement

Leaving Boston, the royal commissioners travelled through Ipswich and Newbury on their way to New Hampshire and Maine. Writing to Nichols from Portsmouth, New Hampshire,² on 18 June, Maverick reported that the Massachusetts General Court had indeed put out an order forbidding recognition of the commissioners' authority, "and to that purpose we find orders given in every place we come."³ Nevertheless, they had persevered. It will be helpful for comparative purposes to consider briefly the commissioners' findings in New Hampshire before going on to an examination of their proceedings in Maine.

¹PRO, COL/19, No. 72.

²See Map 3.

³PRO, COL/19, No. 74.

As has been noted, New Hampshire was claimed by Robert Mason on a proprietary basis similar to that claimed by Gorges in Maine; Mason had petitioned the king on this matter and on 15 February 1662 had been strongly supported by a report commissioned by the king from a number of eminent lawyers.¹ Carr, Cartwright and Maverick also found Mason's claim to be valid, though they reported to Arlington on 26 July that Mason had specifically named Nichols as his attorney and that since Nichols had not been able to travel to New Hampshire they had not felt entitled to make any settlement.² In their fuller report, delivered by Cartwright later in the year, they attributed their inaction to a lack of adequate proof of Mason's claim.³ The probability is simply that the commissioners were unwilling to stage a confrontation with the Massachusetts authorities on unfavourable ground: New Hampshire adjoined Massachusetts and was therefore more accessible from Boston than was Maine. The commissioners' sympathies were clearly with Mason, and indeed Joseph Mason, kinsman and agent of Robert,

¹See above, pp. 86-87.

²PRO, COL/19, No. 82.

³Ibid., No. 143.

reported on 16 July from Portsmouth that they had plainly stated that they considered New Hampshire now to be outside the jurisdiction of Massachusetts.¹ Nevertheless, according to the commissioners' report, "we left them as we found them, under the Massachusetts government...."²

In New Hampshire, as in Maine, the entanglement of land and government under the proprietary system was the root of conflict. South of the Piscataqua river, however, this had developed in a different way. The death of John Mason, the original patentee of New Hampshire, had in 1635 halted the orderly development of the colony and the decision of his widow to take no further interest in the settlers there had left a vacuum both in government and landholding.³ This was in contrast to the enthusiastic efforts of Sir Ferdinando Gorges to develop his Province of Maine. In Portsmouth, New Hampshire, "a few of the most energetic and contriving of the men at the Piscataqua"⁴ took the opportunity to advance their own interests and thus

¹Ibid., No. 79.

²Ibid., No. 82.

³Clark, Eastern Frontier, chap. iv.

⁴Ibid., p. 54.

established the basis of a merchant oligarchy. Hampton, Exeter and Dover were founded by religious exiles from Massachusetts shortly afterwards. The whole of New Hampshire was annexed by Massachusetts between 1641 and 1643, the exiles being either reconciled or, in the case of John Wheelwright and his followers, further exiled to Maine, where they founded the town of Wells.¹

By 1665, it would seem that the group of wealthy Piscataqua merchants had established control of much of the most valuable land, at least in Portsmouth, and had thus set up a counter-pressure against themselves. While the royal commissioners were clearly pleased to make the most of any popular hostility to Massachusetts, their observation to Arlington that the inhabitants of New Hampshire were "very earnest to be taken under his Majesties government"² merits serious consideration. This is confirmed by a petition of thirty-two inhabitants of Portsmouth and Strawberry Bank to the commissioners in July. The petitioners claimed to have been denied civil and religious liberties while ruled by Massachusetts, "under which power five or six of the richest men of this parish have ruled swayed and ordered all offices, both

¹Ibid., pp. 37-47.

²PRO, COL/19, No. 82.

civil and military, at their pleasures...." By such means, these rich men had managed the allocation of land, "& have engrossed the greatest part of the lands within the precincts, & limits of this plantation into their own hands, and other honest men that have been here a considerable time have no lands at all given them...." The names of the oppressors were given as "Joshua Moody, Minister, Rich., and John Cutt, Elyas Styleman, Nath. Fryer, and Bryan Pendleton, merchants."¹

It is difficult to estimate the significance of the thirty-two signatures on the Portsmouth petition, but in a lightly populated area they certainly represented a substantial part of the population of the town. Headed by a group of merchants,² they reveal an element of mercantile rivalry. It seems reasonable also to deduce that in New Hampshire the land situation was directly opposite to that which obtained in Maine, in that here it was the demise of the proprietary system which had concentrated the land in a few hands; in Maine it was the proprietary system itself which tended in that direction, and the taking over of the land by town governments which guaranteed wide distribution. Nicholas Shapleigh,

¹Ibid., No. 76.

²See Bailyn, New England Merchants, p. 125.

writing to Mason in 1667, expressed the opinion that Mason would have widespread support in asserting his claim; the opposition would come from the few men who "themselves having gotten great Tracts of Land, and in the most Eminent places within the said Pattent into their owne hands," would support the continuation of Massachusetts rule.¹ Joseph Mason, also writing in 1667, was even more explicit and described how such men as the Cutts had acquired "many hundreds of acres in the best and most convenient places near the water Sides with Marsh grounds to it whereof one hundred acres of Such as they have disposed is worth a Thousand of whatt is left to dispose."²

There were good reasons, therefore, for many of the inhabitants of New Hampshire to defy the General Court's prohibition and meet the royal commissioners. Maverick reported on 18 June that they "came generally in from all parts" and showed great respect and love for the king.³ On 13 July the commissioners, returning to New Hampshire from Maine, called a public meeting at Portsmouth to discuss defence against the Dutch. In

¹PRO, COL/21, No. 48.

²Ibid., No. 114.

³PRO, COL/19, No. 74.

spite of a warrant from the Massachusetts government forbidding the meeting,¹ Joseph Mason wrote on the 16th that "Notwithstanding the Bayes prohibition to us not to appeare before them or their order, heer hath been a publick meeting of the people before the said Commissioners...."² According to John Jones of Portsmouth, in a subsequent deposition before the General Court, the meeting was attended by "almost one hundred people, more or less...."³ That anti-Massachusetts feeling was not confined to Portsmouth was demonstrated by a petition from sixty-one inhabitants of all the New Hampshire towns to the king, desiring to be taken under direct royal government.⁴

Nevertheless, the commissioners left Massachusetts in command. In October, a petition from the selectmen (Richard and John Cutt, Fryer and Stileman) and twenty-six other inhabitants of Portsmouth, to the General Court, repudiated the earlier petition against Massachusetts rule; though all the signatories were

¹Ibid. No. 79.

²Ibid., No. 80.

³Shurtleff, Records, IV(ii), 272.

⁴PRO, C01/19, No. 82 (i).

different.¹ A similar petition from Dover, New Hampshire, carried the signatures of Richard Walderne and twenty-eight others.² By late 1667 Joseph Mason was advising his kinsman that his only chance of salvaging any return from his New Hampshire property was to make a deal with the authorities in Boston.³

The commissioners' friendly reception in New Hampshire in June and July no doubt encouraged them for their task in Maine; but their choice to take no action in New Hampshire to alter a situation which they clearly believed needed righting was a further indication of weakness. In Maine, however, they were geographically much further removed from Boston; north of the Piscataqua river, moreover, the presence of a well-organised opposition to Massachusetts, in the persons of Gorges's commissioners, gave them more scope for vigorous action; and thirdly, they were armed in Maine with a specific royal order, that of 11 June 1664, for the ending of Massachusetts rule. Thus it is perhaps not surprising that in Maine they were quick to essay a settlement, albeit a temporary one.

¹Shurtleff, Records, IV(ii), 269-70.

²Ibid., pp. 268-69.

³PRO, COL/21, No. 114.

One major problem faced by the commissioners in Maine was that in withdrawing that region from the jurisdiction of Massachusetts in favour of Gorges they would be espousing the reinstatement of the proprietary system, a cause which had foundered in the past in the face of strong opposition. If they were seen to favour that system, their status as impartial commissioners would inevitably be jeopardised. Indeed, even the warrant summoning the inhabitants of York to attend the commissioners on 23 June was signed by Jocelyn and Champernowne "in the Kinges name & by Authority from him to fferdinando Gorge Esqr...."¹ In the event, however, the commissioners favoured a compromise settlement. The inhabitants of Maine, they later reported to Arlington, were "weary of the unjust & partiall actings of the Massachusetts & fearefull of the proceedings of the other [Gorges's commissioners]...." They had therefore taken the province "into his Majesties more immediate Government."² Maverick, writing to Clarendon on 24 July, strongly emphasised the Maine inhabitants' general fear of both Massachusetts and Gorges, and described "the

¹MCR, III, f. 267.

²PRO, COL/19, No. 82.

great joy of the people" when the commissioners relieved them of their obligation to either of these authorities.¹

The instrument of the temporary settlement was dated 23 June 1665 and named eleven royal Justices of the Peace to exercise authority in Maine "until his Majesty will please to Appoint another government."² The eleven justices made up, perhaps even more than Gorges's second body of commissioners, a well balanced group.

Geographically evenly distributed, they included both old patentees, such as Jordan, and men who were closely associated with the town organisations, such as John Wincoll, the town surveyor of Kittery. Four had magisterial experience under the Province of Maine and four at Yorkshire county courts, Rishworth being included in both of these categories. Of the remaining four, two, Cutts and Hooke, had been commissioners under Gorges; while Samuel Wheelwright and John Wincoll were prominent citizens of Wells and Kittery respectively.³ All the royal justices did appear on the bench at least once in that capacity, with the exception of Jordan. Jordan had, however, accepted the position, as he was associated in

¹Bodleian Library, Clarendon MSS, 83, ff. 180-81.

²PRO, CO1/19, No. 75.

³See Appendix IV.

several of the justices' early administrative acts. The newly-appointed justices were supported in their commission by a stern prohibition in the king's name of any effort by "as well the Commissioners of mr Gorges, as the Caporation of the Massachusetts Bay, to molest any of the Inhabitants of this Province with their pretences, or to execute any Authority within this Province untill his Majesties pleasure be further known."¹

In making their settlement, the commissioners mentioned having received "Severall petitions" in Maine. No record of these has survived, and it is likely that they were lost at sea when Cartwright's ship was taken. Two petitions made to the king after the settlement, however, and appended to the commissioners' report to Arlington of 26 July, did survive. One, from Jocelyn and six others of the newly-appointed justices, expressed gratitude to the king for their deliverance from the power of Massachusetts, requested the continuance of immediate royal rule, and further requested that Sir Robert Carr should be their governor.² The second petition, headed as being that of "the Inhabitants of the Province of Maine," dealt chiefly with the land question,

¹PRO, COL/19, No. 75.

²Ibid., No. 82 (ii).

making that the ground of a request to be continued under direct royal rule. The commissioners had ordered that "all who lay claime to any land in this Province by Patents to have them forthcoming by this time twelve month."¹ The prospect of a stable settlement of land was clearly an attractive one to the petitioners:

your Majestys petitioners haveing been long distracted by the severall Pattents & Clames made for title & Jurisdiction, some of your Majestys petitioners were seated by Mr Rygbys power, some by the Massachusetts, others by possession in tyme of our Combination, & wee are much afrayd least wee bee further entangled by Mr Gorges In our Lands, which by our hard labours wee have fitted for our familys, If not deeply oppressed by two high these rents....

They therefore wished to be permanently under direct royal rule, "without any dependencie on any pattent."²

The exact significance of the "petition of the Inhabitants" is difficult to ascertain, as the signatures, which were presumably on a separate sheet, have not survived. Certainly the sentiments expressed were not unanimous. Twenty-two inhabitants of Casco, for example, signed a petition to the king of 1 August 1665 explaining why they had "noejust complaint against either," Gorges or Massachusetts. They inclined to support Massachusetts, though they made many fulsome

¹Ibid., No. 75.

²Ibid., No. 82 (iii).

expressions of their willingness to conform to the king's will. George Munjoy's signature, absent from the petition of the justices, accompanied those of George Cleeve and Francis Neale on the Casco petition.¹ This petition, however, apparently did not represent the whole of the inhabitants even of Casco, since the petitioners mentioned that "our neighbours," unlike themselves, had petitioned against both Gorges and Massachusetts. Moreover, the petitioners' willingness to conform to the royal wishes was borne out in Munjoy's presence on the bench at a court in 1667.²

This moderately phrased petition was the only recorded expression within Maine at this time of support for Massachusetts. Gorges's cause apparently had no proponents except for Archdale. Archdale's perseverance is attested by a grant of 300 acres of land in Kittery made by him, in the name of Gorges, in favour of Francis Champernowne on 20 October 1665.³ Champernowne was still at this time hard pressed by creditors, to the extent that in June 1666 he was forced to sell land granted to him by the town of Strawberry Bank, New Hampshire, even

¹Baxter, Cleeve, pp. 318-22.

²PCR, I, 325.

³Maine Historical Society, York Deeds, Vol. III (Portland, 1888), f. 99.

before it had been laid out to him: it was sold to Nathaniel Fryer, "In regard I was in his Debt."¹ Archdale's grant was no doubt very welcome to Champernowne, but this did not imply that he was prepared to give further support to Gorges's cause, for he continued to act as a royal justice; he also apparently had the grant confirmed by the town on Kittery the following July.²

Generally speaking, it seems that the royal commissioners' settlement commanded sufficient support within Maine to survive. It was, however, essentially a temporary settlement, "untill his Majesties pleasure be further knowne."³ The land question in particular would require further attention, since the commissioners had merely ordered the laying of claims within twelve months, with a settlement to follow after that time. There was also the problem of defence against Massachusetts; as will be discussed in the next section, the commissioners took charge of this initially, but the length of their stay was necessarily limited. Their settlement in Maine

¹Maine Historical Society Archives, Champernowne/Gerrish/Pepperrell papers, 67-2342-15 and 67-2342-20.

²York Deeds, III, 100.

³PRO, C01/19, No. 75.

could survive for the time being, but its prolonged sustenance would require royal action from England.

The settlement defended

It was not to be expected that the Massachusetts authorities would allow the new regime in Maine to go unchallenged, since it struck directly against the terms of that colony's charter as it was interpreted in Boston. On 2 June 1665 the General Court had issued a commission to Samoel Symonds and Thomas Danforth to hold a county court for Yorkshire. If they met with "any person, or persons under the pretence of any other authority whatsoever giving you any obstruction," Symonds and Danforth were instructed to "proceede with them according to your discretion for the bringing them to a due tryall...."¹ When they reached Maine, however, Symonds and Danforth found that they were too late. Writing to Sir Robert Carr on 4 July, they protested: "we ... do find we are obstructed, & the trained bands summoned to attend your motions...." In the circumstances they were unable to enforce their commission and, expressing their disapproval of the situation, promised to "make return as we are enjoyned."²

¹Ibid., No. 70.

²Ibid.

The level of hostility to which relations had now sunk between the commissioners and Massachusetts was manifested in a sharp exchange in mid-July when the commissioners moved south of the Piscataqua river to hold their meeting at Portsmouth.¹ Along with their warrant prohibiting the meeting, the Massachusetts Governor and Council rebuked the commissioners for their disruptive actions in the county of Yorkshire and maintained that they had thus contravened the king's instructions. The commissioners, in their reply on 16 July, characterised this letter as "full of untruth & in some places wanting Gramer construction." They were firmly resolved to carry out their duty and warned Massachusetts that further recalcitrance might lead to the loss of its charter: they recalled darkly the punishment and destruction of certain of the Civil War rebels. This reply apparently impressed on the Governor and Council the commissioners' determination, for upon its receipt a General Court was immediately called for 1 August, "about the weighty occasions of the colony."² Meanwhile, the Maine justices were beginning their task with the opening on 18 July of

¹See above, pp. 165-66.

²PRO, COL/19, No. 79.

a court for the Province of Maine.¹ Among the court's actions was the fining 13/4d each of twelve inhabitants of Casco for non-attendance at the court, of whom nine were to be signatories to the Casco petition of 1 August, mentioned above.² Humphrey Chadbourne of Kittery was similarly fined,³ but apart from this the business transacted was administrative and routinely judicial.

The Massachusetts General Court, meeting on 1 August, turned its attention to drafting a petition to the king, asserting that Carr, Cartwright and Maverick "have steered a course so different from, if not contrary to, your majesties gracious expressions & limitations in your royall letters & instructions...." They raised the question as to whether the commissioners' acts had any force without the presence of Nichols, "whereas the commission seems to import, that without him no valid act can be done," and requested the king not to give credence to any misrepresentations that the commissioners might

¹PCR, I, 220-29.

²See above, pp. 159, 171-72. It is possible that more than nine of the twelve signed the petition, if part of the discrepancy can be accounted for by errors of transcription. "Benjamin Martin" in the court record, for example, might be a combination of the "Richard Martin" and "Benjamin Hatewell" found on the petition. PCR, I, 221; Baxter, Cleeve, p. 322.

