

Property, Identity and Place in Seventeenth-Century New England

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Abstract

This thesis presents a study of the construction and defence of English settler-colonies in New England during the seventeenth century, focusing upon the relationship between ordinary people and their environment. This work initially examines the pre-exploration reports and the first few decades of settlement and how commodification and naming practices helped in translating the landscape into a familiar, useful and, most importantly, English place. This continues in Chapter Two with a study of the distribution and construction of towns, boundaries and familiar patterns of agricultural usage. This patterning reveals how early settlers perceived their world, and how they secured traditional English customs and patterns onto this uncultivated landscape. The final two chapters will examine challenges to this system, from within New England and across the Atlantic. Chapter Three focuses on the challenge of native land rights, which threatened to undermine the initial basis of conquest and discovery as claims to the land. However, this was overcome due to the flexibility of narratives of ownership and possession and the addition of native land rights to English property regimes. Chapter Four examines the network of authority and ownership which crossed the Atlantic and throughout New England, and what happened when these systems and ideas were challenged by the creation of a new government under the Dominion of New England. This final chapter reveals how all of these concepts and themes about property wove together to re-create the relationship between English settlers and their land, albeit through new concepts and methods.

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List of Abbreviations

BL	British Library, London
BPL	Boston Public Library
CHS	Connecticut Historical Society, Hartford
<i>Conn Recs</i>	<i>Records of the Colony of Connecticut</i>
<i>Correspondence</i>	<i>Correspondence of Roger Williams</i>
CSL	Connecticut State Library, Hartford
GTA	Gloucester Town Archives
MHS	Massachusetts Historical Society, Boston
MSA	Massachusetts State Library, Dorchester
<i>Rec MBC</i>	<i>Records of Massachusetts Bay Company</i>
<i>ODNB</i>	<i>Oxford Dictionary of National Biography</i>
<i>RICR</i>	<i>Rhode Island and Providence Colonial Records</i>
SHLA	Springfield History Library & Archives
<i>Winthrop Journal</i>	<i>The Journal of John Winthrop</i>
<i>WMQ</i>	<i>William and Mary Quarterly</i>

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‘Thus, in the beginning, all the world was America’

-John Locke

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Introduction

This is a study of property, place and identity in seventeenth century New England. It will focus on the construction and defence of English places in the New World in order to understand the relationship between ordinary people and their environment. By studying the memories, words and actions of the people constructing these settlements this thesis will offer a fresh perspective on the first century of English colonization in North America. This will be achieved through: the examination of rituals of naming and discovery; the division and marking of the landscape; the use of narrative to establish natural and civil rights to the land; and negotiation and conflict over property regimes in the Atlantic world. In the following pages, I shall further expand upon the historical background to this study, and offer a more thorough examination of the themes, sources and methods which will be consulted.

Seventeenth Century New England

From its discovery in the late fifteenth century the landscape of the New World fascinated European explorers who were interested in natural resources, precious metals and trade. Even before settlement began, and following set patterns of ownership, European powers began carving up and dividing the land based on principles of 'discovery' and 'conquest'. The earliest maps and reports, such as Juan de la Cosa's

Mappa Mundi (1500) and Martin Waldseemüller's, *Universalis Cosmographia* (1507), reflect this behaviour; in these maps they not only attempted to detail the new land but also depict ownership. In *Cosmographia* the accompanying text explained 'as farmers usually mark off and divide their farms by boundary lines, so it has been our endeavour to mark the chief countries of the world by the emblems of their ruler' and on 'the fourth part of the world' they continued this by including marks of European countries to indicate colonial claims.¹ On de la Cosa's map, which features many more European claims, this is indicated with flags.² The growing body of literature about the new world fixated on the landscape and what could, and had been, taken. This was fuelled by the riches uncovered by Spanish explorers in the early sixteenth century. However, the relentless pursuit of profit led to backlash against the Spanish, who were painted as barbaric for their treatment of the indigenous population.³

Other European powers also looked to colonial expansion in this century, though the focus was much more on the establishment of trading posts, rather than invasions. This was due to the limited interest of the French monarchs in overseas exploration who were much more interested in colonizing France than in establishing a New France. The Dutch also established trading posts, though their interests were more in the Far East than the New World at this time. The English, much like the French, were more interested in securing power locally, and focused their colonizing efforts on Ireland for much of the sixteenth century.

¹ SMI Yale Map Collection 1507/2002 Martin Waldseemüller 'Universalis Cosmographia Secundum Phtholomaei Traditionem et Americi Vespucii Aliorumque Lustrationes' (1507); Toby Lester, *The Fourth Part of the World: The Race to the Ends of the Earth and the Epic Story of the Map that gave America its Name* (London, 2009), p. 8.

