

Corporate Structure and Private Interest: The Mid-Eighteenth-Century Expansion of New England

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As the French made their last defences of Canada in the late 1750s, New Englanders, who had long fought them in North America, quickly realized that the end of French influence would open a band of land stretching from eastern New York, across Vermont and New Hampshire, and out to the Atlantic in Maine. For over a hundred years the area had served as a buffer and battleground between English settlements in New England and French settlements in Canada. But with the end of French control in Canada the Anglo-French conflicts, which had blocked Euroamerican settlement in the region, ceased. The response from land-hungry New Englanders was almost immediate. A number of Massachusetts' soldiers rather than going home after being discharged from the French and Indian Wars settled on "some of the Lands they had Conquered" in Maine, reasoning in their petition for a grant of land, that as no English inhabitants had ever settled there that the land "would be as likely to fall to their share as to others."¹ A group organized in 1759 in the towns of Duxborough, Pembrook, Kingston and Plympton, Massachusetts, stated that "having small and very poor farms or Tenements...and some of us not one foot of Land in the world," they very much desired a grant on the Penobscot River in Maine.² Thomas Pownall, Governor of Massachusetts, advised the General Court in his January 1760 address "that now every other obstacle is removed" [i.e., the conflict with the French and Indians] it should resolve all title disputes in Maine so as to facilitate the orderly and legal settlement of the region.³ New Hampshire's Governor Benning Wentworth busily granted dozens of townships in what is now Vermont and New Hampshire. And in 1759 Nova Scotia Governor Charles Lawrence circulated a proclamation throughout New England inviting settlers to immigrate to that colony, from where, only four years before, the Acadians or French Neutrals had been deported.⁴

1 Petition of Thomas Westgatt and others, 3 October 1763, *Maine Documentary History* (Portland, 1909-10), XIII, 315-16. See the petition of Ebenezer Thorndike and others, 2 January 1762, XIII, 242-43; and Petition of a Number of Soldiers, 1 April 1761, XIII, 232-33, for similar expressions.

2 Petition to the General Court of Massachusetts, November term 1759, *Maine Documentary History*, XIII, 180-81.

3 Speech by T. Pownall to the Council and House of Representatives, 2 January 1760, *Maine Documentary History*, XIII, 199.

4 Lawrence issued two proclamations, the first on 12 October 1758 when he described the

Between 1759 and 1775 approximately 200 townships were granted in Vermont, New Hampshire, Maine and Nova Scotia.⁵ A conservative estimate of the number of grantees involved is ten thousand, assuming fifty men per grant, or one out of every ten men in New England between the ages of sixteen and sixty.⁶ It was probably much higher since the two townships to be discussed here — Liverpool, Nova Scotia, and Machias, Maine — had 164 and 80 grantees respectively. The number of settlers involved was much greater. Between 1759 and 1764 approximately 7000 New England settlers went to Nova Scotia. During the 1760s New Hampshire's population increased by 22,000 or fifty-eight percent, most of which was in the western counties. By 1776 Vermont had 20,000 inhabitants, when in the early 1760s it only had a few dozen families. And in Lincoln County, Maine, there were over 15,000 souls, most of them recent settlers. Thus the migration into northern New England and Nova Scotia involved upwards of 60,000 people.⁷

Demographic conditions in lower New England encouraged this demand for land. By the mid-eighteenth century, many of the New England towns which had been settled in the seventeenth century had reached land to people ratios of one adult man to approximately forty acres.⁸ While some towns did develop more diversified economies to absorb some of the displaced agricultural labor, many New Englanders preferred to move on in search of new land.⁹ In addition to demographic pressure, massive forest fires burned across lower New Hampshire and southern Maine in the summers of 1762 and 1763, destroying the forests and livelihood of many timbermen, and thus intensifying the demand for

lands available for settlement, and a second on 11 January 1759 to respond to inquiries he had received. See D. C. Harvey, "The Struggle for the New England Form of Township Government in Nova Scotia," *Canadian Historical Association Report*, 1933, 15-22.

- 5 Graeme Wynn, "A Province Too Much Dependent on New England," *The Canadian Geographer/Le Geographe Canadien*, 31, 2 (1987), 100.
- 6 The percentage is based on the figures in Robert V. Wells, *The Population of the British Colonies in America before 1776: A Survey of Census Data* (Princeton, N.J., 1975), 69-89 passim. In 1767 New Hampshire's population was 52,700, in 1764 Massachusetts' was 245,698, and in 1762 Connecticut's was 145,590, or approx. 440,000 for New England ca. 1765. Using Well's sex and age ratios, half were male, and half the males were between the ages of sixteen and sixty, or approx. 110,000 adult men.
- 7 Wynn, "A Province Too Much Dependent on New England," 100; J. Potter, "The Growth of Population in America, 1700-1860," in *Population in History: Essays in Historical Demography*, eds. D. V. Glass and D. E. C. Eversley (Chicago, 1965), 638-39; and Charles E. Clark, *The Eastern Frontier: The Settlement of Northern New England, 1610-1763* (New York, 1970), 354.
- 8 Kenneth Lockridge, "Land, Population and the Evolution of New England Society 1630-1790," *Past and Present*, 39 (April 1968), 62-80.
- 9 Darrett B. Rutman, "People in Process: The New Hampshire Towns of the Eighteenth Century," *Journal of Urban History*, 1, 3 (May 1975), 268-292.

land.¹⁰ The collapse of French power and the opening of Nova Scotia explain the interest in the lands north and east of lower New England.