³PCR, I, 229.

make to him.¹ Having stated its position for the benefit of the king, the court turned to more immediate measures, issuing a commission to Thomas Danforth, Eliazer Lusher and John Leveret to settle the eastern parts. These men were instructed to ensure the loyalty of these settlements to Massachusetts, using whatever aid they required from officers civil or military.²

The hint of the possible use of armed force by Massachusetts inevitably produced a reaction from the Maine justices. On 22 August, Jocelyn, Champernowne, Rishworth and Johnson signed an order to the military officers of the province, requiring them in the king's name "to take effectual care that the trained bands under your command be ready in complete arms at the first call of the drum." Any disturbers of the regime now established were to be forcibly apprehended.³ The justices also sought directions from Carr and Maverick at Boston, Cartwright having gone for England. In view of the "indefatigable purposes of our imperious neighbours of

¹Shurtleff, Records, IV(ii), 274-75.

²Ibid., pp. 278-79.

³PRO, COL/19, No. 96.

the Massachusetts," they feared the "dissolving of his Majesty's authority settled amongst us" by armed force.¹

This threat never in fact materialised in 1665. It was not until October that Danforth and his colleagues arrived at Portsmouth, by which time Sir Robert Carr was in Maine and devoting his energies to the defence of the settlement there. A clue to Carr's motives in this activity can be found in a letter of 5 December 1665 to Arlington in which he mentioned that "the people in the Eastern parts were very desirous that I should be their Governour...."² The letter accompanied a petition to the king in which Carr requested, in addition to a tract of land in the Narragansett country, the governorship of Maine, New Hampshire or the King's Province as recompense for his services.³ Maverick, writing to Clarendon on 11 August 1665, had complained that Carr had not shared any of the plunder from Delaware; in Maine, "he endeavors to be very popular, and accepts of Courtesies from such as are not of the rightest."⁴

¹Ibid., No. 95.

²Ibid., No. 142.

³Ibid., No. 142 (iv).

⁴Bodleian Library, Clarendon MSS, 83, f. 190.

Whatever Carr's motives, there is no doubt that the Maine justices valued his assistance. Rishworth, for example, thanked him in a letter of 6 October 1665 "for your dayly care of us, & pains amongst us." This letter followed shortly after the arrival of the Massachusetts commissioners at Portsmouth, and Rishworth recommended "that Mr. Josleyn, & some others of the Officers of this Province should with all possible speed give you a meeting at Yorke where some sutable entertainment might be provided for the Massachusetts Gentlemen."¹ As Carr and Maverick reported to Arlington on 20 November, "the Eastern people" met at Kittery prepared to oppose Danforth, Lusher and Leveret, which "was supposed one cause of their speedy return towards Boston."²

The Massachusetts authorities vented their frustration in the arrest, transportation to Boston and imprisonment of one Abraham Corbett, an inhabitant of Portsmouth who had been active in promoting the anti-Massachusetts petition there,³ this arrest being in despite of an order to the contrary sent across by Carr

¹PRO, COL/19, No. 131 (x).

²Ibid., No. 131.

³Ibid., Nos. 110, 114, 131.

from Kittery.¹ Corbett was eventually fined £20 in the following May for seditious practices and bound over in the sum of £100.² The seizure of Corbett, however, did nothing to recall the Maine settlements to the Massachusetts fold, and on 30 October Rishworth wrote to Carr, now in Boston, that it was his information that Massachusetts had resolved to suspend any further action on the matter until the following spring. In the absence of royal intervention, it was their plan then "to bring us in with a powder." This prospect did not unduly trouble Rishworth, who commented that "there needs be no great fear of death in those wars";³ for the moment at any rate the commissioners' settlement in Maine had been successfully defended.

The settlement at work

The royal commissioners and the Maine justices agreed that the success of the newly settled regime in Maine depended upon the unity of the province's inhabitants against the threat from south of the Piscataqua river. The justices, writing to Nichols on

¹Ibid., No. 131 (xi).

²Shurtleff, Records, IV(ii), 304-05.

³PRO, COL/19, Nos. 132, 133.

22 November 1665 regarding the threats arising from "the daily frowns of our displeased and discontented neighbours of the Massachusetts upon us," requested the presence of Sir Robert Carr in the spring; with Carr's help they hoped to defeat "molesters abroad, whose cheife industry will be to divide us, thereby to dissolve us, the better if it may be to advantage their owne interest pretended; & to destroy ours...."¹ The same justices--Jocelyn, Champernowne, Rishworth, Hooke, Johnson, Wincoll and Wheelwright--wrote to Carr himself the following week in an optimistic vein: "the full appearance of the people in respect of number at our last Court gave sufficient testimony of their being well satisfied with their present standing"; the only exceptions were the men of Casco, "from where came not one person...."²

The court mentioned by the justices had opened at Saco on 7 November 1665 and was the scene of much of the administrative organisation of the province. Two administrative divisions were created, the boundary being the Kennebunk river, "each devission to have their distinct Courts of pleas...."³ It should be noted here

¹Ibid., No. 134.

²Ibid., No. 136.

³PCR, I, 235.

that in September Jocelyn, Jordan and Munjoy had represented the royal commissioners in administering the oath of allegiance and supremacy to the inhabitants of the territory east of Sagadahoc, which was within the Duke of York's patent.¹ Little record has survived of events in this area, and the commissioners had advised the justices "to keepe the busines of Mayn distinct from the more easterly parts."² It seems that the commissioners' report to Arlington on this area was based on hearsay, rather than upon actual observation of, for example, the alleged custom by which "as many men may share in a woman as they do in a boat."³

Administrative continuity from the Massachusetts government was provided for in important respects. It was ordered, for example, that certain laws should be adopted from "the ould body of Laws formerly established in this Province," which can be identified as the Massachusetts "Body of Liberties."⁴ At a court held at York for the Western Division on 28 December 1665, it was

¹Ibid., pp. 244-45. See also Maps 8 and 10.

²PCR, I, 217.

³PRO, CO1/19, No. 143.

⁴PCR, I, 224, and note 89.

further ordered that arrears of public fees, fines and rates originating under the former government were liable for payment.¹

Within this administrative framework, regular courts commenced to be held in the Province of Maine under the justices. Casco continued at first to hold apart and no courts were held for the Eastern Division in 1665. A further setback was the decision of nine inhabitants of Westcustago, a small settlement on Casco Bay, to petition the Massachusetts General Court for the return of Massachusetts government. The petitioners included John Cussens, who had been named constable of the settlement at the province court the previous November, and named Francis Neale, now a confirmed supporter of Massachusetts, as their spokesman in Boston.² On 26 July 1666, however, the justices held a court for the Eastern Division at Casco, at which three signatories of the Westcustago petition served on juries, Richard Bray on the Jury of Trials, James Lane and John Cussens on the Grand Jury. That there may still have been friction was shown by the disagreement between justices and jury in two cases where the latter found for

¹Ibid., p. 308.

²MCR, III, f. 294.

Francis Neale against Edward Rishworth;¹ but the very holding of the court showed a degree of authority exercised by the justices in that area. Courts continued to be held regularly in the Eastern Division until the intervention of Massachusetts in 1668.

The royal justices, then, were quickly able to organise an orderly holding of regular courts, and they were strengthened by a royal letter of 10 April 1666 to the New England colonies which commanded "that there may be no alteracons with reference to the Government of the Province of Maine till his Majestie hath heard what is alleadged on all sides, but that the same continue as his Majesties Commissioners have left the same untill his Majestie shall further determine."² The land settlement was thus left in its undecided state, as it had been enforced by a court order of 28 December 1665 for the Western Division enjoining that no person should "under any clame or pretence of right, by any trespass or Interruption, Intrude ... upon any mans present possessions which are or have been so esteemed, till his Majesty's pleasure bee farther known...."³ Certainly it

¹PCR, I, 310-13.

²PRO, COL/20, No. 44.

³PCR, I, 308.

seems that the proprietary and town land systems were co-existing at this time. While Kittery and York, for example, continued to allocate town grants,¹ it was ordered by a court for the Western Division on 10 October 1666 that "the Rent Hene: Sayword agreed with Mr. Gorges to pay for the Tymber & ground whear his mill stands, videlicet eight pounds per Annum" should be paid to Captain John Davis, who was apparently acting as an agent of Gorges.²

Co-existence was also shown in the continued activity within Maine of men who had supported the Massachusetts government and who might do so again if the right circumstances arose. Peter Weare, for example, remained prominent in the town affairs of York, being named York clerk of the writs at the province court of 18 July 1665³ and being an active selectman throughout the period of the royal justices' rule;⁴ he was also twice a juryman at courts for the Western Division.⁵

¹Kittery Town Records, I, 15-19. York Town Records, I, 27-36.

²PCR, I, 278. Both Sayward and Davis were then selectmen of York. York Town Records, I, 27-33.

³PCR, I, 225.

⁴York Town Records, I, 28-34.

⁵PCR, I, 258, 267.

Elias Styleman, one of the merchants against whom the Portsmouth petition of July 1665 had been directed,¹ and whose continuing attachment to Massachusetts was shown in his presence at the General Court of April 1668 as deputy for Portsmouth,² was providing his surveying services to the town of Kittery in October 1666.³ Bryan Pendleton, another of the targets of the Portsmouth petition, one of the Massachusetts commissioners of 1652 who had accepted the original submissions of Kittery and York, and who after 1668 was to be a magistrate for Yorkshire under the Massachusetts authority, was by 1665 living at Saco⁴ and occupied town office there. In May 1666, for example, he was elected a townsman (the equivalent office to that of selectman) of Saco and in September 1667 was re-elected to this position as a colleague of the justice William Phillips.⁵ In July 1667, moreover, Pendleton was

¹See above, pp. 163-64.

²Shurtleff, Records, IV(ii), 362.

³Kittery Town Records, I, 18.

⁴Noyes and others, Genealogical Dictionary, p. 537.

⁵Saco Town Records, I, 59, 70-71.

appointed provincial surveyor of highways by the court for the Western Division then sitting.¹

If, therefore, unity, continuity and stability were the characteristics sought by the royal commissioners and the justices in the settlement of the Province of Maine, there is evidence that for a time these were at least partially achieved. Accurate assessment of the effectiveness of governments in Maine in this period are always hindered by the paucity of surviving records, but the tests which can be applied show the justices to have exercised their authority with some effect: regular courts were held in various parts of the province, and no deputies went from Maine to the Massachusetts General Court. In its existing form, however, the settlement was essentially a temporary one. The moratorium on land disputes, for example, could not be maintained indefinitely. The question was whether effective royal action would come quickly enough to forestall the cumulating efforts of the Massachusetts authorities to reimpose their rule.

¹PCR, I, 287.

CHAPTER VI

THE SETTLEMENT UNDERMINED

The conclusion of the royal commission

The settlement in Maine was the last major official act of the royal commissioners, following which Cartwright sailed for England, while Maverick and Carr returned to Boston. Their commission remained in force-- in December 1665, for example, the king instructed them to be on guard against possible French hostilities, and to take any necessary measures against the French plantations¹--but the chief remaining tasks were those of consolidation and tying up of loose ends.

Sir Robert Carr was particularly active in these pursuits, perhaps in an effort to redeem the royal displeasure which had been occasioned by his conduct in Delaware and against which he had protested his injured innocence in a letter to the king of 1 August 1665.² It

¹PRO, CO1/19, No. 140.

²Ibid., No. 87.

has been noted¹ that Carr gave valued assistance to the Maine justices in their efforts in late 1665 to repulse the designs of Massachusetts. The following winter he spent in enforcing as best he could the commissioners' settlement of the King's Province² through the removal of Punham, an Indian sachem who had been used by Massachusetts in the maintenance of its claim to that region. Though this could not be achieved by force, it was finally accomplished by bribery.³ Carr then joined Nichols in New York and was rewarded, in a report from Nichols to Arlington, by favourable mention for having "upon better Consideration served his Majestie in following his commission ... to the best of his skill and faculties...."⁴ Carr himself reported to Arlington on his proceedings in the King's Province, and renewed his tactful requests for practical recognition of his services;⁵ Nichols, in a separate letter to Arlington on 10 April, recommended that he be granted land in

¹See above, pp. 178-79.

²See above, pp. 132-34.

³PRO, COL/20, No. 43.

⁴Ibid., No. 42.

⁵Ibid., No. 43.

Delaware, though there is no evidence that this was approved in London.¹ In late 1666, however, Carr fell sick in New York with what Maverick described as "a ffeavor, & Ague";² any chance he may have had of obtaining the preferments he sought was ended by his death at the end of his return voyage to England in August 1667.³

Maverick, as Nichols reported to Arlington on 9 April 1666, was meanwhile still in Boston revisiting some of his old friends. In this report, Nichols had several complaints to make regarding the lack of royal support he was receiving in his task. He and the other commissioners, he informed Arlington, lacked both money and credit with which to carry out their duties, and "ride at anchor till the storm of their necessities is blown over by his Majesty's favourable supply."⁴ Nichols professed himself utterly ruined and was doubtful, unless quickly supplied, of his ability to meet a foreign attack. Carr corroborated this in his report, describing

¹Ibid., No. 49.

²Bodleian Library, Clarendon MSS, 83, ff. 385-86.

³PCR, I, Preface, p. xlv.

⁴PRO, COL/20, No. 42.

the commissioners as "in a very sad condition."¹ Nichols, in his capacity as governor of New York, was exercised about the lack of further directives from London for management of the newly acquired territory. On the subject of New England, he emphasised that all the colonies were attentively waiting to see how strongly the king would deal with the recalcitrance of Massachusetts.²

Unknown to Nichols, decisions were at that time being taken in London with regard to New England, which were expressed in a number of documents issued on 10 April. To the colonies of Rhode Island and Connecticut the king sent identical letters signifying his pleasure at their dutifulness and obedience to his commissioners; this conduct, he went on, was even more lustrous when compared with the attitudes and actions of Massachusetts; he assured them of his constant protection and favour.³ The royal letter to Massachusetts was, of course, quite different. Addressed to "the colonies of New England," but directed specifically at Massachusetts, the letter was taken in large part from a memorandum of recommendations drawn up by Cartwright, after his return

¹Ibid., No. 43.

²Ibid., No. 42.

³Ibid., Nos. 46, 47.

to England, for Clarendon.¹ The letter pointed out that the commissioners "have received great satisfaction but in the Massachusetts." The king therefore commanded the governor and council of that colony to send four or five persons to England as agents, of whom two were to be Governor Richard Bellingham and Major William Hawthorne, a prominent magistrate. Hearings would be conducted, the king went on, at which it would become clear how anxious he was to maintain their charter. In the meantime, the commissioners' settlement in Maine was to be maintained, as well as their interim boundary settlements in southern New England; the king also ordered the release of any person imprisoned for petitioning the commissioners, a direct reference to the Corbett case.²

Stern in tone, the royal letter was clearly intended to bring the Massachusetts colony quickly to heel. Clarendon, writing to Nichols on 13 April, threatened that "if they do not give obedience to it, we shall give them cause to repent it, for his Majesty will not sit down by the affronts which he hath received."³ The corollary of the taking of this matter into the

¹Bodleian Library, Clarendon MSS, 74, f. 262.

²PRO, COL/20, No. 44. See above, pp. 158-59.

³PRO, COL/20, No. 56.

king's hands was the ending of the royal commission. A royal letter of 10 April expressed the king's content and satisfaction with the commissioners' performance of their duties and his "just dislike" of the actions of Massachusetts. They were now free to return to England, or, if they so wished, to remain in New England.¹ On the 12th, Sir William Morrice notified them of the sending to each of them of £200 in goods in recognition of their services.² Clarendon, in his letter of the 13th to Nichols, also expressed satisfaction with the commissioners, who, he wrote, "have in truth done all they ought to do, at least as much as they are suffered to do"; he ended his letter with particular praise for Nichols himself.³

The commissioners, and especially Nichols, continued for some time after the concluding of their commission to give advice and direction when asked,⁴ but on a very limited scale. By 31 October 1666, both Carr

¹Ibid., No. 48.

²Ibid., No. 55.

³Ibid., No. 56.

⁴Ibid., No. 159.

and Maverick had joined Nichols at New York.¹ Carr, as has been mentioned, died the following year on reaching England, while Maverick in 1669 was granted a house on Broadway, New York, by the Duke of York.² He may have moved from there to Barbados before his death in or before 1676.³ Nichols himself remained at his post in New York until the summer of 1668, when he returned to the Duke of York's household in England; the English conquest of New Netherland had been formally recognised by the treaty of Breda in July 1667.⁴ Nichols was killed in a naval battle against the Dutch in 1672.⁵

The commissioners' last task in that capacity was the delivery to the Massachusetts authorities of the king's letter of 10 April;⁶ this was carried out by Maverick on 6 September, as Edward Rawson, Secretary of the General Court, wrote to Morrice on the 11th of that month. This letter from Rawson also signified the

¹Ibid.

²PRO, COL/24, No. 92.

³PCR, I, Preface, p. xlvii.

⁴Clark, The Later Stuarts, p. 68.

⁵Allen Johnson and others, eds., Dictionary of American Biography (20 vols.; New York, 1928-36), XIII, 516.