² SMI Yale Map Collection 1500B/1959 'Juan de la Cosa, "The Oldest Map of the New World"' (1500)

³ The best example of this is Bartolome de la Casa, *The Tears of the Indians: Being an Historical and True Account of the Cruel Massacres and Slaughters of above Twenty Million of Innocent People; Committed by the Spaniards* (1541, London, 1656). James Muldoon notes that much of the criticism about Spanish conquest and colonization is due to growth of universities which fostered intellectual debate, *The Americas in the Spanish World Order: The Justification for Conquest in the Seventeenth Century* (Philadelphia PA, 1994); see also Lewis Hanke, *The Spanish Struggle for Justice in the Conquest of America* (Philadelphia PA, 1949).

However, within England, interest in an Atlantic colonial venture existed long before the permanent colonies of the seventeenth century, and despite there only being a couple of failed expeditions in the Elizabethan period there was a great deal of interest from prominent government officials, including Lord Burghley and Francis Walsingham. In addition scholars and writers such as John Dee and Richard Hakluyt were keenly interested in exploration and settlement, the latter campaigning for over thirty years for sustained English colonialization.⁴ However, while Elizabeth (and later James) was interested in the potential gains of colonization, neither was willing to risk any of their own money to finance such ventures. It was only due to increased capital available in the early Stuart period and the creation of companies, where investors shared the risks and profits of colonization, which allowed for a boom in colonial ventures.⁵ The style of English colonization varied in the first few decades of the seventeenth century, with Virginia and the Caribbean adopting a Plantation-style system based upon experiences in Ireland. Eventually these systems evolved into settler-colonies, based around family groups, focused on the re-creation of English patterns of settlement and life, and not based solely on labour, trade or extraction of resources.⁶

New England was a contrast, as from the start the intention was to establish permanent settler-colonies. This meant the migration of whole family groups and the transplantation of English systems and ways.⁷ This also altered the perception and depiction of the land from a resource for extraction to one with potential for development and growth. The land was now portrayed as not only valuable, but also

⁴ David B. Quinn, *England and the Discovery of America, 1481-1620: From the Bristol Voyages of the Fifteenth Century to the Pilgrim Settlement at Plymouth: The Exploration, Exploitation, and Trial-and-Error Colonization of North America by the English* (New York NY, 1974), p. 234.

⁵ Kenneth R. Andrews, *Trade, Plunder and Settlement: Maritime Enterprise and the Genesis of the British Empire, 1580-1630* (1984, Cambridge, 1991), p. 361.

⁶ Tracey Banivanua Mar and Penelope Edmonds, *Making Settler Colonial Space: Perspectives on Race, Place and Identity* (Basingstoke, 2010).

⁷ David Grayson Allen, *In English Ways: the Movement of Societies and the Transferral of English Local Law and Custom to Massachusetts Bay, 1600-1690* (Chapel Hill NC, 1991).

suitable for English patterns of life. Further, reports from New England praised the amount of land available, as John Eliot wrote in 1633, ‘surely here is land enough and good enough for all that come, though ten thousand more shall come’.⁸ To some extent this dream was true in New England, with ownership rates estimated at over 95% for males over the age of 36.⁹ However, Eliot’s estimate of ten thousand additional migrants was very low and at least double that number moved to New England within the decade alone. This meant the process of settlement and of shaping the landscape was on-going and thus became a process not only of transferal but also evolution and adaptation. In this thesis I will trace this evolution and consider how identity tied to the landscape and through an examination of concepts of private property and ownership.

In this period, New England was comprised of a number of colonies. The primary ones for this study consist of Plymouth (founded 1620), Massachusetts Bay (1628), Rhode Island (1636) and Connecticut (1635). The boundaries of this region stretched from a few miles north of the Merrimack River, down south to the Atlantic Ocean and Long Island Sound, and westward settlements formed along the Connecticut River. The region was not only bounded by water, but this was also where the majority of towns were clustered. The colonies themselves were roughly based around large bodies of water: Massachusetts along the Massachusetts Bay and Charles River; Plymouth along Cape Cod Bay; Rhode Island around Narragansett Bay; and Connecticut along the Connecticut River and Long Island Sound. This landscape mirrored that found in England – particularly of the region of Greater East Anglia comprising the counties of Lincolnshire, Cambridgeshire, Norfolk, Suffolk and Essex.¹⁰

⁸ Catherine Armstrong, *Writing North America in the Seventeenth Century: English Representations in Print and Manuscript* (Aldershot, 2007); ‘John Eliot to Sir Simonds D’Ewes’, *Letters from New England: The Massachusetts Bay Colony, 1629–1638*, Everett Emerson (ed.) (Amherst MA, 1976), p. 105.