While demographic pressure and ecological catastrophe account for the expansion of New England in the mid-eighteenth century, these factors do not explain the pronounced group or corporate character of expansion. It was the corporate structure of New England expansion, both through the granting and settlement processes, which drew in so many so fast. The preference of New Englanders for group grants and settlements and the response of the governments involved is the major focus here. Two townships under different political jurisdictions — Liverpool, Nova Scotia, settled in 1760, and Machias, Maine, settled in 1763 — will be considered to explore the interactions of individual, group, and government, and how each influenced the resettlement process.

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Land for resettlement became available in Nova Scotia before it became available through the governments of New Hampshire or Massachusetts, but New Englanders had always been wary of moving there and did not head north just because there was land. Commercially and militarily, Nova Scotia had long fallen within the orbit of the Bay Colony; Massachusetts merchants had traded with the Acadians in the Bay of Fundy and the French in Louisbourg, New England fishermen frequented its harbors and shores, and New England soldiers fought to bring the region under the British flag. Politically, though, the British retained control in Nova Scotia and for nearly a half-century they ran the colony as a military outpost, hardly a selling point for New Englanders with a strong commitment to local self-government. Finally in 1758, under pressure by the Board of Trade, a representative assembly was elected, and met for the first time on 2 October.¹¹ Ten days later on 12 October Governor Lawrence issued a proclamation inviting New Englanders to submit proposals for settling in the colony. He received sufficient inquiries about the nature of government in the colony to issue a second proclamation on 11 January 1759 stating:

That the Government of Nova Scotia is constituted like those of the neighbouring colonies, the Legislature consisting of Governor Council and Assembly, and every township as soon as it shall consist

10 Catherine Fox, "The Great Fire in the Woods: A Case Study in Ecological History." M.A. thesis, University of Maine at Orono, 1984.

11 D. C. Harvey, ed., "Governor Lawrence's Case Against an Assembly in Nova Scotia," *Canadian Historical Review* 13, 2 (1932), 184-94.

of Fifty Families will be entitled to send two representatives to the General Assembly. The Courts of Justice are also constituted in like manner with those of the Massachusetts, Connecticut and other Northern colonies.¹²

The proclamation appeared to be an about face to a long-standing British policy not to develop Nova Scotia as a "new New England." Whenever the British had considered initiating a more broadly based government, official opinion held that a centralized government, similar to Virginia's with appointed county magistrates and local officials, would be superior to the decentralized New England practice of town government and locally chosen officers. The proclamation, however, convinced many prospective settlers, and some merchants resident in Halifax, that the British intended to allow New England-style town government in Nova Scotia.¹³

The language of the proclamation allowed for generous interpretation, without promising more than what had been achieved with the establishment of the colonial assembly. Those who drafted the document almost certainly carefully chose the term "township" rather than "town." A township is a unit of land and could be defined by survey whether peopled or not. A town is the incorporated political entity within the territorial definition of a township. While the distinction between the two terms may have been lost on prospective settlers, it undoubtedly was not lost on British officialdom. But under the misimpression that town government would be allowed many New Englanders took up land in Nova Scotia, among them Captain John Dogget, who secured a grant for the township of Liverpool for himself and 163 other men from Massachusetts.¹⁴

The language of the Liverpool grant and the subsequent organization of the township's proprietors indicate how shrewdly the officials in Halifax used the cosmetics but not the substance of New England practice to disguise a centralized government. In style and organization the grant read as would one from Massachusetts. It noted the four primary organizers who had applied for the grant of a township on behalf of themselves and the within named grantees. Governor Lawrence stated his power and authority to make the grant. The location of the township was given in detail. And stipulations were made regarding the number of families to be settled and the amount of land to be cleared within a given time. In these details the grant is very much like any New England township grant of the

12 Quoted in Harvey, "The Struggle for the New England Form of Township Government in Nova Scotia," 18.

13 Report of Charles Morris and Richard Bulkeley, October 1763, Public Archives of Nova Scotia (PANS), RG 1, Vol. 222.

14 Liverpool Grant, 1 September 1759, PANS, MG 100, Vol. 176, 26 Q.

era. But some important differences existed which easily could have been overlooked by the grantees. The grant stated that the township was "given, Granted and confirmed...unto the Several Persons hereafter Named....," thus in severalty to each of the 164 men named and not to them as "tenants in common," the language used in the Massachusetts grants.¹⁵ The grantees were to divide the land among themselves in 500 acre shares, though if a majority could not agree upon adequate procedures the Governor would appoint a committee to divide the land. Land could not be sold or alienated within ten years except by licence from the governor, lieutenant governor or commander-in-chief. And the grant remained conditional upon the settlement of "Forty One of the said Grantees with their Wives, Children, Servants and Effects..." by 30 September 1760 and another sixty grantees and their families within the following twelve months. In contrast, the grant for Machias required the grantees to settle the township "with Eighty good Protestant Families" within six years of the King's approval of the grant. It did not state that the grantees themselves had to be among the eighty families.