⁶PRO, COL/20, No. 55.

General Court's intention of outright non-compliance with the king's commands. Rawson opened with an account of the progress in America of the newly declared French war. When he came on to the letter of 10 April, his first observation was that the copy delivered by Maverick was unsealed (presumably this was the copy intended for the commissioners' own reference) and had therefore been treated with some caution. The colony, Rawson continued, had already explained fully to the king the reasons for its non-obedience of the commissioners, "& therefore cannot expect that the ablest persons among us could be in a capacity to declare our cause more fully."¹

Nichols, writing to Morrice on 24 October, confirmed that "the Massachusetts colony persist, or rather fly higher in contempt of his Majesty's authority," since "the General Court have resolved to send no man out of the colony according to his Majesty's summons...."²

Nichols reported also that this course had aroused opposition, especially among large merchants. His reference was to a petition which reached the General Court in October from "upward of one hundred of the principal inhabitants of the Massachusetts Colony,"

¹Shurtleff, Records, IV(ii), 316-17.

²PRO, COL/20, No. 151.

expressing fear of the consequences of continuing to provoke the king; the petitioners hinted that they might make "a particular address to his Majestie."¹ This petition, representing an important and growing segment of merchant opinion, was indicative of a school of thought within Massachusetts which was eventually to be of great importance in curtailing the independent tendencies of the colony.² For the moment, though, it was decisively crushed in the General Court: the petitioners "received a severe check the petition voted scandalous, they stiled betrayers of the liberties of the Country...."³

The prevalent view of the Massachusetts authorities was expressed by one Samuel Nadhorth in a letter to Morrice of 26 October 1666, which was no doubt written at the instigation of the General Court. The king's letter, he pointed out, had come to the colony unsealed; and, moreover, Governor Bellingham was too old to make the journey to London. The commissioners, he alleged, had been well treated in Boston, but had been guilty of "putting their spurrs too hard to the horses

¹Ibid., No. 160.

²See Bailyn, New England Merchants, pp. 123-24.

³PRO, COL/20, No. 160.

sides, before they were got into the saddle"; this had helped in "making the name of a Comissioner odious."¹

Massachusetts, therefore, was still prepared to make no concession, and Nichols, in suggesting to Morrice on 24 October the imposition of economic sanctions on the colony, was recognising that only determined measures could have any effect.² Nichols, Carr and Maverick jointly made one last try on 3 November, sending a strong protest at the refusal of Massachusetts to obey the royal letter, and threatening that the king would be "justly displeased."³ They urgently demanded a reply; but on 14 November Secretary Rawson wrote back simply referring them to his letter to Morrice of 11 September.⁴

There was little more the commissioners could do, and on 10 January 1667 Carr and Maverick wrote to Clarendon to "humbly desire you would be pleased to procure some speedy order may be taken for the quelling of the rebellious, & incouragement of the loyall and well

¹Ibid., No. 155.

²Ibid., No. 151.

³Bodleian Library, Clarendon MSS, 84, ff. 341-42.

⁴Ibid., ff. 363-64..

affected partie."¹ Whether or not Clarendon shared their views, however, soon became immaterial when he was dismissed from office in the summer of that year. In the resultant governmental upheaval and in the face of a delicate situation in European diplomacy,² New England affairs tended for several years to be neglected and the prospect of firm royal action became remote. In this situation, no part of the commissioners' work was secure. Nowhere was this more true than in Maine, where, as will be discussed below, growing pressure was being applied from Massachusetts to produce a reversion to government from Boston.

The Maine settlement threatened

The settlement made in Maine by the royal commissioners was, as has been established, totally unacceptable to the Massachusetts authorities. Not only was the loss of Maine an intolerable affront, but it was also a threat to the Massachusetts colony's hold on New Hampshire. Nicholas Shapleigh, to whom Nichols had delegated Mason's power of attorney,³ was sparing no

¹Ibid., 85, ff. 9-10.

²Clark, The Later Stuarts, pp. 71-73.

³PRO, CO1/21, No. 48.

effort to promote Mason's cause and to identify it with that of the Province of Maine. On 20 May 1667, for example, Shapleigh wrote to Mason urging him to obtain a confirmation of his patent from the king and to join his province to Maine; the combined province, Shapleigh wrote in a note to Joseph Mason, "will the sooner give a repulse to the Bay, who do oppose all his Majesty's commands."¹ Joseph Mason disagreed, advising his kinsman instead to come to an accommodation with Massachusetts, which he believed ready to make significant concessions to Mason's propriety of land; but if Robert Mason decided against this course, he agreed that New Hampshire should be joined to Maine in order better to resist the common foe.²

Shapleigh had circularised the General Court and the New Hampshire towns to the effect that in that province "the Lands may not be disposed of at the will and pleasure of others without the probacon of the proprietor or his agents...."³ He was also prepared to take more positive steps to test and extend Mason's strength. On 25 December 1667, for example, he informed

¹Ibid., Nos. 48, 48 (i).

²Ibid., No. 114.

³MCR, III, f. 268.

Nichols that he had granted land in New Hampshire, on the Lord Proprietor's behalf, to Edward Hilton and Walter Barefoote, two friends of his who were resolved to occupy the land in spite of any opposition.¹ Such activities as Shapleigh's were clearly disturbing both to the General Court and to its adherents in New Hampshire, and it is hardly surprising that a contemporary list of those who were opposed to the royal commissioners' settlement in Maine included "the names of some men in New Hampshire." The names in question included those of Richard Cutts, John Cutts and Nathaniel Fryer, prominent members of the Portsmouth merchant oligarchy.²

According to this list, made up in or after 1668 by one who favoured the royal justices at the expense of their opponents, there were also men inside Maine who were agitating for a change. The chief of these was alleged to be Bryan Pendleton, who was to become a prominent figure in the Massachusetts resumption of jurisdiction in Maine.³ Seven others were named in the list as "men of indifferent Estates, & are led by maj Pendleton," they being Francis Raines (the same who in

¹PRO, CO1/21, No. 165.

²Baxter MSS, IV, 314-15.

³See below, pp. 210, 217-19.

1664 had acted as one of Gorges's commissioners,) Henry Sayward and Peter Weare of York, Francis Littlefield of Wells, Arthur Auger and Andrew Brown of Black Point, and Francis Neale of Casco Bay.

Of these names, several can indeed be associated with pro-Massachusetts activity in early 1668. On 15 April, for example, Rishworth and Champernowne issued a warrant for the arrest of Weare and Raines on "vement suspision of privie Saddingion Indeverting to undarmine the Kinges Immediat Authurritie heare setteled...."¹ Whether Raines was in fact arrested is not known, but Weare was committed to York gaol on 17 April.² From the gaol, and with the aid of a number of fellow-inhabitants of York, he appealed for help to Richard Walderne of Dover, the former Massachusetts commissioner of 1663 who frequently represented Dover in the General Court at Boston.³ Weare's offence was apparently an attempt to send a letter to Thomas Danforth, requesting the reinstatement of Massachusetts rule; he claimed that "the Marshall & Capt. John Davis used me verry unsevell & tocke [the

¹MCR, III, ff. 270-72.

²Ibid.

³Ibid., ff. 272-74.

letter] a way from me...."¹ Weare enclosed a similar letter for Danforth, which he asked Walderne to forward. They would, he assured Walderne, "have had mainy more hands to the lettar but are Constrained to haston away...."

This letter to Walderne was accompanied by another to the same effect signed by four others aside from Weare, including Sayward. Four of these five wrote again, with the addition of five others, to Walderne in May to protest Weare's ill-treatment in gaol, "havige bin lame this many years."² How large a body Weare represented is not clear; but the justices clearly took this clandestine manouevring in favour of Massachusetts as a serious ~~threat~~. Weare mentioned in his letter to Danforth that the justices were "indevering to Strengthen them selves by a petishtion."³ If this was a reference, as seems likely, to a petition addressed to the king by "the inhabitants of Maine" about May of 1668, the justices can have gained little strength therefrom: of only twenty-one petitioners protesting the "general

¹Ibid.

²Ibid.

³Ibid.

disturbance" arising from "clandestine applications ... to the Massachusetts," six were themselves justices.¹

The activities of Raines, Sayward and Weare, therefore, are at least partially indicated by surviving records. Those of Auger and Brown at Black Point, if they took place, are not. The work of Francis Neale at Casco became apparent later on.² That of Littlefield at Wells may be supposed to have been in some degree responsible for two petitions of late April 1668 which were used by the General Court as a pretext for its decision to move once again into Maine. The petition of Cape Porpoise, a small fishing settlement near Wells, was dated 28 April. The sixteen signatories confessed that they had been persuaded to acquiesce in the royal commissioners' settlement by "on which gratt part of the peopell stod well affected unto formerly," presumably Rishworth. Since, however, no such royal directive had arrived as had been promised by the royal commissioners, "wee are much parswaded that his Majesty wase never acquainted in what Condicon theas partes were left

¹PRO, CO1/22, No. 98 (i).

²See below, pp. 210-11.

in...." Their wish was to come once again under Massachusetts government.¹

The petition of Wells, dated 30 April, was virtually identically worded, except that Rishworth was mentioned by name. Francis Littlefield was among its twenty-two signatories,² and it may well be that he was responsible for drafting both petitions. Certainly the petitions were ideal material for the General Court, which announced in May that it had "received petitions from several towns and persons of Yorkshire, wherein they hold forth their distracted condition for want of the exercise of government from hence as formerly, and express sorrow for their revolt from this government, yet with all in part excusing themselves as drawn thereto by the decitful management of Mr. Edward Rishworth." The court was therefore resolved to reassert its authority there.³ On 27 May it issued a warrant to Nathaniel Masterson, as marshal of the county of Yorkshire, to read to the inhabitants of that county an order for their renewed allegiance to Massachusetts, and to require them

¹MCR, III, f. 275.

²Ibid., f. 276.

³PRO, COL/22, No. 97.

to elect officers for the holding of a county court on the first Tuesday in July following.¹

On the same day, the General Court commissioned John Leveret, Edward Ting, Richard Walderne and Robert Pike to hold the county court at York. With the aid of all officers civil and military, they were ordered to bring to trial any persons "under the pretence of any other authority that shall swerve from the due obedience they owe unto this jurisdiction...." The land situation, the commissioners were instructed, was to be returned as far as possible to what it had been "before the revolt," though they were to discourage arguments over grants made under the royal justices, "being don by their generall assemblies." Lenity was to be used by the commissioners as far "as in your wisdome the generall state of the business will admitt," but a note of rebuke was present in the warning to the inhabitants of Yorkshire that in future they must not expect any special privileges, "in regard of their late causeless revolt...." The commissioners were "not altogether obleiged to strict form of lawe in the present disposing of Courts & officers, civil & military...."² This last provision gave the

¹Shurtleff, Records, IV(ii), 371.

²Ibid., pp. 372-73.

commissioners a free hand to override elections of officers in York: the suspension of law in that regard was symptomatic of the determination of the General Court this time to make a lasting conquest.

The Maine justices were certainly aware that moves were afoot in Boston to unseat them. Mention has been made¹ of their petition to the king, entreating a final settlement "either as we now stand under your own immediate authority, or Esquire Gorges, or under whom shall seem most commensurate to your Majesty's pleasure." Sending the petition to be forwarded to the king, the justices expressed to Nichols the belief that by speedy royal intervention their "perplexing discouragements" might be overcome; but their concern both over the intentions of Massachusetts and over disaffection within Maine make it clear that they were not optimistic.²

By 20 May, when six of the justices wrote again to Nichols, the situation had further deteriorated, to such a stage that government in Maine had clearly broken down. The resolve of the General Court to resettle its power in Maine had apparently been published there and "the activity of some factious spirits" had produced

¹See above, pp. 202-03.

²PRO, CO1/22, Nos. 98, 98 (1).

disturbances which the justices were powerless to quell. "In regard things feared," the justices went on, "(as mentioned in his Majesty's petition) do so palpably appear, we conceive it less needful to send it, but rather desire a return thereof from your Honour by the first convenience."¹ Matters had come to the point, therefore, where the justices could no longer wait for action from England but made desperate application to Nichols for whatever help he could give.

The help Nichols was able to offer was not a great deal, consisting of a strongly worded letter to the Governor and Assistants of Massachusetts. "I dare not be silent," he wrote, "in a matter so expressly contradictory to his Majesties significacon Dated the 10th of Aprill 1666...." After mentioning his initial disbelief that Massachusetts would so flagrantly violate the royal authority, he warned of the king's wrath to come. He warned also that in re-entering Maine "you may cause blood to be Shed, for it is both naturall & lawfull for men to defend their just Rights, against all Invaders." When it came to the point, though, there was nothing Nichols could do, and on his imminent departure for England he could only "leave the decision betwixt God

¹Ibid., No. 99.

and yourselves."¹ In early July, therefore, the Maine justices would have to face their opponents without any effective royal support.

Massachusetts returns

The reinstatement of Massachusetts authority was achieved, in name at least, in a very short time from the arrival of the Massachusetts commissioners at York on 6 July. The surviving accounts of the arrival and proceedings of the commissioners were all written by partisans of one side or the other, but they differ only in emphases. The Maine justices and their adherents, for example, laid stress upon the military might of the commissioners. John Josselyn, the brother of Henry, who was at this time in Maine during his second voyage to New England, described how "the Massachusetts enter the province in a hostile manner with a Troop of Horse and Foot...."² The son of the justice William Phillips, Nathaniel Phillips, who was unlucky enough to be arrested by the Massachusetts commissioners' authority for putting up posters opposing them, later described the arrival of the commissioners "attended with about twelve armed men

¹Ibid., No. 120.

²Josselyn, "Two Voyages," p. 343.

on horseback, with a Retinue of as many more of their friends with Swords...."¹ The commissioners' return to the General Court, on the other hand, made no mention of armed force, but made light of what difficulties they had encountered, claiming by implication great popular support.²

This latter point was disputed by Nathaniel Phillips, who asserted that many "would not obey their usurping power," referring in particular to Saco. In York also, he alleged, the feeling was against Massachusetts, "all the whole Towne owning noe power but what was from his Majestie."³ In Saco, Phillips was at least partially correct, as was to become clear in the succeeding weeks, but in York even the justices conceded that "the motions of these Gentlemen had more countenance from our people than our selves," though they went on that "those few appeareing for us soe resolved, as doubtless had not our slowness to Act qualified their heate more than a little trouble might have succeeded."⁴

¹PRO, COL/23, No. 50.

²Shurtleff, Records, IV(ii), 329-32.

³PRO, COL/23, No. 50.

⁴Ibid., No. 11.

In their respective accounts, Nathaniel Phillips and the justices did agree on blaming a faction for bringing about the "invasion." Phillips, in a comment which is interesting for its bearing on the land question, blamed "a Company of restless people in the province of Maine of noe Creditt or Reputation, but living upon Lands of others proprietary petitioning to the last Generall Court at Boston."¹ The justices referred to "the factious party who brought them in," naming Pendleton, Raines, Ezekiel Knights (a resident of Wells who in 1653 had been one of the original selectmen and associates of that town,)² Neale, Masterson and Weare.³

Whether or not these men made up a faction as such, it certainly seems that they had done well in preparing the groundwork for the Massachusetts commissioners. The commissioners were greeted by a friendly address from the town of Falmouth. Written by Francis Neale and dated 3 July, this document explained that the town had never really abandoned its allegiance to Massachusetts, except insofar as it had been forced to do

¹Ibid., No. 60.

²MCR, III, ff. 218-32.

³PRO, COL/23, No. 58.

so, and that it wished to revert to its submission of 1658. The address was endorsed by four of the selectmen as the true wish of the town.¹ When it came to the submission of electoral returns from the various towns according to the warrant published previously through Nathaniel Masterson,² the commissioners were pleased to find, as they reported to the General Court, that "retournes were made from five townes; the other two being hindred, as they said, by the justices; yet one of them above halfe the electors sent in their votes." Kittery, moreover, had sent a representative, Roger Plaisted, to discuss privately with the commissioners the details of the town's renewed submission.³ The commissioners thus had ample propaganda material with which to advance their cause, and could justifiably claim the support of the inhabitants of Maine.

This support was in the end crucial, and the Massachusetts commissioners won their victory. As was to be expected, though, this was not achieved without clashes with the royal justices. On the morning of 7 July, the commissioners were confronted by Jocelyn and

¹Baxter MSS, IV, 221.

²Shurtleff, Records, IV(ii), 371.

³Ibid., pp. 401-04.

seven of his fellow-justices with a copy of the king's letter of 10 April 1666, which they had obtained from Nichols. According to the justices, "when Major Leverett saw that, saith he, I did not think you had had that, indeed I never saw it before, I have divers times seen his Majesty's hand, and do believe this is the same, which had the General Court seen, I am persuaded at present it might have stopped our voyage"; but he eventually felt able to ignore the letter as it was unsealed.¹ This meeting saw a general restatement of positions, following which, according to the commissioners' return, "Mr Jocelyn told us, that there was not above five or sixe of a towne for us, to which wee replied, we should see that by the returnes made to the Courtes warrants & appearances...." Eventually the meeting ended in gentlemanly disagreement and "mutual respect," and the commissioners proceeded to open their court.²

The Maine justices now decided on a resort to other tactics, and an element of comedy began to enter the controversy. As soon as the Massachusetts commissioners retired for lunch, the justices surreptitiously entered the meeting-house with a view to

¹PRO, COL/23, No. 58.