⁹ Allen Kulifoff, *From British Peasants to Colonial American Farmers* (Chapel Hill NC, 2000), p. 113.

¹⁰ Roger Thompson, *Mobility and Migration: East Anglian Founders of New England, 1629-1640* (Amherst MA, 1994).



Figure 1: John Foster, 'A Map of New England' (1677)¹¹

The map is oriented with Massachusetts Bay at the bottom, and the Connecticut River at the top. The settlements even towards the end of the century remained concentrated on waterways, with the largest number along Massachusetts Bay, in the centre of the map. The lines running through the map indicate the colonial boundaries with Massachusetts Bay Colony taking up the large portion in the middle.

¹¹ MHS, Originally published in William Hubbard's, *Narrative of the Troubles with the Indians* (1677), 'White Hills' version.

The majority of migration, particularly during the ‘Great Migration’ of the 1630s was from this region of Greater East Anglia, and comprised of small nuclear families: parents, children and sometimes servants. Unlike other English colonies further south in Virginia and the Caribbean, the number of men and women migrating to New England was roughly equal. Further, not only were the majority of men emigrating heads of households, but also generally established in their trade or industry and over the age of 30. This contributed to increased social stability and helped with the transference and re-creation of English culture and settlement patterns.¹² Religion was another factor which differed in these northern colonies, with the majority of settlers religious dissenters known as Puritans. As with the regional origins of New England settlers, this domination began to diminish after 1640, but still nearly two-thirds of migrants to New England in the seventeenth century were Puritans and as nearly all the founders of these colonies were Puritans they were the ones who formed the government – which excluded none Puritans from politics for much of the century.¹³

Government and settlement patterns in Massachusetts Bay set the tone for the rest of colonies.¹⁴ Most of the New England settlements were covenanted communities, divided into townships, which was the main geographic and legal division in the colonies and within that the congregation formed the leadership of a community.¹⁵ If the town hall was what defined a town as a political place in England, the meeting house – which served as a place for both religious and political gatherings, illustrates

¹² See Thompson, *Mobility*; Virginia DeJohn Anderson, *New England's Generation: The Great Migration and the Formation of Society and Culture in the Seventeenth Century* (New York NY, 1991); and Timothy H. Breen and Stephen Foster, ‘Moving to the New World: The Character for Early Massachusetts Immigration’, *WMQ*, 30 (1973), pp. 189-222.

¹³ Stephen Innes, ‘“Distinguished and Obscure Men”: The People of Seventeenth-Century Springfield’, in *Springfield, 1636-1986*, Michael F. Koning and Martin Kaufman (eds.), (Springfield MA, 1987), p. 27.

¹⁴ The dominance of Massachusetts Bay Colony was recognised at the time, BL Egerton 2395 f. 434.

¹⁵ Mayflower Compact best known covenant, but also used in forming Connecticut's first government under the Fundamental Orders (1639-1662), in New Haven and in many townships in Rhode Island. Kenneth A. Lockridge, *A New England Town: the First Hundred Years, Dedham Massachusetts, 1636-1736* (New York NY, 1970); Sumner C. Powell, *Puritan Village: The Formation of a New England town* (Middletown CT, 1963); Richard Archer, *Fissures in the Rock: New England in the Seventeenth Century* (Hanover NH, 2001).

the close relationship between government and religion in New England.¹⁶ Early on, the government ignored the conditions of the charter – which had defined a freeman as a shareholder in the company – instead the General Court of Massachusetts defined a freeman as an adult church member. Not only did the government restrict those able to vote to church members but also limited those eligible for positions of power in the colony. The freemen were allowed to vote yearly for the ‘Assistants’ or members of the General Court who served as a council of elders, and from this group the Governor of the colony was selected.¹⁷ This system was copied in other colonies, where there was never an outright denial of the vote to non-church members, but the requirements to be labelled a ‘freeman’ increasingly narrowed over the century. In Connecticut, by the 1670s, in order to become a freeman a colonist had to have letters of recommendation, have no recorded crimes, be a male of at least twenty-one years, and possess a net worth of £30.¹⁸ However, there were no restrictions on who could hold lesser posts, such as selectman, and in 1647 some non-church members were allowed to become freeman. Overall though, church members dominated government, creating a theocratic political system.¹⁹

I have chosen to study this group of settlements because it allows me to trace the origin and formation of these different places, and the conflicts in New England (with the environment, the native populations and each other) which forced often unspoken beliefs and values to the surface in ways that might not have occurred in England.²⁰ The

¹⁶Phil Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005), p. 33.