The Liverpool grant played upon the very strong corporate traditions in New England resettlement; the grant would become null or void if the grantees did not work together to assure the necessary numbers of settlers. At the same time the grantees were given no vested corporate rights as "tenants in common" or a proprietorship. The corporate responsibilities for organizing the resettlement of New Englanders in Nova Scotia had been retained while the corporate rights had been removed. Though the change initially may have escaped the notice of grantees, it was most assuredly intentional on the part of the government. Had the desire been to replicate faithfully a New England type grant then one could have been copied from the Massachusetts' *Acts and Resolves*, since as acts of the legislature grants were printed. And anyone drafting a grant would know that titles to land and the right to grant land had been long-standing sources of controversy between the British and the New England governments. Thus it is reasonable to conclude that subtle differences between a New England-style grant and the Nova Scotia grants had been constructed quite wittingly. Whether it was witting deception is less clear, but some New Englanders who went to Nova Scotia were indeed deceived.

In August 1761 the Council appointed a committee of five Liverpool settlers to divide the forfeited lands of the grantees who had not come.¹⁶ The decision provoked a memorial from eight settlers who protested that

15 Liverpool Grant, 1 September 1759, PANS, MG 100, Vol. 176, 26 Q. For examples of Massachusetts grants see *Documentary History of Maine*, XIII, 322-30 and XIV, 80-82.

16 Order in Council, 15 August 1761, PANS, RG 1, Vol. 211, 210.

"we conceive we have right and authority invested in ourselves (or at least we pray we may) to nominate and appoint men among us to be our Committee," a right they perceived as theirs by virtue of being "born in a Country of Liberty." The appointed committee, they argued, created unease among the settlers, causing some to leave and others not to come. The memorial ended by the men reiterating their right to chose their own committee and other officers, a privilege they "must insist on as it belongs to us alone to rule ourselves."¹⁷ The petition did not move the Council. In 1760 the assembly passed an act to "enable the proprietors to divide their lands held in common and undivided," but the King had disallowed the act.¹⁸ Six years later a Justice of the Peace had issued a warrant allowing the settlers of Londonderry, Nova Scotia, to choose their own committee to divide the lands, which the Council in Halifax declared unlawful.¹⁹

In a 1763 evaluation of the status of the townships, Charles Morris and Richard Buckeley recommended to the Council that the New England settlers be allowed the political rights to which they had been accustomed. This had been, they believed, one of the conditions Governor Lawrence had used to induce New Englanders to come.²⁰ They did not persuade the Council. Lawrence's personal intentions are not known, and perhaps Morris and Buckeley were right when they argued that he had intended the townships to have local self-government. But the Board of Trade would not permit any governor much rein in granting settlers extra rights, whatever his personal predilections.

The settlement of Liverpool proceeded rapidly and was the most successful of the South Shore fishing townships. Seventy families with thirteen schooners and three sawmills settled the first year.²¹ By 1762 ninety families (504 individuals) had settled, twelve families short of the 102 required by the grant but enough to pacify Halifax and give some assurance of the survival of the township. By the following year Liverpool

17 Memorial from Peleg Coffin, *et al.*, 8 July 1762, PANS, RG 1, Vol. 211, 250-51. This memorial is cited by D. C. Harvey as referring to rights of town government, though the incident which provoked the memorial was the appointment of a proprietors' committee and not town officers. When New England was first settled in the seventeenth century there was no distinction between the proprietorship and town, but by the eighteenth century they were two distinct incorporated bodies within a township. See Roy Hidemichi Akagi, *The Town Proprietors of the New England Colonies: A Study of Their Development, Organization, Activities and Controversies, 1620-1770* (1924; reprinted, Gloucester, Ma., 1963), 12-13.