²Shurtleff, Records, IV(ii), 401-04.

conducting their own court; so that the commissioners, on their return, "found the house full, & the gentlemen to have taken up our seats...." At this point, a general brawl may indeed have been narrowly avoided, as even the Massachusetts commissioners recorded that "some of the people began to speak, but were comanded sylence"; but the justices agreed to co-operate in clearing the hall in order to facilitate private negotiations.¹ The result of these was a virtual capitulation by the justices. Certain documents, including the letter of 10 April 1666, were agreed to be publicly read. When this had been done, the commissioners stated the Massachusetts position; the justices thereupon left the meeting-house, venting their frustration in a protest against the proceedings of the Massachusetts commissioners as contrary to royal command.² The protest was a signification that the justices did not consider the matter closed, but at the same time it was an admission of inability to halt the course of events which was now taking place.

The Massachusetts commissioners now "proceeded to the worke of the Court." This consisted chiefly of the appointment of officers, which was expeditiously carried

¹Ibid.

²PRO, CO1/23, No. 11 (i).

out. Five associates were elected or selected, depending upon how far the commissioners chose to take advantage of their dispensation from strict adherence to legal procedure in this. Those named were all reliable men from the Massachusetts standpoint: Pendleton, Raines, Neale, Plaisted and Knights. Peter Weare was rewarded with the positions of Recorder and Treasurer. Commissions were granted to military officers for the various towns, and clerks of the writs appointed. The associates having been sworn in, two civil cases were dealt with and the next county court scheduled for 15 September, whereupon the court dissolved.¹ In addition to the associates, though, four additional magistrates were commissioned "as well for the strengthening the hands of this Authority Chosen ... as alsoe for kepinge of Courts in the said Cownty with the Assosiats...."² The four were Walderne, Pike, Pendleton and Stileman: apparently the Massachusetts commissioners were anxious that their appointees in Maine have a stiffening of New Hampshire men.

In appointing these special magistrates, the commissioners recognised that their success at York on

¹PCR, II, 163-65.

²Ibid., p. 165.

7 July was only a first step in the recalling of Maine to a total allegiance to Massachusetts. The immediately ensuing weeks would be important for the initial enforcement of that authority and, if this were successfully achieved, a continuing process of consolidation would have to be put under way. Nathaniel Phillips observed bitterly in his narrative that "the Province is certainly in a very confusion, every one obeying whom they list for the accomplishing of their owne ends."¹ Here he touched the heart of the problem which had since 1660 militated against the attainment of a stable settlement in Maine. From July 1668 it was once again the turn of Massachusetts to try to catch the greasy pig.

Massachusetts consolidates

As was to be expected, the reaction of the former royal commissioners to the re-entry of Maine by Massachusetts was angry and indignant. Maverick wrote from New York on 25 August to inform Arlington that the inhabitants of Maine were now "subject to their professed enemies, untill his Majesty shall be graciously pleased to relieve them...." He attributed the success of the Massachusetts commissioners to superior armed force.²

¹PRO, CO1/23, No. 50.

²Ibid., No. 45.

Nichols, in a letter written some time later, reminded Arlington that Massachusetts had invaded not only the liberties of fellow-subjects, but also the royal authority itself.¹

The Massachusetts colony, however, had taken prudent steps to offset the impact in London of the news of its actions in Maine. In July 1668 it sent twenty-four masts to the king as a demonstration of its loyalty.² At a time when European politics were in a state of considerable flux, and when the memory of the humiliating loss of several ships of the line to the Dutch in 1667 was still fresh, this was no doubt considered a useful and acceptable gift.³ It was acknowledged by the king in September in a letter which, if not friendly in tone, was at least guardedly gracious.⁴ Maverick informed Nichols in a letter of April 1669 that "By Letters lately received from Boston I am informed how exceedingly they boast of the Gracious Letters they have received from his Majestie and of his

¹PRO, CO1/24, No. 63.

²PRO, CO1/23, No. 17.

³See Clark, The Later Stuarts, pp. 67-74. Also Baily, New England Merchants, p. 132.

⁴PRO, CO1/23, No. 18.

kind Acceptance of the Masts they sent him...."¹ At this time it is probable that the government had little time to spare for New England affairs. The fall of Clarendon in 1667 had brought about a reorganisation of the patterns of power, which now rested largely with the 'Cabal.' Arlington, the member of the Cabal who had been most closely involved with New England, was now bound up with the much more important matter of foreign policy as it affected Holland and France: this was the time when the policies which had produced the Triple Alliance of 1668 against France were giving place to the pro-French policy which was to bring about the secret treaty of Dover in 1670.² Massachusetts was for the moment, therefore, practically free of the surveillance of Whitehall.

This being so, it could concentrate on the reduction of Maine. This process met with serious initial problems, though these were apparently chiefly occasioned by a few turbulent individuals and there is no evidence of any large-scale conflict or recrimination. The chief site of the trouble was in the north-easterly settlements of Saco and Scarborough. Neither of these

¹PRO, CO1/24, No. 52.

²Clark, The Later Stuarts, pp. 71-77.

had sent a deputy to the General Court since 1660.¹ Bryan Pendleton reported to Leveret from Saco on 21 August 1668 that he had been obstructed in his efforts there to "in a loving & peaceable way obtaine subjection to the Massachusetts Governement," the chief obstructor being William Phillips, who had made speeches against Pendleton in both Saco and Scarborough. In the latter town, Pendleton went on, only seven out of "a considerable number of persons" supported the Massachusetts authority, pending production of some convincing commission. In the meantime, "Wee are altogether without any Government."²

Pendleton's difficulties can be exemplified from the events described in a series of depositions made before him on 13 August. All the deponents described how, at Pendleton's behest, an announcement was made in the Saco meeting-house on 2 August to summon the men of the town to meet the following morning to hear some orders which had come from the Massachusetts authorities. Phillips stood up and questioned Pendleton's authority, advised non-attendance at the meeting, and later pulled

¹Maine Historical Society Archives, Andrew Hawes Collection, Box 3/11.

²James Phinney Baxter, ed., Documentary History of the State of Maine, Maine Historical Society Collections, Series II, Vol. VI (Portland, 1900), p. 28. (Hereinafter cited as "Baxter MSS, VI.")

down a warrant for the election of officers to the next county court.¹ There was evidently little Pendleton could do to prevent this, and Phillips persuaded several of the inhabitants that "they could not medle till the diforenc about the government was reconciled."²

Phillips, however, was brave or foolish enough shortly after to go to Boston "about his businesse," as his son related.³ He was there secured and ordered to pay I500 as a bond for his good behaviour. At first refusing, he was imprisoned, but he complied with the order on 2 September. On the following day he petitioned the Governor and Magistrates of Massachusetts for his release: "I am the Rather Nesesitated heerunto by Reason my health Is Impaired An I finde my body not fitt for Durance."⁴ Exactly when Phillips was released is uncertain, but there is no further record of his acting in opposition to Massachusetts.

John Bonython and Robert Jordan were also troublesome in the vicinity of Saco and Scarborough. On

¹Ibid., pp. 20-26.

²Ibid., p. 26.

³PRO, COI/23, No. 50.

⁴Baxter MSS, VI, 29-31.

6 July 1669, for example, Bonython was summonsed for having "caried himself Contemptuosly to the Assotiate Cort att Sacoe...." On the same day, Jordan was summonsed for having refused "to Conforme to the Lawes & Authority of this Jurisdiction, opposing & Thretening the Constable in the executing of his office...."¹ On 5 July 1670, Bonython was again presented and fined L20 "for saing the bay men are Roges & Rebellis against his Majesty, & saing that Roge Major Leverett hee hoped hee will be hanged, & if hee wanted a hangman he would be a hangman for them."² On 4 July 1671, the irrepressible Bonython, whose first presentment "for reviling and abusing of Magistracie" had been under the Gorges government some twenty-six years previously,³ was again presented for a similar offence.⁴ Also in the north-east, several inhabitants of Falmouth, headed by Francis Neale, petitioned the General Court about 1671 to the effect that their efforts to keep their commitments to Massachusetts had aroused "the envie and malice of manie

¹PCR, II, 176.

²Ibid., p. 196.

³Ibid., I, 87.

⁴Ibid., II, 224.

who have lately been active against this Authority & still are desirous of a change." These men, they went on, had successfully opposed, at a town meeting, the sending of a deputy to the General Court. The petitioners asked for clarification of certain voting rights, and expressed alarm that their town might be destroyed by claims through patents and Indian deeds to "great tracts of Land."¹

Some lesser cases of resistance to Massachusetts were dealt with by associates' courts. At Wells on 27 October 1668, for example, Captain John Davies, Gorges's former agent, was fined L5 for "his abusive & offensive Carag to this Court," though the fine was later abated to L3. Richard Lockwood was bound over in the sum of L20 for a similar offence.² It may well be that in the southern parts of the region authority was easier to enforce, owing to greater accessibility. The southern parts were also the location of the largest town organisations, which were usually willing to comply with the orders of the magistrates at this time. At the county court on 6 July 1669, for example, it was ordered that Nicholas Shapleigh, James Heard and Richard Nason,

¹Baxter MSS, IV, 323-25.

²PCR, II, 403.

Kittery selectmen, should be dismissed from that position for being Quakers.¹ On 29 July, the town appointed Charles Frost as town clerk "in the room of James Heard, he being discharged from that trust by the County Court...",² thus indicating its acceptance of the court's decision.

There was, therefore, substantial initial resistance in Maine to the return of the Massachusetts authority. It has been suggested throughout this study that the concerns of the Massachusetts colony and those of the bulk of the inhabitants of Maine were coincident rather than the same. While Massachusetts was interested in the strategic and economic advantages to be gained from control of Maine, the inhabitants wished security, both in their lands and from external attack.

Massachusetts, therefore, was generally content to buy popular support by guaranteeing such security, though it did not dismiss the possibility of coming to a private arrangement with the proprietor Gorges if it seemed that this would best serve its ends. In 1674, for example, a set of notes drawn up by or for Thomas Povey included the observation that "they [Massachusetts] have Declared

¹Ibid., p. 177.

²Kittery Town Records, I, 20.

themselves willing to add their power to the right of the other proprietors, and will allow that those may have the free disposing of the Lands & Estates, on Condition they intermeddle not with the Government."¹

The inhabitants, on the other hand, would give support to whatever authority seemed most likely to offer security. Usually this was Massachusetts; but in 1665 the king's immediate government had seemed an even better bet. In 1668, especially in the remote north-eastern parts, where one powerful individual's word was pitted against another's, there was fearful suspicion and reluctance to acquiesce in yet another change of government. Nevertheless, the Massachusetts government continued to operate, both in the holding of regular courts in various parts of the region² and in the referral of particular cases to the General Court at Boston. In 1669, for example, one John Littlebury petitioned the General Court claiming that he was a patentee by derivation from the Laconia Company and that he had been denied his rightful land by the royal

¹PRO, COL/31, No. 81.

²PCR, II, Contents, pp. iii-v.

justices: the court solved this problem by paying Littlebury's passage back to England.¹

With the continuing operation of the Massachusetts authority, signs began to mount of a growing reconciliation in Maine to the situation as it now was. Deputies commenced to go from Maine, or from the county of Yorkshire as it now once again was, to the General Court at a rate of two or three per court. Kittery was the only town to send a deputy each year between 1669 and 1677, but by that time each town had been represented at least once.² In late 1669 the town of Kittery began to make large-scale allocations of town land, a sign of confidence in the stability of the existing regime.³ York continued to make grants at a more steady rate.⁴ Individuals began also to make their peace with Massachusetts. Abraham Corbett, for example, took an oath of fidelity along with five others at the county court on 6 July 1669.⁵ In 1670 Edward Rishworth

¹MCR, III, ff. 289-93.

²Maine Historical Society Archives, Andrew Hawes Collection, Box 3/11.

³Kittery Town Records, I, 26-28.

⁴York Town Records, I, 36-39.

⁵PCR, II, 173-74.

was chosen deputy by the town of York to attend the General Court at Boston, which judged him unacceptable on account of his past record. In a petition submitted to the General Court on 12 May of that year, Rishworth made his peace. The wording of the petition was not such as to indicate heartfelt repentance, but Rishworth acknowledged that "I did act very Imprudently, & hope through gods assistance I shall not do the like againe, but for tyme to come shall Indeavor to walke more cercumspectly in cases soe momentous." Rishworth's petition was accepted,¹ and in 1672 he sat as deputy for York.² Even in Saco, matters seem to have settled down, with both Phillips and Pendleton serving frequent terms as selectmen.³

The evidence suggests, therefore, that Massachusetts made steady progress toward the reduction of Maine. It is hardly surprising that the comments of the former royal commissioners, and especially those of Maverick, became increasingly bitter and increasingly pessimistic. As early as April 1669 Maverick observed to Nichols that "those of the Massachusetts have unranckled

¹Baxter MSS, VI, 33.

²Shurtleff, Records, IV(ii), 507.

³Saco Town Records, I, 74-100.

all that was done in the Province of Maine."¹ In July, he noted that the "loyal party which groans under the burthen of Massachusetts Government now despair of relief."² Maverick wrote again to Nichols in October 1669: "it grieves me to the hart to consider that they should be now in a far worse condition than wee found them in."³

Although it is true that the Maine controversy was not yet dead, it now degenerated into a stale repetition of the events of some ten years before. In January 1670, Ferdinando Gorges presented a new petition to the king and Privy Council, in which he went over his claim once again, with the addition of a brief narrative of the more recent developments.⁴ The petition was referred by the Privy Council to its Committee for Trade and Plantations,⁵ which on 9 May 1670 declared that Gorges was entitled to full reinstatement in his

¹PRO, CO1/24, No. 52.

²Ibid.

³Ibid., No. 92.

⁴PRO, CO1/25, No. 5.

⁵Ibid., No. 6.

property.¹ Now, however, the matter was referred to the Committee for Foreign Affairs,² and in turn to the revived Council of Plantations,³ which presented a report on 12 July. In its report, the council stated that it had been unable to obtain copies of all the relevant patents or to hear the views of Massachusetts. It therefore recommended that the king send commissioners to investigate.⁴ Thus full circle had been reached. The idea of sending commissioners was brought up frequently in the Council of Plantations between that time and May 1672. On one occasion Arlington signified the king's agreement to such a commission; but nothing was done.⁵ Ferdinando Gorges, now resident in Barbados for some eighteen years, though regarding himself still as "of the

¹Ibid., No. 7.

²Ibid., No. 31.

³PRO, COL/26, No. 30. For an account of the revival of this council, and of other contemporaneous developments in the machinery for regulating the colonies, see Charles McLean Andrews, "British Committees, Commissions, and Councils of Trade and Plantations, 1622-1675," in Johns Hopkins University Studies in Historical and Political Science, Series XXVI, Nos. 1-3 (Baltimore, 1908), pp. 96ff.

⁴PRO, COL/26, No. 30 (i).

⁵Ibid., No. 55.

Citty of London Merchant,"¹ may well by now have become discouraged.

In Maine he still had his supporters. In August 1672, Champernowne and Jocelyn wrote to Robert Mason, who was still pressing his claim to New Hampshire, alleging that "this province as also the province of Maine are very desirous" of a new settlement. They praised a statement by Mason that he would not seek arrears of rent, but would be content with "a reasonable quitt Rent of each inhabitant."² In December of the same year, Shapleigh wrote to the king to warn him of the rapid destruction of good mast-trees by saw mills in Maine, which could be preserved for the royal navy if Gorges were restored.³ Here again, full circle had been reached, for the same men had more than a decade before been pursuing the same cause in the same way, though perhaps then they had had an optimism which by 1672 had been scotched by experience.

Later years were to produce new developments in relations between England, New England and Maine. Both Gorges and Mason renewed their activities before the

¹PRO, CO1/30, No. 14.

²PRO, CO1/29, No. 20.

³Ibid., No. 64.

committee of the Privy Council for plantations in 1675. When favourable reports had been received upon their claims, the royal government decided to use these as an instrument to reopen the whole question of relations with Massachusetts. A special agent, Edward Randolph, was dispatched to carry a message to Boston, requiring the colony to send agents to London.¹ The Massachusetts authorities complied, and prolonged legal arguments followed as to the validity of the colony's charter. It was the overwhelming opinion of the courts that the claims of Gorges and Mason were valid; the Massachusetts agents, though, succeeded in buying Gorges's patent from him for £1250, to the royal government's intense annoyance.² Though the Massachusetts colony soon afterwards lost its charter and formed part of a royal dominion of New England until the Revolution of 1689,³ the control of Maine was thus assured to it, and survived until the establishment of a separate State of Maine in

¹Osgood, American Colonies in Seventeenth Century, III, 309-11.