¹⁷*Winthrop Journal*, ed. Richard S. Dunn, James Savage, and Laetitia Yeandle (Cambridge MA, 1996), pp. 68, 113.

¹⁸Mary Jeanne Anderson Jones, *Congregational Commonwealth: Connecticut, 1636-1662* (Middletown CT, 1968), p. 81.

¹⁹Timothy H. Breen, ‘Who Governs: The Town Franchise in Seventeenth-Century Massachusetts’, *WMQ*, 27 (1970), pp. 461, 464. This system was also used in establishing government among converted natives in ‘praying towns, Jean O’Brien, *Dispossession by Degrees: Indian Land and Identity in Natick, Massachusetts* (Cambridge, 1997), p. 48.

²⁰Buttimer notes that the values attached to place are ‘often not brought to consciousness until they are threatened: normally, they are part of the fabric of everyday life and its taken-for-granted routines.’, Anne

primary focus of this research is upon the interactions with the physical landscape, the definition of which I will be using in this work is best stated by Rhys Issacs as ‘any terrain or living space that has been subjected to the requirements of a conscious or unconscious design’.²¹ The focus here is on the process of taking a perceived raw environment and labelling, marking, controlling and distributing it according to the social and cultural demands of the group. Thus, I will be looking at landscape both in terms of a natural but also a built environment, and on the perception of control over the land and people’s relationship to it, which is best explored through the concept of property. In this next section I will review the relevant literature on the environment in early America before continuing with a discussion of themes and sources for this thesis.

Historiography

The environment has been a subject of interest and study in America for over a century. In 1893 Frederick Jackson Turner gave a paper to the American Historical Association, which assessed the effect of the landscape on the social, political and economic history of America.²² Known as the ‘frontier thesis’, its central premise was that democracy emerged as a result of the agitation of European settlers and their ideas against the American landscape. This work set out to highlight the significance of the environment to an understanding of American history. While Turner’s conclusions were rejected by subsequent generations of historians, the basic idea remains influential. However, it was not until the 1950s that historians began to deviate from the exceptionalist view of

Buttimer, ‘Home, Reach, and the Sense of Place’, in ed. Anne Buttimer and David Seamon, *The Human Experience of Space and Place* (London, 1980), p. 167; Oliver Rackham, ‘Boundaries and Country Planning: Ancient and Modern’ in ed. Paul Slack, *Environments and Historical Change*, The Linacre lectures 1998 (Oxford, 1999), p. 97.

²¹ Rhys Issac, *The Transformation of Virginia, 1740-1790* (Williamsburg VA, 1982), p. 7.

²² Printed as ‘Intellectual Significance of the Frontier in American History’, *The Frontier in American History* (New York NY, 1920). See also Walter Prescott Webb and James Malin.

Turner and his generation. With his 1956 *Errand into the Wilderness*, Perry Miller led a new wave of historians who sought to examine the importance of the American landscape to early European settlers. His work on Puritanism and the wilderness, while influential has not been fully exploited by later scholars.²³ Instead, in the following decades interest in the significance of the American environment moved away from the intellectual meanings and focused instead on socio-economic and ecological topics. Increasingly, historians studied Native American tribes and their relationship with the environment, differing land usage between natives and Europeans and the ecological impact of European settlement upon the North American landscape.²⁴ These works provided a corrective view of early European settlement, reacting against earlier ideas which emphasised ‘improvement’ and ‘progress’; these scholars instead focused on the destruction of native ecosystems and the effect of European illnesses on the indigenous population.

The 1980s and 90s were a dynamic period for seventeenth-century American history. It departed from colonial history, and influenced by Atlantic and the English ‘new social history’ a new generation of historians began focusing on conflict and diversity in New England. Atlantic history, with its focus on exploring commonalities of experience outside of traditional national boundaries, led to works which began examining cultural ‘pathways’ between the old and new worlds, though these works

²³ Only three major works on intellectual meanings of the environment: Peter Carroll, *Puritanism and the Wilderness: The Intellectual Significance of the New England Frontier, 1629-1700* (New York NY, 1969); John Canup, *Out of the Wilderness: the Emergence of an American Identity in Colonial New England* (Middletown CT, 1990); Roderick Nash, *Wilderness and the American Mind*, 4th edn (New Haven CT, 2001). Also important is Roderick Nash, ‘The state of environmental history’, in ed. H.J. Bass, *The State of American History* (Chicago IL, 1970), pp. 249-60 which encouraged historians to view the landscape and environment as a document.