18 Harvey, "The Struggle for New England Township Government," 18.

19 Council Minutes, 28 October 1766, PANS, RG 1, Vol. 212, 21.

20 Report by Charles Morris and Richard Buckley, October 1763.

21 John Bartlett Brebner, *The Neutral Yankees of Nova Scotia: A Marginal Colony during the Revolutionary Years* (1937, reprinted New York, 1970), 54.

had grown by another ten families (634 total inhabitants).²² In 1764 the inhabitants of Liverpool gave up the 1759 grant and the government reissued it to conform to the families and individuals who had actually settled.²³ The 1759 grant had named 164 individuals, while the 1764 grant named 142. Only thirty-one names carried over from the one grant to the other. Though a small percentage of the original grantees (18.9%), the thirty-one provided a solid core of settlers. Many of the original grantees may have thought that they could sell their share or have someone settle in their stead, as may have happened since getting settlers to go to Liverpool did not seem to have been a problem. The government seemed willing to overlook the discrepancy by reissuing the grant, and indeed reinforced its position that there were not to be absentee proprietors. The language of the second grant is nearly the same as that of the first. Added, though, is a share for the first settled minister of the Church of England, and one share for the use of the school. The settlement stipulations changed slightly to require that each grantee settle himself or a family before 30 November 1765, reflecting a change in imperial policy on land grants in Nova Scotia.²⁴

Throughout, the government retained the right to increase the number of grantees if it thought land was available, and it monitored the number of settled grantees through the reports of the appointed proprietors' committee. On 11 January 1771 an amending grant was issued to fifteen men, as agreed upon by the proprietors' committee at a 2 December 1770 meeting.²⁵ The 1784 proprietors' report noted another ten men who had been admitted as proprietors in 1771 but were not grantees since they had been absent at the time or could not raise the money to pay their share of the cost for petitioning the government.²⁶ Through Orders-in-Council the government granted another five shares, and nine men from Halifax received shares in Liverpool as political favors. Between 1759 and 1770, 172 individuals had received land as settlers with the explicit intention of settling (the nine men who received shares as political favors are not counted). The 1784 report noted that 132 of these had fulfilled their settlement obligations. Twenty-six others had settled and made some improvements but poverty and the difficulties of a new settlement had pushed them on. Another twelve had never settled their share and two had settled but made no improvements. Fifty-three families and seventeen

22 Nova Scotia Population, 29 October 1763, PANS, C. B. Fergusson Collection, Box 1897, F 2/3.

23 Grant of Liverpool, 20 November 1764, PANS, MG 4, Vol. 77.

24 Margaret Ells, "Clearing the Decks for the Loyalists," *Canadian Historical Association Report* (1933), 47.

25 Grant to John Godfrey, *et al*, 5 January 1771, PANS, MG 4, Vol. 77.

26 Return of the Township of Liverpool, 19 March 1784, PANS, MG 4, Vol. 77.

single men had taken up residence in the township, some for nearly twenty years, but were not grantees. In the 1784 report the proprietors' committee recommended they be given land from those shares which might be escheated from grantees who had not fulfilled their settlement requirements.

One welcomed deviation from New England practice was the willingness of the Nova Scotia government to subsidize the new settlements, primarily for transportation and food. In the fall of 1760 the government shipped 360 rations to Liverpool to be distributed among the township's indigent population.²⁷ The following March thirteen barrels of pork and thirty barrels of flour arrived, supplemented in April with another ten barrels of pork and forty barrels of flour.²⁸ John Dogget, the primary organizer for the township of Liverpool, received some governmental monies for his expenses in transporting settlers to Nova Scotia.²⁹ In the spring of 1761 the government requested him to hire a ship to transport twenty families and their livestock from Nantucket to Liverpool.³⁰ After the first two years Halifax assisted Liverpool upon reported incidents of need. In December 1762 Dogget requested assistance for a poor family of three and seven other indigent children in the settlement.³¹ The following summer a committee surveyed the condition of the new settlements and reported that 1000 bushels of Indian corn might be needed for the sea coast communities of Liverpool, Barrington, and Yarmouth to be distributed from Halifax upon reported need.³²

The government subsidies had numerous effects, not the least and most immediate of which was to assist in the speedy settlement of the colony. But they could also serve to foster a sense of local obligation to government largess. As well, the committees which oversaw the distribution of food stuffs were appointed out of Halifax and not chosen locally, thus creating a precedent for the intrusion of the central government into local affairs, however benign or necessary it might have been. And lastly, as a very minor form of political patronage, it shifted some of the allegiance of local leaders from the township to the government in Halifax.

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The circumstances leading up to the grant in Machias in 1770 are more

27 Letter from Richard Buckley, Halifax to John Dogget, Liverpool, 29 October 1760, PANS, RG 1, Vol. 136, 2.

28 Council Minutes, 4 March 1761, PANS, RG 1, Vol. 204, 163; and Council Minutes, 14 April 1761, PANS, RG 1, Vol. 211, 173.