²Ibid., pp. 317-23.

³Ibid., chaps. x, xiii, xiv.

1820. New Hampshire, on the other hand, became and remained a separate colony.¹

Although, therefore, much firmer action was taken by the royal government from 1675 to regulate the Massachusetts colony, the control of Maine continued to repose in Boston. The temporary settlement of Maine by the royal commissioners had been erased with remarkable completeness. Its subversion had been so thoroughly accomplished by 1672, through the consolidation of the Massachusetts authority, that it was remembered only by the enemies of Massachusetts for propaganda purposes. "Those of the Massachusetts have unranckled all that was done in the Province of Maine": Maverick's words were a gloomy but accurate epitaph for the royal commission.

¹Ibid., chap. xi.

CONCLUSION

In its efforts to regulate New England the government of Charles II was exploring the unknown. The phenomenon of American colonisation was still very recent, and Charles's reign was the first in which an English monarch had to deal with a powerful, well-established and recalcitrant colony. The methods for so doing, therefore, were necessarily subject to experimentation. At the same time, the government was, in the early years of the reign, faced with the delicate task of consolidating the Restoration throughout the realm. It is perhaps not surprising in these circumstances that the royal policy towards New England was characterised initially by extreme hesitancy.

The basic aim of royal colonial policies at this time was in general terms consistent and was concisely expressed in the public instructions to the royal commissioners in 1664. It was the king's wish that he should "looke hereafter upon our Colony of the Massachusetts as within the same limits of affection Duty and obedience to our person and Governement, as if it

were as neare us as Kent or Yorkshire, and they againe with the same confidence of our Care and Protection as the other doe."¹ Liberties, in all likelihood peculiar and far-reaching, would be granted at the king's pleasure to facilitate the practical operation of the colonies, just as liberties had in the past been granted to the Palatinate of Durham to meet the special circumstances of the Scottish border; but the grant of liberties must not obscure the fact that the colonies remained an integral part of the realm. Thus far the royal aim was clear; the hesitancy appeared when it came to finding the means to the desired end.

The situation was complicated in 1660 by the various disputes which had arisen in New England during the Interregnum. On these, as on grievances from every other part of the realm, the king was immediately presented with numerous pleas and petitions, many from men who claimed to have suffered in the royalist cause. A balance had to be struck between the rewarding of past service and the calling of oblivion on past injury. In Kent or in Yorkshire this task was difficult enough; in New England the lack of reliable information made it

¹PRO, COL/18, No. 51.

near-impossible. One such dispute was that over the Province of Maine.

On the Maine issue, as on the question of New England generally, the government's first task was to obtain information. The Council for Foreign Plantations failed to do this to the satisfaction of the Privy Council. By 1663 the king had decided that he must send representatives to New England itself; as well as gathering information, they would take appropriate action to reconcile disputes and to bring the whole region into its rightful allegiance. The result was the royal commission of 1664-66. The central point of possible contention was the charter of the Massachusetts colony.

When the king professed himself anxious to preserve the Massachusetts charter, he was not doing so merely for strategic effect: it was perfectly acceptable to him that the colony should enjoy extensive liberties. He was concerned, though, that these liberties should be kept within their proper limits. His immediate authority must continue to be respected there insofar as he chose to exercise it, preferably through the choice of the governor and military commander of the colony, in common with those of other colonies. Massachusetts jurisdiction, moreover, must be kept within its geographical boundaries as interpreted by the royal government. This

latter concern prompted the king, once assured of the legitimacy of Ferdinando Gorges's claim to Maine, to deliver himself of a stern instruction to Massachusetts to relinquish that province to Gorges's commissioners.

Massachusetts, for its part, was also exploring new territory in its relations with the crown, and the period under discussion was for that colony a time for testing out the king's strength. Anti-royalism having become a lost cause, it was the colony's aim to maximise its liberties in every respect to the furthest extent which would not incur dangerously active royal wrath. Accordingly, it engaged in a continuous exercise in what might in a later age have been called 'brinkmanship.' The slowness of communication between England and New England was exploited to the full for purposes of procrastination. In the event of unwelcome directives being received from London, token concessions and humble professions of loyalty were accompanied by the rigorous exploitation of any loopholes which could be detected.

These techniques were typically employed in dealing with the question of Maine. This question came initially within the royal purview as a dispute to be settled; when Massachusetts refused to comply with the royal wishes it became a major issue between king and colony; and when the royal commissioners entered the fray

it also became an important aspect of the closer-range struggle between them and the colony. The conflict over Maine was a long-standing one and had already been through several phases of development when the commissioners travelled there in 1665. The royal view of the situation had hitherto been somewhat simplistic, based upon legal opinion and not upon accurate knowledge of the state of affairs as it existed in Maine. When the king ordered the restoration of Maine to Gorges in 1664, he was asking for the reversal of much that was significant in the development of that region over the past decade. In particular, he was endangering the existing structure of landholding. Even armed with the royal order, Gorges's commissioners were unable in late 1664 to take any grip upon government in the face of popular suspicion.

Popular feeling was an important factor in the history of Maine from 1652, since the town organisations had control of the land. These organisations were especially strong in the southern parts--Kittery, York, Wells and Saco were all well developed as towns by the time of the Restoration--and even in the north-east the towns of Scarborough and Falmouth were theoretically in command, though subject to the opposition of men such as Jordan. Popular feeling, however, is extremely difficult

for the historian to gauge in the absence of adequate documentary records. The shortage of sources compels caution in asserting the truth of any interpretation; nevertheless, the writing of Maine history requires that an interpretation be made.

The evidence suggests that the original Massachusetts annexation of Maine between 1652 and 1658 had been widely welcomed because it released the land from the grip of the old patentees. This did not mean that every old patentee was immediately put at odds with his neighbours, since several settled amicably into the new system, but Godfrey is an example of one patentee who was indeed ruined by the change. The distribution of land by the towns did ensure that many of the inhabitants would feel threatened by any projected reimposition of the proprietary system. It seems that support for rule by Massachusetts stemmed from this acquisition of free land--not from any enthusiasm for Massachusetts rule as such--but there can be no doubt that there was considerable security to be derived from such an arrangement, both in landholding and in defence against such possible enemies as the Indians and the Dutch. Any alternative government which hoped to supplant Massachusetts would have to provide equal assurance on these points if it hoped to operate effectively, and this

is where Gorges and his commissioners in 1662 and 1664 failed entirely.

The royal commissioners were faced in 1665, therefore, with the prospect of attempting to enforce a royal directive in favour of Gorges which experience had shown to be virtually unenforcable. Their solution was a temporary settlement which favoured neither Gorges nor Massachusetts and left the important land question in suspension pending instructions from England. This settlement combined security in land titles in the short term with the prospect of permanent security confirmed from England. The taking of Maine under the king's immediate authority and protection afforded the prospect of security both from royal wrath and from enemy attack. The Maine settlements, especially those in the north-east, were small and scattered: the most prominent recent historian of the region has observed that it is difficult to avoid using the term 'frontier,' even when no allusion is intended to the Turner thesis.¹ Subsistence here was perilously tenuous and fear was a powerful factor in the formation of political attitudes. 'Principle,' as it could be conceived in more firmly established societies, had little place where security

¹Clark, Eastern Frontier, pp. ix-x.

and stability were at stake, and this explains in large part the several changes of allegiance in Maine within a short period, both by the province as a whole, by such prominent inhabitants as Rishworth, Cleeve and Phillips, and by such humbler inhabitants as Raynes. The trick was to choose the winning side.

The royal commissioners apparently went far towards establishing their settlement as the one most likely to succeed. The essential, though, was quick royal confirmation: final settlement of the land, along with provision for the strong organisation of the province for purposes of internal government and external defence. Such confirmation would require speedy thought and action in London, for the Massachusetts authorities were waiting south of the Piscataqua river for their opportunity. So far they had neatly fended off royal wrath, and had no reason to suppose they could not do so again if they re-entered Maine. Their chance came in 1668 and was taken with impunity; it gradually became clear to the inhabitants of Maine from that time that Massachusetts was the winning side in the dispute and therefore deserved allegiance.

The question of Maine, therefore, was one which well exemplified the weaknesses inherent in Charles II's early efforts to impose his authority upon the colonies.

The royal government lacked the information, and, more important, the conception of the problems involved, to be able to do this satisfactorily. Indeed, the government was inclined to expect that any attention which it might pay to New England should be esteemed there as a favour; hence its indignation that the Massachusetts colony should obstruct the royal commissioners on "their Journey so chargeable to his Majestie."¹ Only gradually did it become clear in London not only that Massachusetts was ungrateful but that the colony was prepared to go to great lengths, even deliberately to disregard royal commands, to defend its independent position. The royal sending of the royal commission in 1664 was intended as a strong measure; when it failed to extract concessions from Massachusetts, the government had no alternative, the commissioners argued, but to impose even stronger measures. The fall of Clarendon and the exigencies of European diplomacy, however, postponed royal action in New England. Thus the royal commissioners' settlement in Maine, their most constructive achievement, collapsed for want of support from England. Until further careful and practical thought was given in Whitehall to the novel

¹PRO, COL/19, No. 30.

questions raised by the phenomenon of American colonisation, obedience to royal authority could not be relied upon in Maine, in Massachusetts, or in any other colony.

APPENDICES

Appendix I. Magistrates of the Provinces of
New Somersetshire and Maine, 1636-52.

Name	Number of appearances on bench	Dates of appearances ¹	Land status & remarks
Richard Bankes	1	1652	Granted 20 acres at York by the patentee William Hooke, 19 July 1645. ² Also $\frac{1}{4}$ share of 12 acres marsh from Gorges, 20 November 1645, for annual rent of 12d. ³
Henry Boade	2	1646-48	One of grantees on behalf of town of Wells, along with John Wheelwright and Edward Rishworth, from Gorges, 14 July 1643. ⁴
Richard Bonython	6	1636-46	Saco patentee from Council for New England, 12 February 1630. ⁵
Thomas Cammock	1	1636	Black Point patentee from Council for New England, 1 November 1631. ⁵
Francis Champernowne	1	1647	Patentee through deed from Gorges to father, 12 December 1636. ⁶
Anthony Emery	1	1652	Purchased house and field in Kittery from John White, 15 November 1648. ⁷ Purchased marsh and house-lot in Kittery from Joseph Austin, 15 July 1650. ⁸
Edward Godfrey	15	1636-52	Patentee at Agamenticus, by 1638. ⁹
Thomas Gorges	1	1640	Governor of Maine under Sir Ferdinando Gorges. Patentee from Sir Ferdinando Gorges, 4 March 1641. ¹⁰
William Gorges	1	1636	Agent of Sir Ferdinando Gorges in New Somersetshire. ¹¹
Henry Jocelyn	10	1636-48	Patentee by bequest from Thomas Cammock, by will of 2 September 1640. ¹²

Appendix I. (Continued.)

Name	Number of appearances on bench	Dates of appearances	Land status & remarks
Ezekiel Knights	2	1647	Granted house-lot (5 October 1645) and marsh (13 June 1646) by the town of Wells, under that town's grant from Gorges. ¹³
Richard Leader	2	1651-52	¼ share in grant of tract in Kittery, with George Leader, Richard Cutt and John Cutt, by town of Kittery, 16 September 1651. ¹⁴
Thomas Lewis	1	1636	Saco patentee from Council for New England, 12 February 1630. ⁵
Arthur Mackworth	1	1645	Direct grantee from Gorges of 500 acres at Casco, 30 March 1635. ¹⁵
Basil Parker	10	1646-51	Frequently court recorder. ¹ No surviving land record.
Abraham Preble	10	1645-51	Granted 10 acres by Edward Godfrey, 20 December 1642, for annual service of 2 days' labour. ¹⁶ Granted 20 acres by the patentee William Hooke, 19 July 1645. ² Granted 20 acres by Godfrey, 25 June 1652, for annual rental of 3/4d. ¹⁷
Thomas Purchase	1	1636	Pejepscot patentee, probably from Council for New England, 16 June 1632. ⁵
Francis Robinson	2	1644-45	No surviving land record. Close business associate of patentees Lewis and Bonnython. ¹⁸
Edward Rishworth	2	1649-51	Court recorder. ¹ One of grantees on behalf of town of Wells, along with John Wheelwright and Henry Boade, from Gorges, 14 July 1643. ⁴ Granted land by Province of Maine, 20 October 1651, for saw mills. ¹⁹
Nicholas Shapleigh	8	1644-52	Large landowner through father, Alexander Shapleigh, and James Treworgle. ²⁰ Granted land by town of Kittery, 25 February 1649. ²¹

Appendix I. (Continued.)

Name	Number of appearances on bench	Dates of appearances	Land status & remarks
Edward Small	1	1645	Direct grantee from Gorges of 100 acres, 25 July 1643, for annual rental of 5/-d. ²¹
Richard Vines	4	1640-45	Saco patentee from Council for New England, 12 February 1630. ⁵
Thomas Withers	1	1651	Direct grantee from Gorges of 600 acres, 1 March 1643, and of 40 acres, 9 April 1643. ²² Confirmed, with addition of some 200 acres, by town of Kittery, 24 May 1652. ²³

Notes to Appendix I:

- ¹PCR, I and II, passim.
- ²York Deeds, I, Part I, f. 101.
- ³Maine Historical Society, York Deeds, Vol. II (Portland, 1887), f. 179.
- ⁴York Deeds, I, Part II, f. 9.
- ⁵Preston, Gorges, pp. 450-53.
- ⁶York Deeds, III, f. 97.
- ⁷York Deeds, III, f. 51.
- ⁸York Deeds, II, f. 141.
- ⁹Cal. Col., 1574-1660, p. 266.
- ¹⁰York Deeds, I, Part II, f. 5.
- ¹¹Preston, Gorges, p. 308.
- ¹²York Deeds, II, f. 84.
- ¹³York Deeds, I, Part I, f. 1.
- ¹⁴York Deeds, I, Part I, f. 162.
- ¹⁵York Deeds, I, Part II, f. 1.
- ¹⁶York Deeds, I, Part II, f. 177.
- ¹⁷York Deeds, I, Part II, f. 179.
- ¹⁸Noyes and others, Genealogical Dictionary, p. 591.
- ¹⁹York Deeds, I, Part I, f. 15.
- ²⁰York Deeds, I, Part I, ff. 1, 7, 11.
- ²¹York Deeds, I, Part I, f. 13.
- ²²York Deeds, I, Part I, f. 24.
- ²³York Deeds, II, f. 7.

Appendix II. The theoretical basis of the Massachusetts claim to Maine.¹

The charter of Massachusetts Bay, issued by Charles I on 4 March 1629, granted jurisdiction to that colony over an area bounded to the north "within the space of three English myles to the northward of the said river called Monomack, alias Merrymack...."² At the time the charter was issued, the Merrimack river was thought to run practically due west to east. It was later found that, some forty miles south-west of its mouth, the river took a great sweep, and that up to that point it flowed south-south-east from a source far to the north.

Until late 1651 this went apparently unnoticed; on 31 October of that year, however, the Massachusetts General Court stated its claim that "Ketterey & many myles to the norward thereof is comprehended within our graunt."³ On 19 October 1652 the claim was given greater definition in the report to the General Court of two surveyors that the head of the Merrimack was at a latitude of 43° 40' 12".⁴ The boundary, as claimed by Massachusetts, was therefore a straight east-west line drawn from three miles due north of that point. This line crossed the Atlantic coastline in Casco Bay, and thus included all the Maine and Lygonia settlements.

Notes to Appendix II:

¹This appendix should be read in conjunction with Map 3.

²Farnham Papers, p. 88.

³Shurtleff, Records, IV(i), 70.

⁴MCR, III, f. 187.

Appendix III. Commissioners of
Ferdinando Gorges, 1664.

Name	Residence ¹	Known connection with proprietary system	Occasions elected to town office ¹	Past magistratical experience ² (court appearances)			
				Maine or New Somersetshire to 1652	1661	Lygonia to 1652	Yorkshire County courts
John Archdale	England	Brother-in-law and agent of Gorges. ³	-	-	-	-	-
Joseph Bowles	Wells	100 acres from Sir F. Gorges, confirmed by town of Wells, June 1654. ⁴	Wells, 1657	-	-	-	-
Francis Champernowne	Kittery	Patentee, 1636. ⁵	-	1	1	-	-
Robert Cutts	Kittery	-	-	-	-	-	-
Francis Hooke	Saco	Close relative of patentee W. Hooke. ⁶	-	-	-	-	-
Henry Jocelyn	Black Point	Patentee, 1640. ⁵	-	10	2	1	2
Robert Jordan	Spurwink	Patentee through estate of Robert Trelawny, 1648. ⁷	-	-	1	1	2
Francis Neale	Casco	-	-	-	-	-	-
Thomas Purchase	Pejepscot	Patentee, 1632. ⁵	-	1	-	-	-
Francis Raynes	York	-	York, 1652, 1663	-	-	-	-

Appendix III. (Continued.)