²⁴ Anthony Pagden, *The Fall of Natural Man: The American Indian and the Origins of Comparative Ethnology* (Cambridge, 1982); William Cronon, *Changes in the Land: Indians, Colonists and the Ecology of New England* (New York NY, 1983); Howard S. Russell, *A Long Deep Furrow: Three Centuries of Farming in New England* (Hanover NH, 1976); Alden T. Vanghn, *New England Frontier: Puritans and Indians, 1620-1675*, 3rd edn (Norman OK, 1995); Francis Jennings, *The Invasion of America: Indians, Colonialism and the Cant of Conquest* (New York NY, 1976); Neal Salisbury, *Manitou and Providence: Indians, Europeans and the Making of New England 1500-1643* (New York NY, 1982); Richard W. Cogley, *John Eliot’s Mission to the Indians before King Philip’s War* (Cambridge MA, 1999).

often focused on political and economic history.²⁵ Alongside such trends, in the 1980s cultural historians influenced by the 'linguistic turn' began to examine contested meanings and patterns of representation found in language. This led to a re-examination of society and the beliefs of the lower orders in the early modern period, however the relationship between culture and environment was only superficially examined.²⁶ In early American history these same ideas led to an examination of the cultural exchanges between the English and natives, varying socio-economic and socio-cultural patterns in New England towns, and popular religious beliefs of early settlers.²⁷ Additionally,

²⁵ Introduction to topic see Bernard Bailyn, *Atlantic History: Concepts and Contours* (Cambridge MA, 2005); *Atlantic History: A Critical Appraisal*, ed. Jack P. Greene and Philip D. Morgan (Oxford, 2009); for status of English-Atlantic history see *The British Atlantic World, 1500-1800*, ed. David Armitage and Michael J. Braddick, 2nd edn (Basingstoke, 2009), David Armitage, 'The New British History in Atlantic Perspective', *American Historical Review*, 104 (1999), pp. 426-500; Wayne Bodle, 'Atlantic History is the New "New Social History": A Review Essay', *WMQ*, 64 (2007), p. 203-19. On cultural pathways see David Cressy, *Coming Over: Migration and the Communication between England and New England in the Seventeenth Century* (Cambridge, 1987); Grayson Allen, *In English Ways*; David Hackett Fischer, *Albion's Seed: Four British Folkways in America* (Oxford, 1989).

²⁶ Keith Thomas, *Man and the Natural World: Changing Attitudes in England 1500-1800* (London, 1983), and Simon Schama, *Landscape and Memory* (London, 1995), only outline changing beliefs, but not how these beliefs function. There are no major works on sixteenth and seventeenth century beliefs and perceptions of the natural world Carolyn Merchant, *Death of Nature: Women, Ecology and the Scientific Revolution*, 2nd edn (New York NY, 1989) is eighteenth century; Andrew McRae, *God Speed the Plough: The Representation of Agrarian England, 1500-1800* (Cambridge, 1996) looks at meanings of cultivated landscape. This gap noted by Donald Worster, 'Appendix: Doing Environmental History', in ed. idem. *The Ends of the Earth: Perspectives on Modern Environmental History* (New York NY, 1988), pp. 289-307. There has been interest in one aspect of Thomas's work: the influence of nature on man. See *At the Borders of the Human: Beasts, Bodies and Natural Philosophy in the Early Modern Period*, Erica Fudge, ed. Ruth Gilbert and Susan Wiseman (Basingstoke, 2002); Katherine Craik, *Reading Sensations in Early Modern England* (New York: 2007); *Environment and Embodiment in Early Modern England*, ed. Mary Floyd-Wilson and Garrett A. Sullivan Jr. (Basingstoke, 2007); on image of 'wild man' in literature see collection *The Wild Man Within: An Image in Western Thought from the Renaissance to Romanticism*, ed. Edward Dudley and Maximillian E. Novak (Pittsburgh PA, 1972); Erica Fudge, *Perceiving Animals: Humans and Beasts in Early Modern English Culture* (Basingstoke, 2002); Thetis Blacker, *Animals of the Imagination and the Bestiary* (Aldeburgh, 1994); Aleksander Pluskowski, *Wolves and the Wilderness in the Middle Ages* (Woodbridge, 2006); *Just Skin and Bones?: New Perspectives on Human-Animal Relations in the Historical Past*, ed. ibid. (BAR International Series, 1410) (Oxford, 2005).