29 Council Minutes, 4 March 1761, PANS, RG 1, Vol. 204, 163.

30 Council Minutes, 22 May 1761, PANS, RG 1, Vol. 211, 192.

31 Council Minutes, 31 December 1762, PANS, RG 1, Vol. 211, 288.

32 Report on the Counties of Nova Scotia, October 1763, PANS, RG 1, Vol. 22.

complex. During the summers of 1761 and 1762 drought plagued New England. In the timber cutting areas of New Hampshire and southern Maine forest fires broke out, probably ignited by lightning. Fuelled to enormous size by the refuse left by wasteful cutting practices, the fires destroyed the timber industry of the region, and drove men eastward down the coast of Maine.³³ Among the first to leave were thirteen men from Scarborough, Maine, who, in 1763, loaded a sawmill onto a boat, sailed downeast and planted their mill on the falls on the West Machias River.³⁴ The following year their families and others from Scarborough reinforced the nascent settlement. Thinking themselves on the Nova Scotia side of the border they applied to Halifax for a grant of a township encompassing the upper end of the Machias Bay, and the West, Middle and East Machias Rivers. Learning they had settled within the jurisdiction of Massachusetts, they petitioned the Massachusetts General Court for a grant in 1767, but their petition was rejected.³⁵ In 1768 they applied again; the House of Representatives gave them a grant, but the Council rejected it.³⁶ In 1770 they applied yet again. This time the grant received the approval of the House of Representatives, the Council and Governor Hutchinson.³⁷ It was subsequently sent to London for the King's approval, where it was tabled. Only in 1784, after Massachusetts had gained uncontested jurisdiction over Maine, was the grant confirmed and the township's inhabitants were incorporated into the town of Machias.

Machias became the most well-known settlement in the dispute between Massachusetts and Britain over which government had the right to initiate grants in the area of Maine between the Penobscot and St. Croix Rivers. Massachusetts claimed that its title to the area lay in the 1691 charter of William and Mary which had established the Province of Massachusetts Bay. In that charter William and Mary gave Maine to the Bay Colony in gratitude, Massachusetts claimed in 1762, for exertions in driving out the French. In the following seventy years the area east of the Penobscot remained unsettled due to hostilities between the French and the British, but during that time Massachusetts had continued as the area's main source of British defence. Prior to the 1760s the British government had twice challenged the legitimacy of Massachusetts' title to the Territory of Sagadahock, as it came to be known, but both times the Attorney and

33 Fox, "The Great Fire in the Woods."

34 "The Proprietors Book of Records of Machias," copy of the original in the Washington County Court House, Machias, Maine, 3.

35 Petition of Machias Inhabitants for a Township Grant, 4 June 1767, Commonwealth of Massachusetts Archives, Vol. 118, 290-91.

36 Petition of the Inhabitants of Machias for a Grant, 7 January 1768, Mass. Archives, Vol. 118, 314-16.

37 Act of the House of Representatives, 4 April 1770, Mass. Archives, Vol. 118, 446.

Solicitor General had found in favor of Massachusetts.³⁸ Then in the 1760s the British challenged the title again, arguing this time that William and Mary had not possessed the territory in 1691 and therefore could not have granted it legitimately. Specious at best, the argument was part of a British attempt to restructure its North American colonies and especially those in New England.

The conflict also created tension between the Massachusetts General Court and the royally appointed governors. When the General Court began to receive petitions for land in Maine in 1759, Governor Thomas Pownall urged it to resolve all outstanding claims of private parties so that the area could be settled. In the seventeenth century various sections of Maine had been granted to individuals and over the course of the next century a few of the heirs continued to assert their claims to the region. Among them were the heirs of Brigadier Samuel Waldo. In 1762 the Massachusetts General Court granted them a township on the Penobscot River in return for releasing and quitting claim to all right and title to the area between the Penobscot and St. Croix Rivers.³⁹ This arrangement freed the General Court to grant land in this area, and within a short while it granted twelve townships. By this time Francis Bernard had succeeded Thomas Pownall as governor of Massachusetts, and it fell upon him to decide whether or not to sign grants in territory of disputed jurisdiction. He did and then had to explain his action to the Board of Trade.

In a lengthy letter to the Lords Commissioners for Trade and Plantations written on 8 April 1763,⁴⁰ Bernard acknowledged the dispute between Massachusetts and the King over who had owned the area of Maine between the Penobscot and St. Croix rivers and therefore who had the right to initiate grants. He felt, though, that the exigencies of settling the area speedily and the good intentions of the Massachusetts government in achieving this end, overrode any serious complaints that the Lords Commissioners might raise. To demonstrate the good intentions of the General Court he made three points. One, the sole purpose of the grants was to further settlement, and to this end the government had given away and not sold the land. Two, the grants conformed to the restrictions in the 1691 charter, including the requirement that the grantees gain royal approval for all grants in the area. Thus, Bernard saw the grants as "recommendations" to the King, which if not signed would cease after the eighteen months the General Court had allowed for the grantees to gain royal approval. As it happened, the King had it within his power to

38 For the 1762 Massachusetts' defense of its claim to the land between the Penobscot and St. Croix Rivers see, *Maine Documentary History*, XIII, 296-302.

39 Grant to S. Waldo and others, 6 March 1762, *Maine Documentary History*, XIII, 264-66.

40 In *Maine Documentary History*, XIII, 308-11.

withhold his signature, and the General Court had it within its power to continue to extend the time allowance for receiving it. From 1762 to 1784 the grants of thirteen townships in Maine (including that of Machias), existed in a legal limbo. But in 1763 when Bernard wrote his justification of the grants he did not reckon with the great stubbornness of both the King and the Massachusetts government. Bernard's third point was that the Massachusetts government required each grantee to give a fifty pound bond against fulfillment of the settlement requirements, therefore reinforcing the point that the grants were for immediate settlement and not long-term speculation. Reckoning that the dispute over the right to land would take a number of years to resolve, Bernard thought it nevertheless worthwhile to open the area to settlers. Massachusetts had proceeded in good faith to achieve just this end and he saw no reason not to give his approval to the grants.