Name	Residence	Known connection with proprietary system	Occasions elected to town office	Past magistratical experience (court appearance)			Yorkshire County Assoc. courts	
				Maine or New Somersetshire to 1652	1661	Lygonia to 1652		
Edward Rishworth	York	Wells trustee, 1643. Granted land by Pr. of Maine, 1651. ⁵	York, frequently	2	-	-	12	8
Henry Watts	Blue Point	Granted 100 acres by Pr. of Lygonia, c. 1648, for annual rental of 2/6d. ⁹	-	-	-	-	-	-
Thomas Withers	Kittery	640 acres from Sir F. Gorges, 1643, confirmed by town of Kittery, 1652. ⁵	Kittery, frequently	1	-	-	-	-

Notes to Appendix III:

¹Noyes and others, Genealogical Dictionary, passim.²PCR, I and II, passim.³PCR, I, Preface, p. xxxix.⁴York Deeds, I, Part I, f. 43.⁵See Appendix I.⁶Noyes and others, Genealogical Dictionary, p. 347.⁷York Deeds, I, Part I, f. 73.⁸York Deeds, I, Part I, f. 155.⁹York Deeds, I, Part I, f. 84.

Appendix IV. Justices of the Peace
of the Province of Maine, 1665-68.

Name	Residence ¹	Known connection with proprietary system	Occasions elected to town office ¹	Past magistratical experience ² (court appearance)				
				Maine or New Somersetshire to 1652	1661	Lygonia to 1652	Yorkshire County courts	County Assoc. courts
Francis Champernowne	Kittery	Patentee, 1636. ³ Granted 300 acres by Gorges, through Archdale, 1665. ⁴	-	1	1	-	-	-
Robert Cutts	Kittery	-	-	-	-	-	-	-
Francis Hooke	Saco	Close relative of patentee W. Hooke. ⁵	-	-	-	-	-	-
Henry Jocelyn	Black Point	Patentee, 1640. ³	-	10	2	1	-	2
Edward Johnson	York	In York from c. 1635, ⁶ but no surviving deed.	York, 1662, 1665	-	-	-	2	-
Robert Jordan	Spurwink	Patentee through estate of Robert Trelawny, 1648. ⁷	-	-	1	1	-	2
George Munjoy	Casco	-	-	-	-	-	2	3
William Phillips	Saco	Patentee by purchase, 1659. ⁸	Saco, frequently	-	-	-	1	3
Edward Rishworth	York	Wells trustee, 1643. Granted land by Pr. of Maine, 1651. ³	York, frequently	2	-	-	12	8

Appendix IV. (Continued.)

Name	Residence	Known connection with proprietary system	Occasions elected to town office	Past magistratical experience (court appearances)				
				Maine or New Somersetshire to 1652	1661	Lygonia to 1652	Yorkshire County courts	Assoc. courts
Samuel Wheelwright	Wells	Inherited half of father's interest in town of Wells, 1663. ⁹	-	-	-	-	-	-
John Wincoll	Kittery	-	Kittery, frequently	-	-	-	-	-

Notes to Appendix IV:

¹Noyes and others, Genealogical Dictionary, passim.

²PCR, I and II, passim.

³See Appendix I.

⁴York Deeds, III, f. 99.

⁵Noyes and others, Genealogical Dictionary, p. 347.

⁶Noyes and others, Genealogical Dictionary, p. 381.

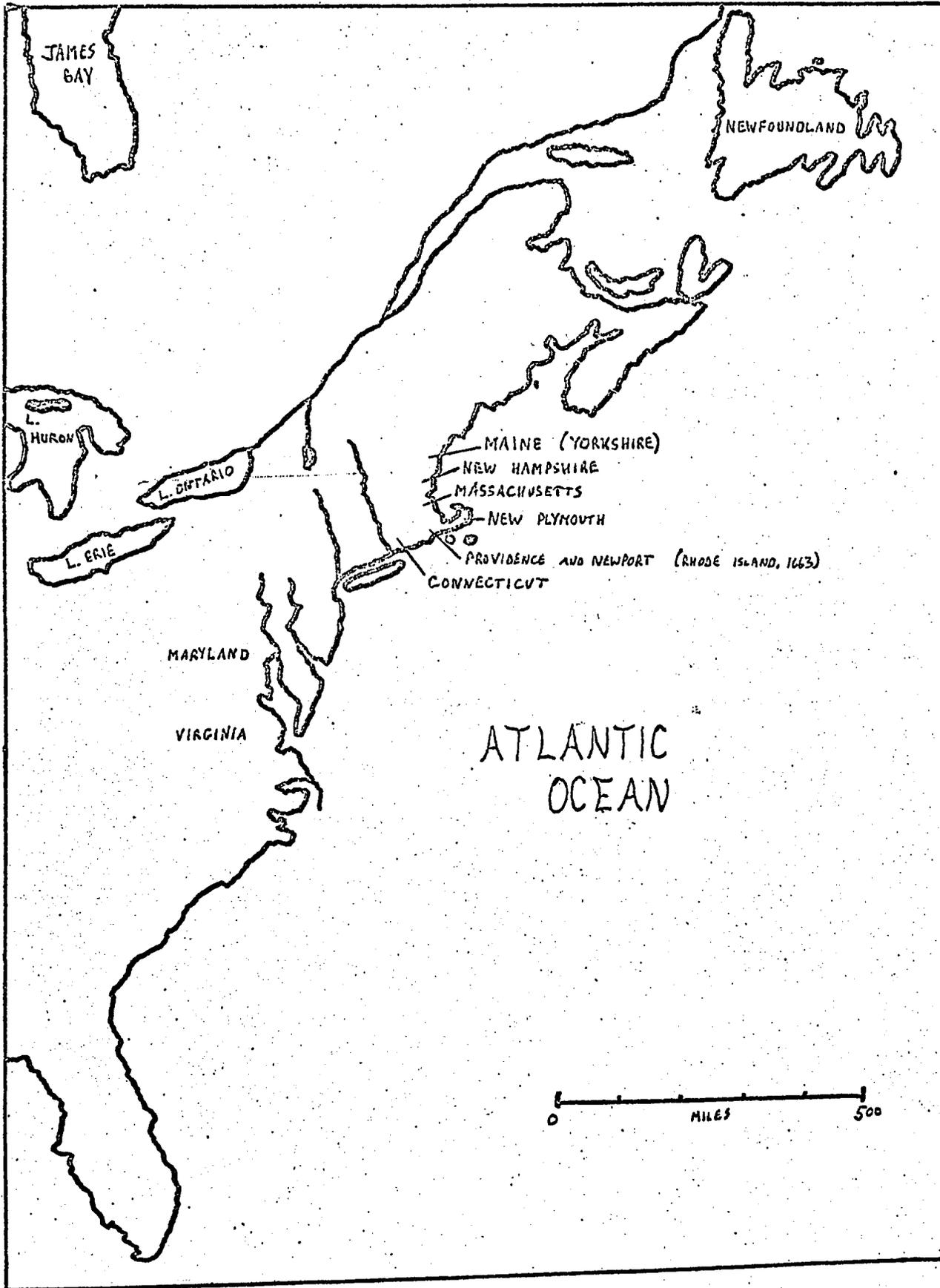
⁷York Deeds, I, Part I, f. 73.

⁸York Deeds, I, Part I, f. 82.

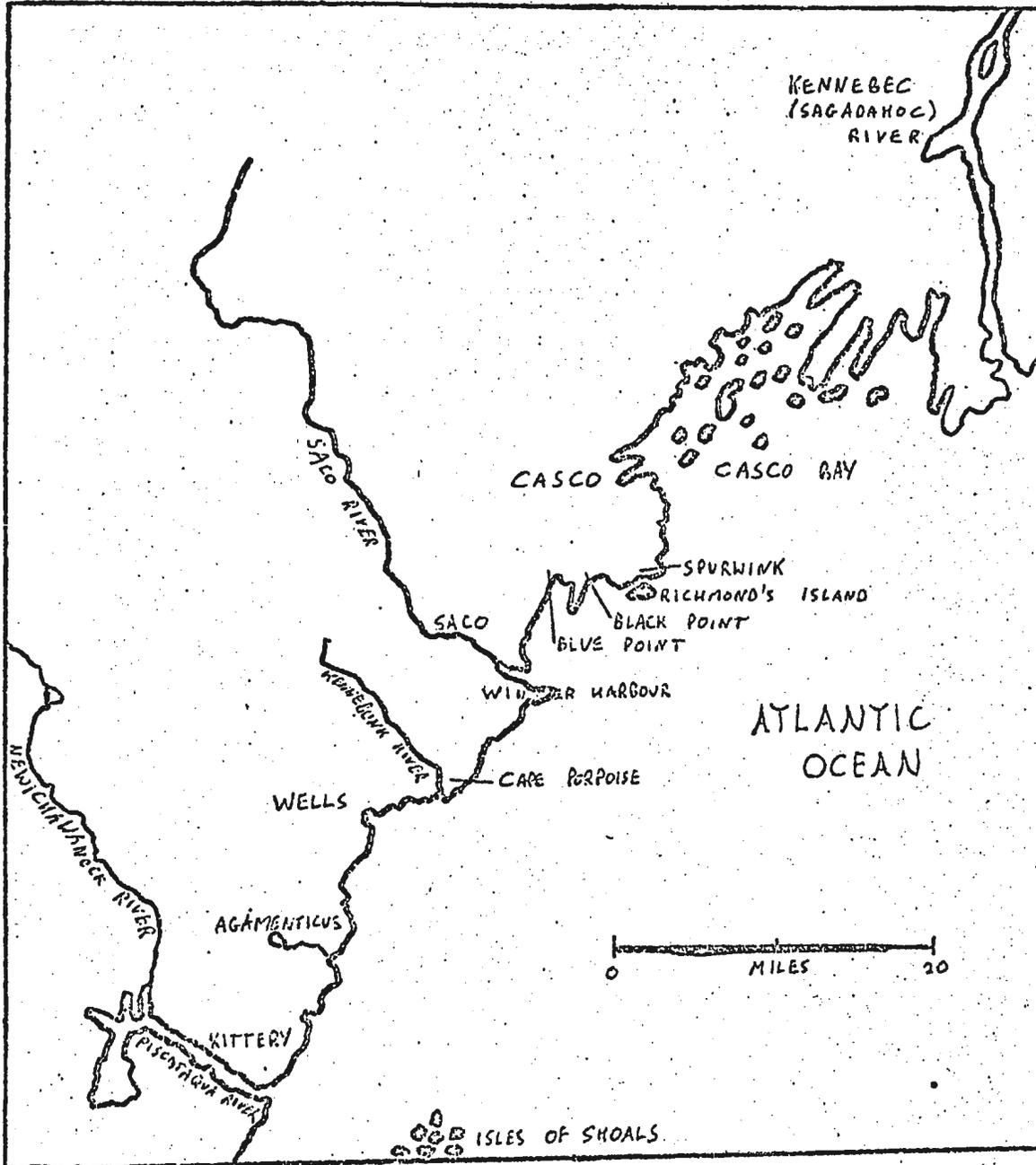
⁹York Deeds, I, Part I, f. 137.

MAPS

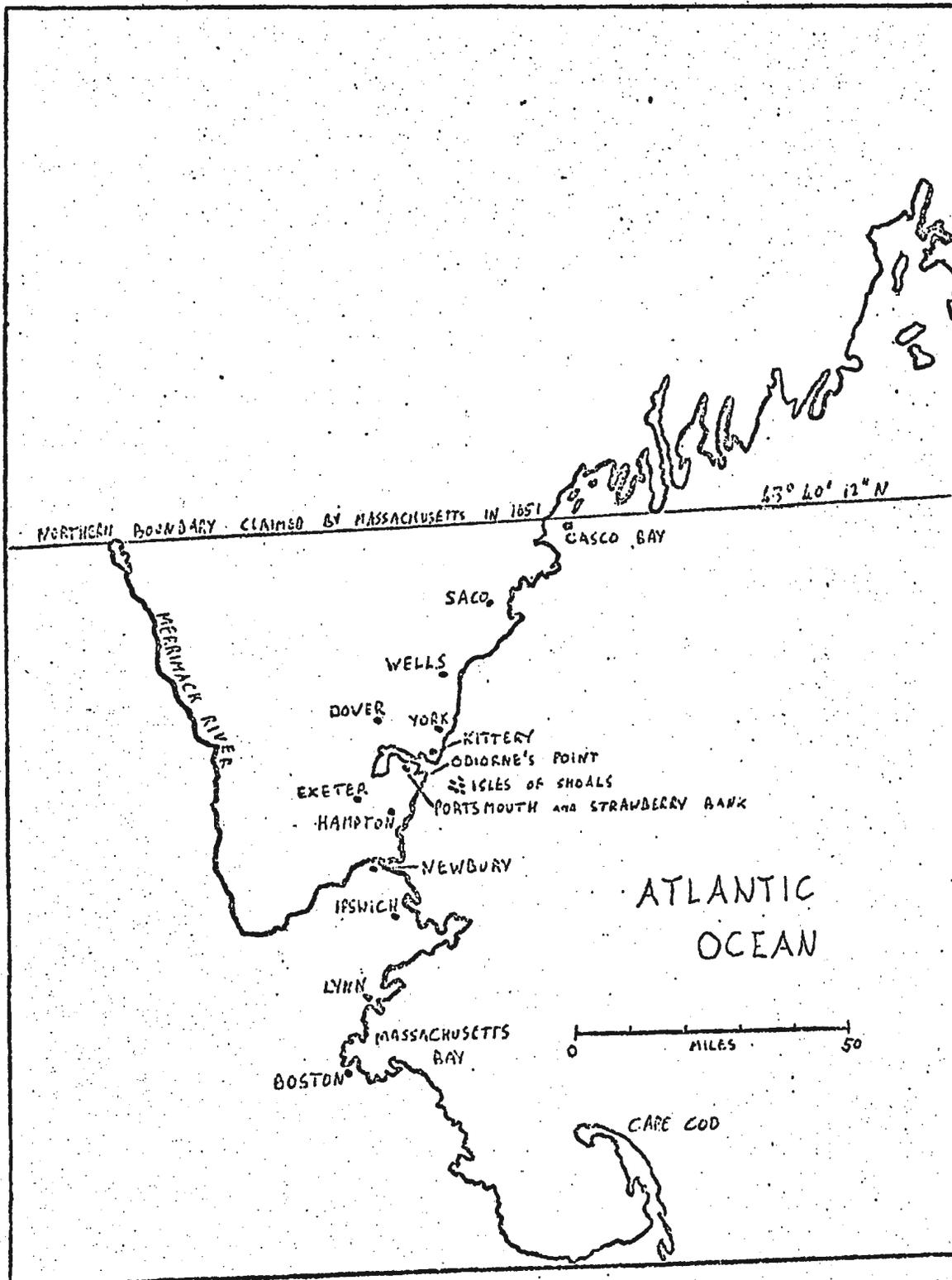
Map 1. English colonies in North America, 1660.



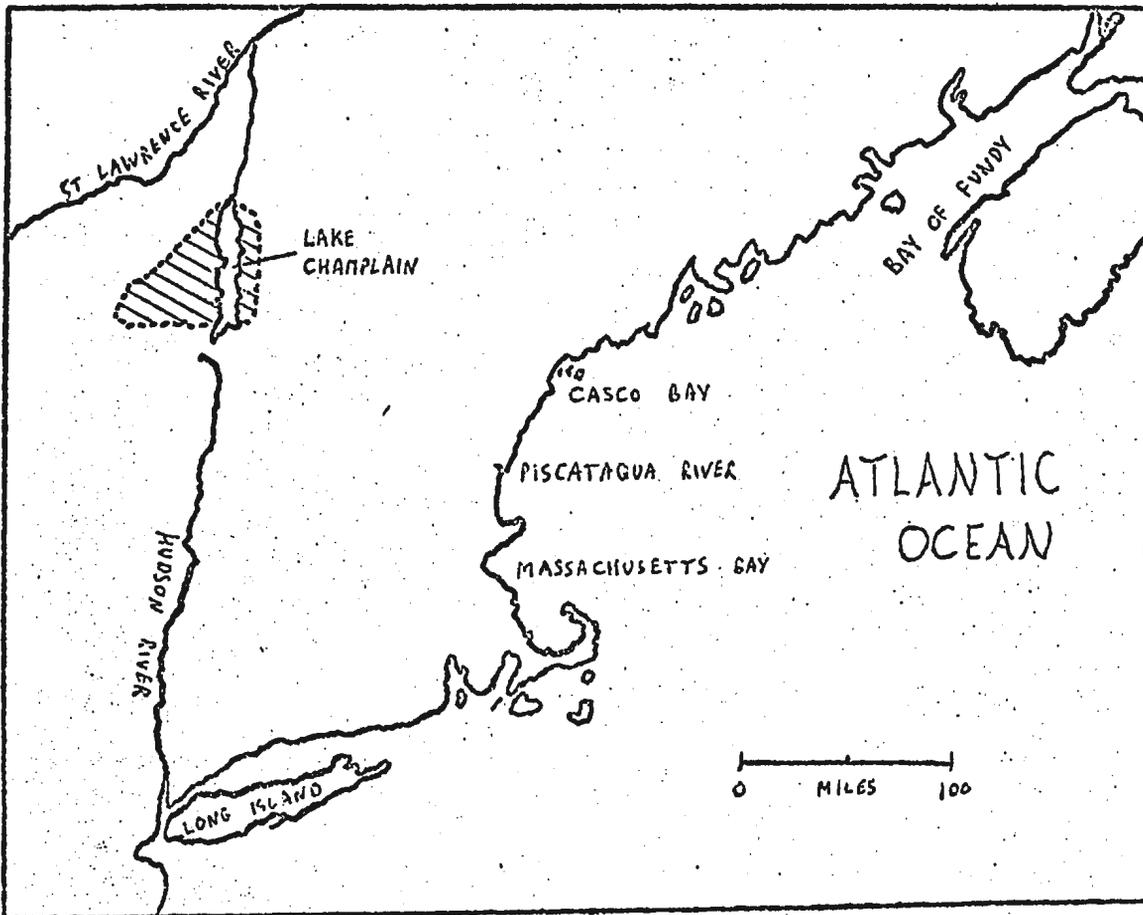
Map 2. The Maine coast, to 1652.