²⁷ Virginia DeJohn Anderson, *Creatures of Empire: How Domestic Animals Transformed early America* (New York NY, 2004); ibid., 'King Philip's Herds: Indians, Colonist and the Problem of Livestock in Early New England', *WMQ*, 51 (1994), pp. 601-24; James Axtell, *The Invasion within: the Contest of Cultures in Colonial North America* (New York NY, 1985); Karen Odhal Kupperman, *Settling with the Indians: The Meeting of English and Indian Cultures in America, 1580-1640* (Totowa NH, 1980); Steven Innes, *Labor in a New Land: Economy and Society in Seventeenth-Century Springfield* (Princeton NJ, 1983), Lillan Handlin, 'Dissent in a Small Community', *New England Quarterly*, 58 (1985), pp. 193-220; John Frederick Martin, *Profits in the Wilderness: Entrepreneurship and the Founding of New England Towns in the Seventeenth Century* (Chapel Hill NC, 1991); David D. Hall, *Worlds of Wonder, Days of Judgment: Popular Religious Beliefs in Early New England* (New York NY, 1990), Richard Godbeer, *The Devil's Dominion: Magic and Religion in Early New England* (Cambridge, 1992); Archer, *Fissures in the Rock* provides a synthesis of these works. Karen Ordahl Kupperman has done some interesting work on perceptions of the climate in early America, 'Climate and the Mastery of the Wilderness in

most of the works on early colonization, such as Cronon and Merchant, viewed the early settlement of New England as a story about destruction of nature by man, though a handful of works looked at conservation and sustainability.²⁸ Again, such research, while useful did not examine contemporary meanings of environment.

In recent years there has been a revival of interest in perceptions of the environment on both sides of the Atlantic. Historians have challenged traditional ideas about the negative impact of English agricultural practices on the American environment and explored the representation of the American landscape in print.²⁹ Certainly for early modern England this interest is seen in works on urban and religious spaces, and the connection between memory and environment.³⁰ While in England a

Seventeenth-Century New England', in, *Seventeenth-Century New England*, ed. David D. Hall and David Grayson Allen (Boston MA, 1984), pp. 3-37, 'Fear of Hot Climates in the Anglo-American Colonial Experience', *WMQ*, 41 (1984), pp. 213-40, and 'The Puzzle of the American Climate in the Early Colonial Period', *American Historical Review*, 87 (1982) pp. 1262-89. Major work on perceptions of environment in early America is Carolyn Merchant, *Ecological Revolutions: Nature, Gender and Science in New England* (Chapel Hill NC, 1989).

²⁸ Richard W. Judd, *Common Lands, Common People: the Origins of Conservation in Northern New England* (Cambridge MA, 1997); Yasuhide Kawashima and Ruth Tone, 'Environmental Policy in Early America: A Survey of Colonial Statutes', *Journal of Forest History*, 27 (1983), pp. 168-79.

²⁹ Brian Donahue, *The Great Meadow: Farmers and the Land in Colonial Concord* (New Haven CT, 2004); Daniel Vickers, *Farmers and Fishermen: Two Centuries of Work in Essex County Massachusetts, 1630-1850* (Chapel Hill NC, 1994). For a survey of ecological and environmental history of early America see, John Brooke, 'Ecology', in *A Companion to Colonial America*, ed. Daniel Vickers (Malden MA, 2003), pp. 44-75. On representations of environment in this period see Armstrong, *Writing North America*; *European Visions: American Voices*, ed. Kim Sloan, British Museum Research Publication, 172 (2009); Rebecca Ann Bach, *Colonial Transformations: the Cultural Production of the New Atlantic World, 1580-1640* (Basingstoke, 2000); Jess Edwards, 'Between "Plain Wilderness" and "Goodly Corn Fields": Representing Land use in Early Virginia', in *Envisioning an English Empire: Jamestown and the Making of North Atlantic World*, ed. Robert Appelbaum and John Wood Sweet (Philadelphia PA, 2005), pp. 217-35; David Read, *New World, Known World: Shaping Knowledge in Early Anglo-American Writing* (Columbia MO, 2005); Joseph A. Conforti, *Imagining New England: Explorations of Regional Identity from the Pilgrims to the Mid-Twentieth Century* (Chapel Hill NC, 2001), chp 1. Also developing literature on the ocean see Joyce L. Chaplin, 'The Atlantic Ocean and its Contemporary Meanings, 1492-1808', in *Atlantic History: a Critical Appraisal*, ed. Jack P. Greene and Philip D. Morgan (Oxford, 2009); Peter Thompson, 'Inventive Localism in the Seventeenth Century', *WMQ*, 64 (2007), pp. 525-548; Julie Sievers, 'Drowned Pens and Shaking Hands: Sea Providence Narratives in Seventeenth-Century New England', *WMQ*, 63 (2006), pp. 744-76.