The first six grants, of which Bernard wrote, had been passed in the House of Representatives on 20 February 1762, though he did not write his letter to the Lords Commissioners until 8 April 1763, probably after he learned that there was some resistance in London to approving them. A week after he sent off his explanatory letter he received a strong reprimand from the Lords Commissioners, written on 24 December 1762, for giving his approval to the grants.⁴¹ Thus, by the time the men from Scarborough settled in Machias in the spring of 1763 the conflict over land grants in Maine had reached an impasse beyond which neither Massachusetts nor Britain would move until the resolution of the American Revolution.

The dispute did not keep settlers from continuing to move downeast. In 1768 the House of Representatives and the Council approved a grant to the settlers at Machias, but it had not received gubernatorial approval. In 1770 the same grant passed again and this time Governor Thomas Hutchinson approved it. And like his predecessor Bernard, he had to explain his actions to the Lords Commissioners. For Hutchinson the dilemma was that by 1770 the area between the Penobscot and the St. Croix Rivers had 500 to 1000 settlers, and by barring grants there was no effective way to organize government or resolve differences between settlers. Fearing the complete collapse of law and order in the region, and the emergence of groups similar to the Regulators in North Carolina, he thought it best to sanction the grant of Machias, the site of the largest settlement in the region.⁴² From the point of view of the Lords Commissioners, there should have been no settlers in the area, but, as Hutchinson noted, measures to

41 Gov. Bernard to the Lords Commissioners, 25 April 1763, *Maine Documentary History*, XIII, 311-15.

42 There are numerous letters in the Massachusetts State Archives written by Hutchinson concerning affairs downeast and his actions in signing the grant for the township of Machias. Some of the more important are found in Vol. 26: 493-94 and Vol. 27: 26, 57-58, 59-60, 60-61, 79.

ject the settlers would have had to originate in either the Massachusetts Council or the House of Representatives, a move which neither body would initiate. Lawrence felt that unless Parliament was willing to take unilateral action and remove Maine from the jurisdiction of Massachusetts then he had to accept the reality of settlement, and under the laws of the Bay Colony provide for civil governance. Like Bernard, Hutchinson defended his action in terms of the immediate exigencies to be met; for Bernard the benefit of settling British subjects in Maine; for Hutchinson the need to have some semblance of order among those settlers. Hutchinson saw the short-term benefits of recognizing grants as having greater primacy than the long-term controversy between London and Boston over who had ultimate jurisdiction in Maine. And like Bernard, Hutchinson was strongly reprimanded by the Lords Commissioners.

Hutchinson, in signing the grant to the Machias settlers, reinforced the hand of the Massachusetts government. So long as the settlers' petition stalled at the level of the General Court, then discontent would focus there or be diffused, rather than be focused explicitly on the King's refusal to sign the grant. But more importantly, Hutchinson reinforced New England patterns of social and political organization. And that was the real issue. Hutchinson thought it best for the grant to go through so that institutions for the maintenance of public order could be established, but his superiors in London probably thought the opposite judging from their condemnation of Hutchinson's action and their position on the Nova Scotian settlements. In Nova Scotia the Board of Trade blocked any move to allow autonomy at the local level, whether in the form of the quasi-public proprietorship or incorporated town government. It is unlikely that the same board would have seen the settlements in Maine in a different light. In Boston the General Court had no intention of letting the settlements develop on the Nova Scotian model. From London's position, the only immediate ploy to maintain some control over settlements in Maine was to keep the governor from signing any grants passed by the House of Representatives and the Council. Withholding the King's signature blocked clear title to land, and incorporation of the town, but it did not prevent the incorporation of the proprietorship which served to replicate and legitimate New England patterns of corporatism and local autonomy. And here the case of Machias is useful.

Once the grant received Governor Hutchinson's signature, the grantees applied to a Massachusetts Justice of the Peace, Samuel Danforth, to issue them a warrant to call the first meeting of the proprietors.⁴³ (This is also what the settlers in Londonderry, Nova Scotia, had done and which the Council overturned.) The grantees did not first act to receive the King's approbation. Nor was that detail on their agenda when they met on 11

43 The Proprietors Book of Records of Machias, 29 June 1770, 1-4.

September 1770 as a proprietorship. Rather they elected their officers: a proprietor's clerk, a committee for calling future meetings, a collector of proprietary taxes, a treasurer, a committee to examine the expenses involved in getting the grant and a committee of lot layers. (These types of offices were common for proprietorships and the ones which the settlers of Liverpool thought were their right to have.) At the first meeting the proprietors also acted to assure the mill rights of the first sixteen settlers to Machias, and to pass a bye-law which would allow them to confiscate and sell the property of proprietors who failed to pay proprietorial taxes. Only at their second meeting, held on 8 November 1770, seven months after the grant was passed, did they arrange to hire an agent to obtain the King's approbation.