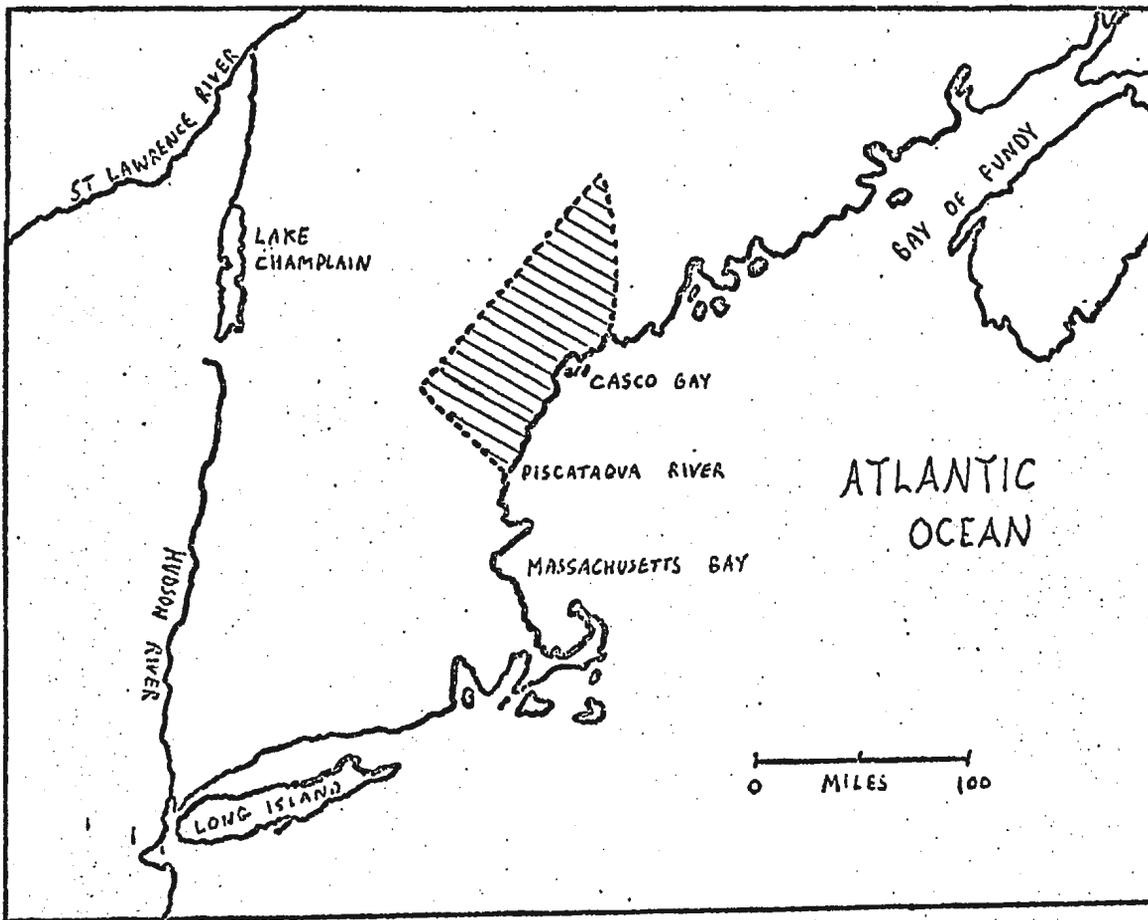
Map 3. Northern New England, showing the northern boundary claimed by Massachusetts in 1651.



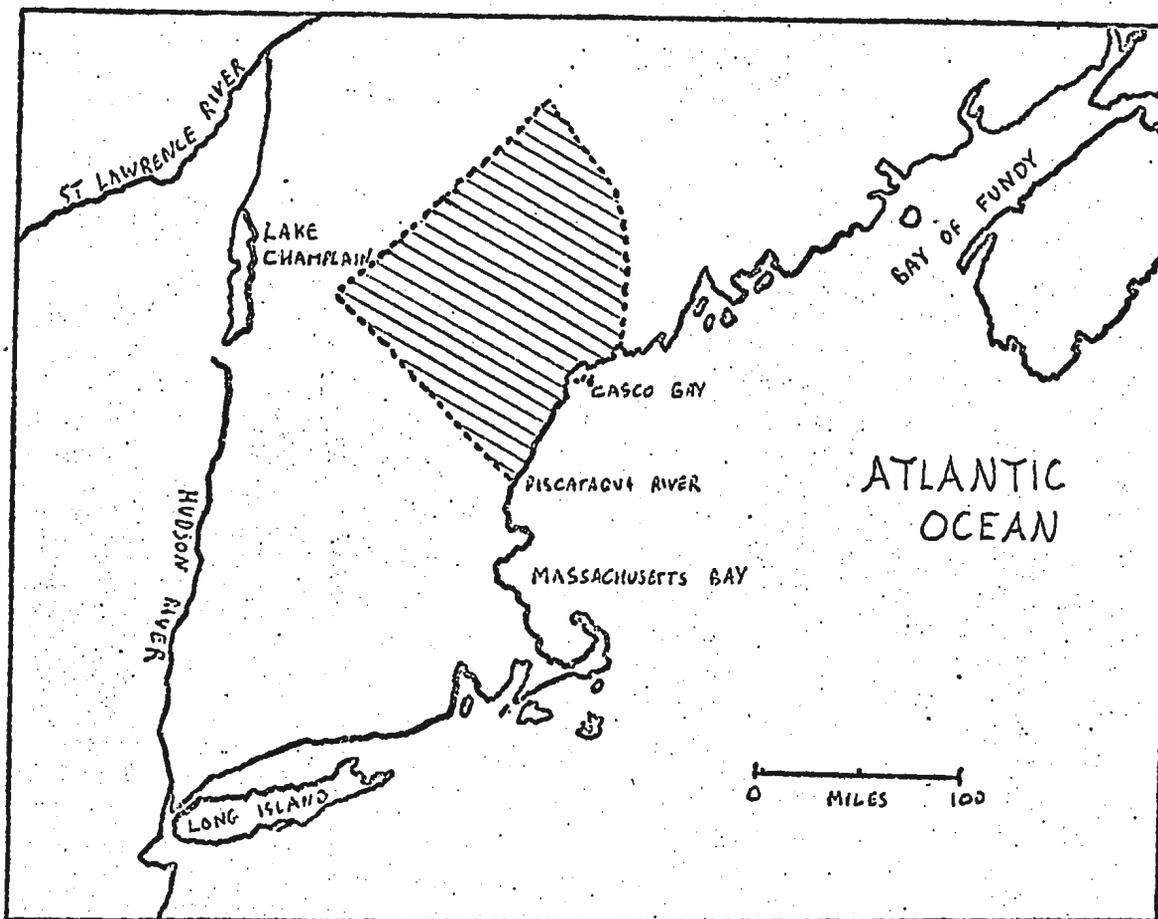
Map 4. Approximate extent of *Laconia grant* (cross-hatched area,) 1629.



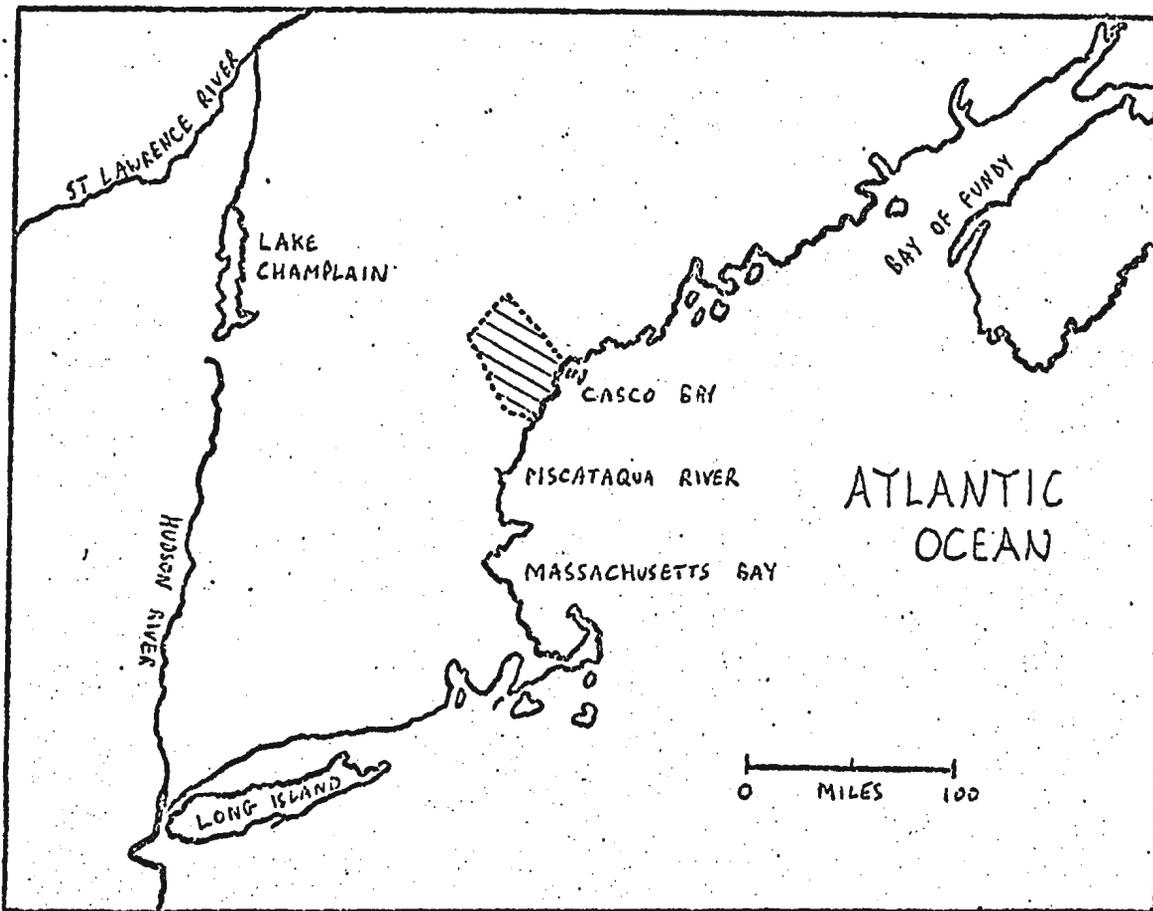
Map 5. Province of New Somersetshire (cross-hatched area,) 1635.



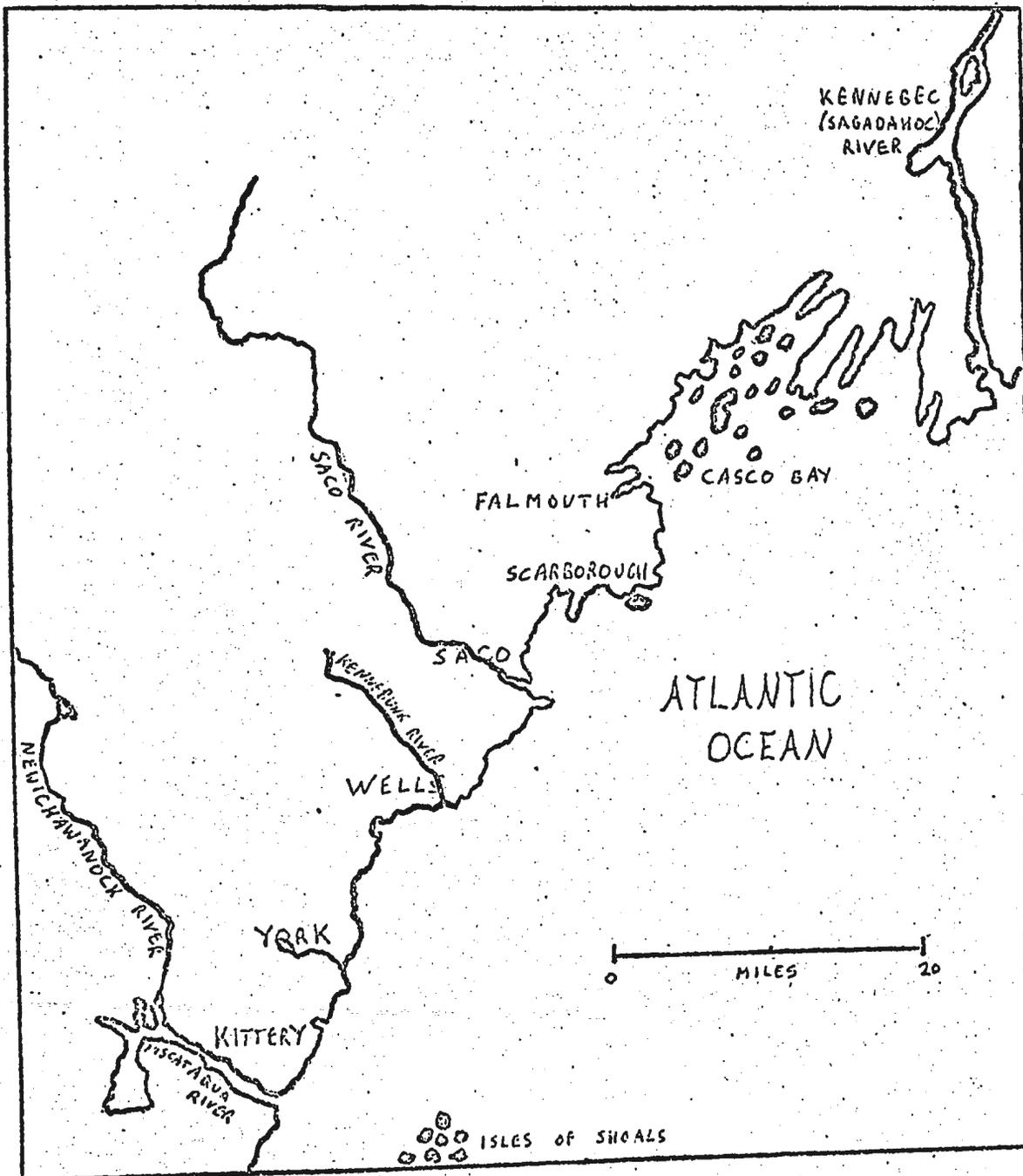
Map 6. Province of Maine (cross-hatched area,) 1639.