³⁰ On sacred space and post Reformation Europe see collection *Sacred Space in Early Modern Europe*, ed. William Coster and Andrew Spicer (Cambridge, 2005); and Andrew Spicer and Sarah Hamilton, 'Introduction' in *Defining the Holy: Sacred Space in Medieval and Early Modern Europe*, ed. idem. (Aldershot, 2005); the need to focus upon the physical history of the Reformation is noted in several essays in *The Reformation in English Towns 1500-1640*, Patrick Collinson and John Craig (eds.) (London, 1998); The connection between material culture and beliefs is explored by some of the articles in *The Archaeology of the Reformation, c.1480-1580*, David Gaimster and Roberta Gilchrist (eds.) (Leeds, 2003); while some works address the connection between the landscape and memory, especially

small group have explored commons, rights, and ideas about the land, this has not been picked up by historians of early America and the focus continues to remain on the physical landscape, natives and legal history – with cultural perceptions and politics of land less of an interest. The exception to this is a number of studies on folklore in American history, however these generally look at later periods and the influence of these works on early colonial history remain limited.³¹ Despite this rich and varied research we have not advanced much past Miller in our understanding of early English settlers' experiences and perceptions of the American environment. This work seeks to fill this gap through a study of the creation of property and an English landscape in early New England settlements.

Themes

There have only been a handful of historical studies of property in the seventeenth-century English world, and mainly the focus of these works has been on elite and intellectual debates over the concept with little focus on property as a functioning and evolving concept. However, there has been a great deal of interest and research on the meaning and understanding of the landscape and while the primary focus of this work will be on the establishment and maintenance of property regimes in New England, on a deeper level this work will also attempt to explore and contribute to our understanding

David Rollinson, *The Local Origins of Modern Society: Gloucestershire 1500-1800* (London, 1992); Andy Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (forthcoming, Cambridge University Press); Simon Sandall, 'Custom and Popular memory in the Forest of Dean, c.1500-1832', Unpublished PhD (University of East Anglia, 2009); Helen M. K. Band, 'Customary Law, Social Memory and Collective Identity in Essex, c.1540-1700', Unpublished PhD (University of East Anglia, 2010); and Nicola Whyte, *Inhabiting the Landscape: Place, Custom and Memory, 1500-1800* (Oxford, 2009).

³¹ Kent C. Ryden, *Landscapes with Figures: Nature and Culture in New England* (Iowa City IO, 2001), *Mapping the Invisible Landscape: Folklore, Writing and Sense of Place* (Iowa City IO, 1993); George C. Whitney, *From Coastal Wilderness to Fruited Plain* (Cambridge, 1990); Simon Bronner, 'The Processional Principle in Folk Art Based on a Study of Wood Chain Carving', *Folklife*, 77 (1984); Mary I. Hufford, 'Telling the Landscape: Folklife Expression and Sense of Place, *Pinelands Folklife* (1987).

of the perceptions of the landscape and place. Particularly, how early modern people thought about land, divided it, related to it, and controlled it. This will mainly be explored via narrative and the connection between a communal identity and the landscape – which echoes the oral and physical landscape studied in England at this time. However, in New England there was a strong central authority controlling the property regime and the process of settlement, leading to a heavy reliance on documentation, reflecting an acceleration of the process occurring in England. This thesis will focus on this point of transition between these two systems; first of traditional patterns of usage and ways of reading the landscape; and second the rising importance of documentation and the need for a clearer articulation of the meaning of property in a legal and cultural sense. In doing this, it will offer us a better understanding of the relationship between early modern people and their landscape and of the meaning and structures of property in English America.

The relationship between identity and the landscape is a topic which has recently gained attention in England, where the focus of historical research has been upon the deep and common history, the knowledge of the landscape and resistance to changes in the agricultural system.³² As Nicola Whyte explains, these histories examine how the landscape functioned as a ‘lived environment imbued with multiple and diverse meanings’.³³ This interpretation has some limitations though when studying new England, which was initially a landscape lacking in this shared cultural European past, and one which needed to be worked into a recognisable pattern. However, this meant that settlers were often the ones creating their own boundaries and shaping the landscape – leaving them keenly aware of the ‘newness’ of their claim and causing them

³² Rollison, *Local Origin*; Sandall, ‘Custom and Popular Memory’; and Wood, *Memory of the People*.