The sequence of events is significant. First, the Massachusetts government did not itself act to obtain the King's signature. Rather the grantees had to assume the responsibility, and they sought it not as a group of individuals, in the way they had approached the General Court to receive the grant, but as an incorporated body. The lack of the King's signature did not keep the Justice of the Peace from issuing a warrant for the grantees to meet, elect officers and to vote to tax themselves. This part of the replication of New England society did not depend on the King's signature. It did block the settlers from obtaining unencumbered title to property, but with a large number of resident proprietors, as were present in Machias, that too only provided a minor block to orderly development. The proprietors proceeded to divide the land and define individual lots, thus avoiding or resolving disputes over property boundaries. Division of land became a matter controlled at the level of the township and not the colony. And defined property boundaries, even though the title was not clear, meant that land could be sold on quitclaim deeds. Hutchinson's signature produced the situation of vested corporate rights at the local level which the Board of Trade had guarded against in the Nova Scotia settlements.

The Revolution ended group grants in New England, the last one in Maine being Machias. The Commonwealth of Massachusetts, faced with a large war debt, initiated a program to sell land in Maine to repay its loans. On 28 October 1783, the General Court appointed a committee to dispose of the unappropriated land of Lincoln County, Maine, by settling squatter rights and selling the vacant lands. In 1784 the Eastern Lands Committee circulated a notice throughout Lincoln County for those with claims to submit a statement to the committee either individually or as a group. Most people submitted their claims as part of a group petition, with individual claims tendered almost exclusively for specific islands along the coast.⁴⁴ While Machias was the largest settlement east of the Penobscot

⁴⁴ The 1784 petitions for land in Lincoln County are found in the Massachusetts State Archives, Eastern Land Papers, Box 14.

River numerous smaller settlements had developed in the region in the late colonial period. As a rule, people in these settlements petitioned as groups. These petitions either explicitly or in tone acknowledged the changes in land policy wrought by the war, but it is also clear that these settlers knew that their only chance of persuading the government to give them more than 100 acres in squatter rights was to petition as a group and ask for the colonial-style grant. And since most settlements did not have enough adult men to constitute a proprietorship, these petitions had a number of non-resident signators.

For example, eighteen people petitioned for Bucks Harbor, a small peninsula adjoining Machias, and included a detailed summary of their individual claims. Calculating that the whole peninsula would yield approximately 170 acres for each petitioner, and noting that much of the land was rocky, broken and unfit for cultivation, they asked for the whole to be granted to them in common, and they would divide it among themselves. The Eastern Lands Committee rejected the petition, and included Bucks Harbor in the sale of Plantation No. 22. In the deed the five Bucks Harbor petitioners who were residents were named and were to be allowed 100 acres for every five Spanish milled dollars paid within six months of notice.⁴⁵ The claims of the other thirteen, many of them by proprietors in Machias, were not acknowledged.

Another sixty-one men, twenty-five of them settlers, petitioned for the land around the settlement at Chandler's River. Since the tract included great sections of barren heath the petitioners reasoned that the useable land would allow "but a moderate share" to each of them. But the Eastern Lands Committee sold this land, together with Bucks Harbor, as Plantation No. 22 for 6120:17:5 pounds to eleven men from Boston. And the twenty-five settlers received the same consideration for land as did the settlers at Bucks Harbor.⁴⁶ Unlike colonial petitioners, post-revolution petitioners felt it necessary to justify their request for extensive tracts of land. In both the Bucks Harbor and Chandler's River petitions the justification was the poorness of the land, a very reasonable claim, though surveyors from Boston who had assessed the potential of the region had waxed eloquent about the agricultural prospects.⁴⁷ Other petitioners mentioned their steadfast loyalty to the patriot cause in the late war, hoping it would give them greater claim to the grant of a township.⁴⁸ And

45 The petition for Bucks Harbor is in the Eastern Land Papers, Box 14. A copy of the deed for Plantation No. 22 can be found in the Washington County Land Deeds Office, County Court House, Machias, Maine, Vol. 1, 129-31.

46 The petition from Chandler's River is found in the Eastern Lands Papers, Box 14.

47 Report of the Commissioners on Machias, 12 September 1771, *Maine Documentary History*, Vol. XIV, 137.

48 See the petitions from Plantation Nos. 4, 6, and the back section of 6, for these sentiments. Eastern Lands Papers, Box 14.

all mentioned the labor and money they had expended in settling the land. In the level of justification there had been a marked shift in the manner of petitioning. But like their colonial counterparts, these post-revolution petitioners, most persons of modest means, knew that their best chances for a substantial grant lay in petitioning as a group.