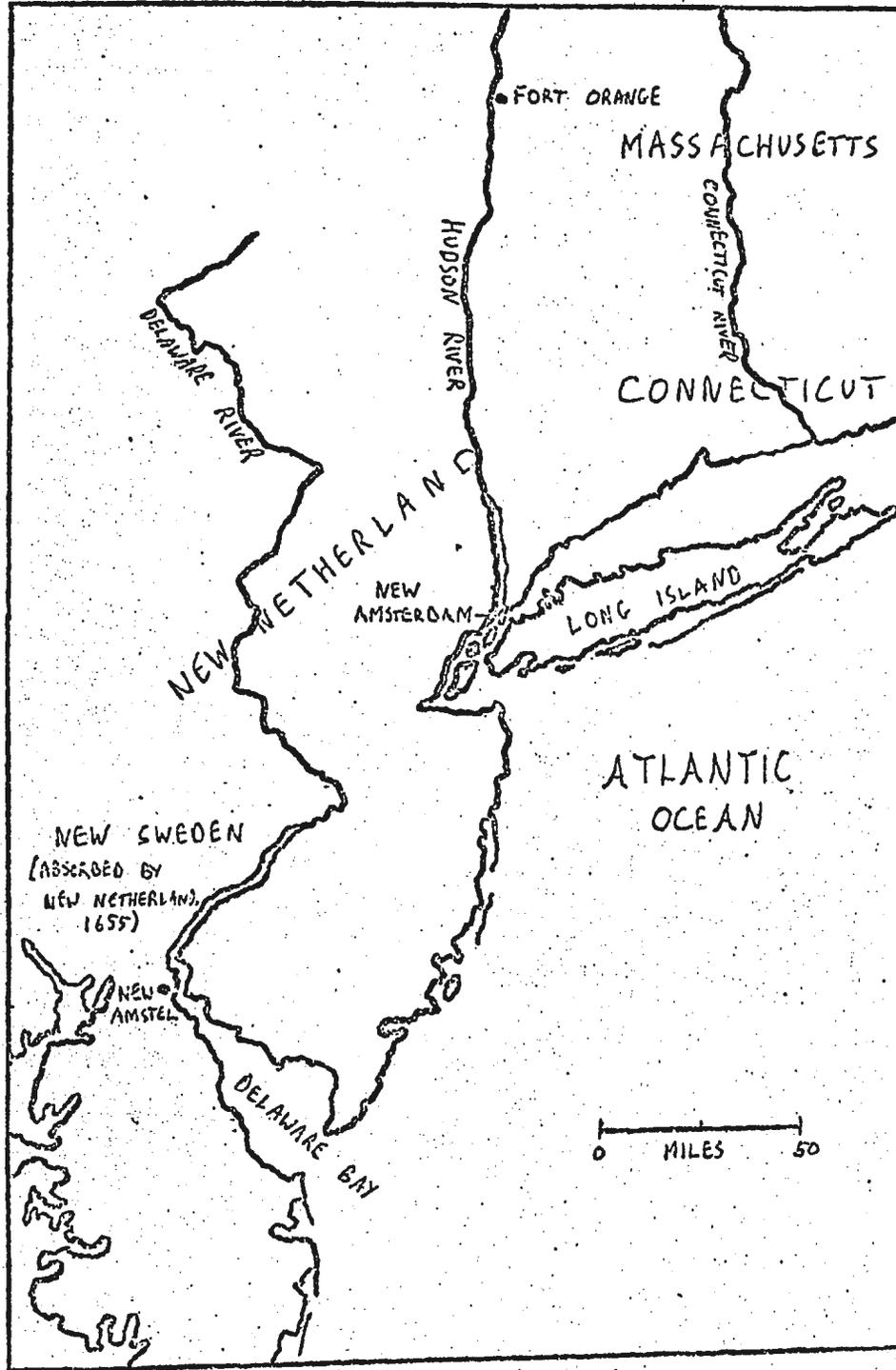
Map 7. Approximate extent of Province of Lygonia (cross-hatched area,) 1643.



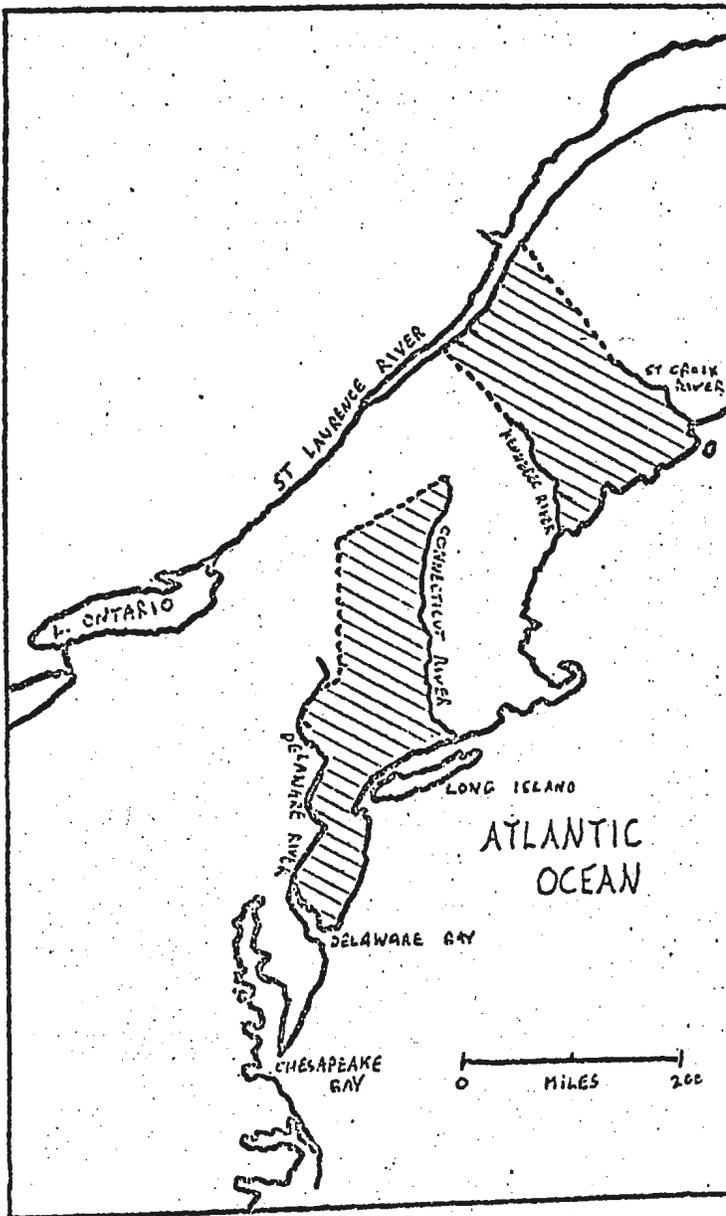
Map 8. The Maine coast, after Massachusetts annexation.



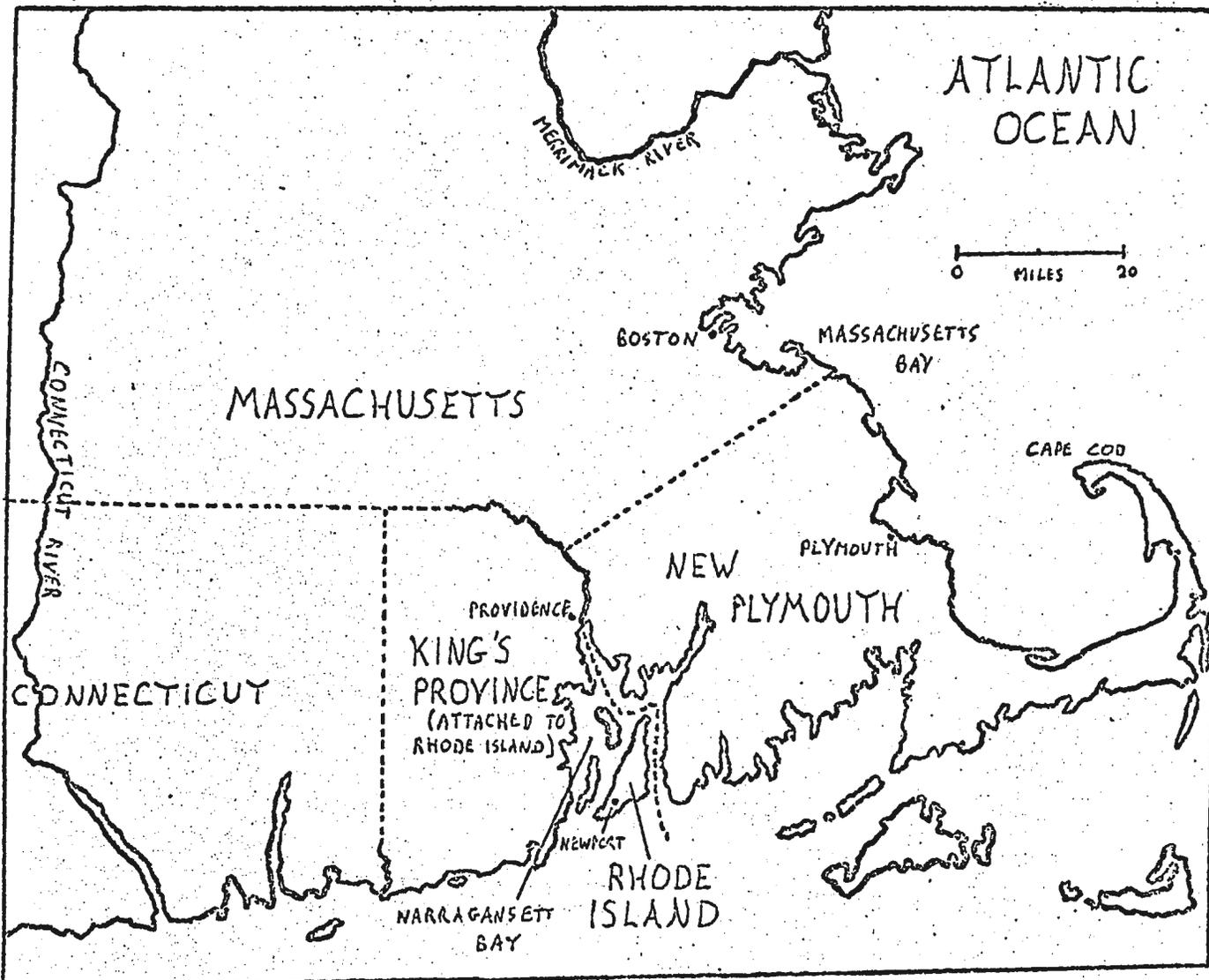
Map 9. New Netherland, to 1664.



Map 10. New York patent (cross-hatched area,) 1664.



Map 11. Southern New England from 1665, showing inter-colonial boundaries.



TABLE

Table I. Estimated population of New England colonies, 1630-80.

	1630	1640	1650	1660	1670	1680
Total	1,796	13,679	22,832	33,136	51,896	68,462
Maine ¹	400	900	1,000	-	-	-
New Hampshire	500	1,055	1,305	1,555	1,805	2,047
Plymouth	390	1,020	1,566	1,980	5,333	6,400
Massachusetts	506	8,932	14,037	20,082	30,000	39,752
Rhode Island	-	300	785	1,539	2,155	3,017
Connecticut	-	1,472	4,139	7,980	12,603	17,246

Source: U.S. Bureau of the Census, The Statistical History of the United States from Colonial Times to the Present (Stamford, Conn., 1965), p. 756.

Note to Table I:

¹From 1660, the population of Maine is included with that of Massachusetts.

BIBLIOGRAPHY OF WORKS CITED

Manuscript sources

Biddeford, Maine, Historical Society. Saco Town Records, Vol. I.

Bodleian Library, Oxford. Clarendon MSS, Vols. 74-102.

British Museum. Egerton MSS, Vol. 2395.

Great Britain, Public Record Office. CO1/14-31.

_____, CO5/903.

_____, CO324/1.

_____, SP44/13.

Kittery, Maine. Office of the Town Clerk. Kittery Town Records, Vol. I.

Maine Historical Society Archives, Portland.
Champernowne/Gerrish/Pepperrell Papers.

_____, Andrew Hawes Collection.

_____, Scarborough Papers, principally from the Maybery estate, 1640-1818.

Massachusetts State Archives, Boston. Massachusetts Colonial Records, Vols. III and VI.

York, Maine. Office of the Town Clerk. York Town Records, Vol. I.

Printed Primary sources

Baxter, James Phinney, ed. Documentary History of the State of Maine. Maine Historical Society Collections, Series II, Vol. III. Portland, 1884.

- Baxter, James Phinney, ed. Documentary History of the State of Maine. Maine Historical Society Collections, Series II, Vol. IV. Portland, 1889.
- Baxter, James Phinney, ed. Documentary History of the State of Maine. Maine Historical Society Collections, Series II, Vol. VI. Portland, 1900.
- Browning, Andrew, ed. English Historical Documents, 1660-1714. London, 1953.
- Bryant, Sir Arthur, ed. The Letters, Speeches and Declarations of King Charles II. 2nd ed. London, 1968.
- Burrage, Henry Sweetser, ed. Gorges and the Grant of the Province of Maine. Portland, 1923.
- Farnham, Mary Frances, ed. Documentary History of the State of Maine. Maine Historical Society Collections, Series II, Vol. VII. Portland, 1901.
- Gardiner, Henry. New England's Vindication. Ed. by Charles Edward Banks. Portland, 1884.
- Gorges, Sir Ferdinando. "A Brief Narration of the Original Undertakings for the Advancement of Plantations in America." Maine Historical Society Collections, Vol. II. Portland, 1847.
- Josselyn, John. "An Account of Two Voyages to New-England." Massachusetts Historical Society Collections, 3rd series, Vol. III. Boston, 1833.
- Levermore, Charles Herbert, ed. Forerunners and Competitors of the Pilgrims and Puritans. New York, 1912.
- Libby, Charles Thornton, ed. Maine Province and Court Records, Vols. I and II. Portland, 1928-31.
- Maine Historical Society. York Deeds, Vols. I-III. Portland, 1887-88.
- Sainsbury, W. Noel, ed. Calendar of State Papers, Colonial Series, America and West Indies, 1574-1660. London, 1860.

Sargent, William Mitchell, ed. Maine Wills, 1640-1760.
Portland, 1887.

Shurtleff, Nathaniel Bradstreet, ed. Records of the
Governor and Company of the Massachusetts Bay in
New England. 5 vols. Boston, 1853-54.

Winthrop, John. Winthrop's Journal. Ed. by James
Kendall Hosmer. New York, 1908.

Secondary sources

Abernathy, George Ross. "Clarendon and the Declaration
of Indulgence." Journal of Ecclesiastical
History, Vol. XI (1960.)

Andrews, Charles McLean. The Colonial Period of American
History. 4 vols. New Haven, 1934-38.

Andrews, Charles McLean. "British Committees, Commissions,
and Councils of Trade and Plantations, 1622-1675."
Johns Hopkins University Studies in Historical
and Political Science, Series XXVI, Nos. 1-3.
Baltimore, 1908.

Bailyn, Bernard. The New England Merchants in the
Seventeenth Century. Cambridge, Mass., 1955.

Banks, Charles Edward. "Edward Godfrey: His Life,
Letters and Public Services, 1584-1664." Maine
Historical Society Collections, Vol. IX.
Portland, 1887.

Banks, Charles Edward. History of York, Maine. 2 vols.
Boston, 1931-35.

Baxter, James Phinney. George Cleeve of Casco Bay,
1630-1667. Portland, 1885.

Beer, George Louis. The Old Colonial System, 1660-1754.
New York, 1913.

Bolton, Charles Knowles. The Real Founders of New
England. Boston, 1929.

Burrage, Henry Sweetser. The Beginnings of Colonial
Maine, 1602-1658. Portland, 1914.

- Clark, Charles Edwin. The Eastern Frontier: The Settlement of Northern New England, 1610-1763. New York, 1970.
- Clark, George Norman. The Later Stuarts, 1660-1714. 2nd ed. Oxford, 1955.
- Davies, Godfrey. The Early Stuarts, 1603-1660. Oxford, 1937.
- Fairchild, Byron. Messrs William Pepperrell: Merchants at Piscataqua. Ithaca, N.Y., 1954.
- Feiling, Keith. British Foreign Policy, 1660-1672. London, 1930.
- Jenness, John Scribner. The Isles of Shoals. New York, 1873.
- Johnson, Allen, and others, ed. Dictionary of American Biography. 20 vols. New York, 1928-36.
- Lee, Sir Sidney, ed. Concise Dictionary of National Biography. 2nd ed. London, 1906.
- Moody, Robert Earle. "The Maine Frontier, 1607 to 1763." Unpublished Ph.D. thesis, Yale University, 1933.
- Noyes, Sybil; Libby, Charles Thornton; and Davis, Walter Goodwin. Genealogical Dictionary of Maine and New Hampshire. Portland, 1928-39.
- Ogg, David. England in the Reign of Charles II. 2 vols. 2nd ed. Oxford, 1955.
- Powell, Sumner Chilton. Puritan Village. Middletown, Conn., 1963.
- Preston, Richard Arthur. "The Laconia Company of 1629: an English attempt to intercept the fur trade." Canadian Historical Review, Vol. 31 (1950.)
- Preston, Richard Arthur. Gorges of Plymouth Fort. Toronto, 1953.
- Rutman, Darrett Bruce. Winthrop's Boston: Portrait of a Puritan Town, 1630-1649. Williamsburg, Va., 1965.

Southgate, William Scott. "History of Scarborough."
Maine Historical Society Collections, Vol. III.
Portland, 1853.

Stephen, Sir Leslie, and Lee, Sir Sidney, eds.
Dictionary of National Biography. 22 vols.
London, 1885-1901.

Tuttle, Charles Wesley. Captain Francis Champernowne.
Boston, 1889.

U.S. Bureau of the Census. The Statistical History of
the United States from Colonial Times to the
Present. Stamford, Conn., 1965.

Williamson, William Durbee. The History of the State of
Maine: from its first Discovery, A.D. 1602, to
the Separation, A.D. 1820. 2 vols. Hallowell,
Me., 1832.

Witcombe, Dennis Trevor. Charles II and the Cavalier
House of Commons, 1663-1674. Manchester, 1966.