While these settlers did not gain the privilege of a township grant, they did have the right to meet to discuss plantation concerns, tax themselves for needs such as roads and a minister, and eventually to petition for incorporation as a town. Although one part of the colonial resettlement practice was lost after the war, the rights of local autonomy and self-regulation were retained. In this respect the corporate patterns of New England resettlement remained strong and intact.

* * * * *

Why the New England commitment to corporate behavior in the process of resettlement? First, it allowed many middling and probably some quite poor people access to land. A group had a voice strong enough to be heard in positions of power which the individual of modest circumstances lacked. Second, the group gave the individual greater flexibility, for in Machias, and other towns within the New England colonies, not every grantee had to settle for the terms of the grant to be met. The corporate structure reinforced private individual interest by protecting one's share of land even in one's absence, provided enough of the group settled. It is significant that the British eliminated this practice in Liverpool, and required actual settlement to claim a share of land. Some absentee landholding persisted in Liverpool, but with the chance that the government would escheat the land. The resident proprietors in Liverpool could provide only limited protection to absentee landholders, and only by not reporting or rationalizing the person's absence. In Machias, the group provided greater and legitimized protection to the absentee's property claims.

Group settlement also promised the more rapid extension of political rights through the incorporation of a town than did individual settlement. In New England political rights were extended through one's inclusion in town. Thus to settle without benefit of a group, which could soon be incorporated as a town and send a representative to the assembly, was to choose to be disenfranchised for an indeterminate period of time. Most New Englanders resisted this situation. When the Northwest Territory was opened the provisions for temporary government included in the 1787 Ordinance were put there to attract New England settlers, who were leery of resettling without clear promises of law and order and protection of

political rights.⁴⁹

In Nova Scotia, and subsequently throughout British North America, the British eliminated vested corporate rights, whether in the form of proprietorships or incorporated town government. It is significant that before the 1830s only one urban concentration in British North America — Saint John, New Brunswick — had incorporated status. All others, including the major centers of Halifax, Quebec City and Montreal, were run as parishes through the colonial governments. Vested corporate rights concerned the British as much or more than individual rights as they set about to reshape colonial policy. By restricting corporate rights they could restrict alternate focuses of authority, as well as the organized discourse on governmental policy which played such a large role in town meetings in places like Boston. On 14 April 1770 the Nova Scotia Council ordered that the Attorney General notify all concerned that “Town Meetings for debating and resolving on several questions relating to the Laws and Government of the Province ...” were “Contrary to Law” and concerned parties could be prosecuted.⁵⁰ Assemblage was not a right, but a privilege given to designated corporate bodies. The protest submitted by the grantees of Liverpool over the appointment of a proprietorial committee indicates that in the minds of many New Englanders assemblage had come to be understood as a “right” of corporate bodies, though not necessarily a right of individuals, with governmental sanction being largely perfunctory, rather than a “privilege” extended by the central government.

While the British could, with the stroke of the pen or lack thereof, severely restrict local corporate rights, changing behavior could not be accomplished so speedily. Thus, in the case of Nova Scotia, it is important to examine how much the New England commitment to local autonomy and corporate behavior continued to shape Nova Scotia development. How much is the resistance of the outports to the control of Halifax a legacy of New England local autonomy? How much and how long did New England behavior persist in the absence of sanctioned structure, and how much did it effect the long-term institutional structure of the province?

Finally, the corporate behavior of New Englanders was functionally specific. The Machias proprietorship regulated the division of the commonly held land and provided some ancillary development such as roads. While it gave some structure to the township before its incorporation, it never presumed to function as the town government. At the end of the Revolution the proprietors moved quickly to have the grant confirmed and the township’s residents incorporated as the Town of Machias. Town government was the preserve of another and separate corporate body.

49 Peter S. Onuf, “Settlers, Settlements, and New States,” in Jack P. Greene, ed., *The American Revolution: Its Character and Limits* (New York, 1987), 172-73.

50 Council Minutes, Province of Nova Scotia, PANS, RG 1, Vol. 212, 136.

Functional specificity undercut corporate communalism and enhanced private rights. The proprietorship existed to provide and protect individual access to land. The town protected an individual's political rights within the larger political unit of the colony. Neither existed to regulate all or most aspects of a person's life. The corporate structure existed to enhance the protection of private interest rather than to be an end in itself. It is tempting to go one step further and say that if the corporate structure was subservient to private interest then it was basically individualism and little else. But this misses the point that private interest finds protection and enhancement in many different forms and expressions, including corporatism and individualism. If the first priority of New Englanders in search of land in the 1760s had been clear titles, then they would not have been dissatisfied with the policies in Nova Scotia. The government was willing to give clear title to land held in severalty if a person settled, which was more than Massachusetts could promise to settlers in Maine. But many New Englanders chose questionable title to land and a hope for localized corporate rights in Maine, over clear title in Nova Scotia. With resettlement New Englanders had come to associate the protection of private rights with localized corporate rights, rather than through the protection of a centralized government. The retention of them in Maine and their suppression Nova Scotia would have a great impact on the social and political development of the two areas.