³³ Whyte, *Inhabiting the Landscape*, p. 3. Strong influence from *The Iconography of the Landscape: Essays on Symbolic Representation, Design and Use of Past Environments*, ed. Dennis Cosgrove and Stephen Daniels (Cambridge, 1988) and Dennis Cosgrove *Social Formations and Symbolic Landscape* (Beckenham, 1984).

to fixate on ideas of ownership and property. Thus ideas of property crystallized through the process of colonization – and as with the pressures on common land and tenant farming in England forced the articulation of commonly held cultural assumptions to the surface and in the process exposed the structures of these beliefs and ideas to historians. In New England we can see how the structures supporting a property regime were formed through a series of negotiations and adaptations to external and internal pressures in the community.

The landscape and property are important concepts in James C. Scott's, *Seeing Like a State* where the focus is upon power relations and the eventual domination by a central authority.³⁴ While the relationship between property regimes and authority are present in New England, they are less conflictual in this period than described by Scott. This is perhaps because modern property regimes – including actions such as central documentation of land transactions and extensive mapping and recording of boundaries – occur here earlier than in Europe. However, despite the introduction of these measures and the central control of the property market, the system in New England remained largely dominated by customary behaviour, such as perambulations and the use of common land rights. However, it could be argued that the system in New England was the transition point between the customary one in England and that described by Scott. While these customary behaviours remained, the fact that they were recorded and often ordered by the central courts does in some way introduce them into a modern property regime.³⁵ This thesis will explore the bridge between these two systems and explore the property system of New England, which was composed of heavy documentation, mapping and control by the colonial government. However, this new land system was established through rituals of property and ownership such as

³⁴ James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition have Failed* (New Haven CT, 1998), pp. 2, 27, 34.

³⁵ Scott, p. 39.

narrative, custom and the creation of a local identity. It is the intertwining of these two systems and objectives - control and custom - which make the study of property in this region both interesting and important for our understanding of the topic in early modern England as a whole.

When historians think of property in colonial America the focus tends to be upon the eighteenth century – looking at disputes over taxation, ‘rights’ and a desire to expand beyond the geographic limits imposed by the English government. This has led to a neglect of the concept of property and the development of property regimes in the early colonial experience. In large part this is due to the importance modern scholars place upon the writings of Locke and Hobbes, which are often seen as the starting part for discussions about modern property regimes.³⁶ There are a few exceptions to this, Laura Brace, *The Politics of Property*, does examine seventeenth century ideas of property, focusing particularly on the English Civil Wars. However, this work overly concentrates on the political and theoretical ideas of property and does not examine the larger meaning within the period. Similarly, Christopher Tomlins, *Freedom Bound*, looks at early modern ideas of work, labour and property, specifically focusing on English America. However, like Brace, this work overly focuses on elite intellectual debates in Europe about the new world. With regards to property, there are very few examples relating to ‘real’ events in English America – and those are often regulated to the footnotes. This work, along with Brace, does provide a strong basis for understanding the complex legal and intellectual background to these subjects, but

³⁶ While James Muldoon states that the legitimacy of colonial claims were not challenged in the English system until the eighteenth century by John Adams, James Muldoon, ‘Discovery, Grant, Charter, Conquest or Purchase’, in Christopher L. Tomlins and Bruce H. Mann (eds.), *The Many Legalities of Early America* (Chapel Hill NC, 2001), p. 27. Recently interest in the legal history of property in early America has been on the rise, though the number much of this research focuses on the south or on the eighteenth century and the number of works on seventeenth century New England is still quite small, Christopher Tomlins, ‘Introduction: The Many Legalities of Colonization. A Manifesto of Destiny for Early American Legal History’, in *The Many Legalities of Early America*, ed. Christopher Tomlins and Bruce Mann (Chapel Hill NC, 2001), pp. 14-15.

neither work offers much insight into how property was understood or developed for (and by) the larger population.³⁷

One interesting oversight by both Tomlins, and historians in general, is the neglect of the Dominion of New England which as we will see in chapter four stimulated much debate about property, ownership and identity. Similarly, works on land and rights often selectively study native land rights without reference to other concepts of property. This has resulted in a very narrow view of property for this period, and a limited understanding of the link between landscape and identity. It has also resulted in misunderstanding about the origins of ideas discussed in Locke's, *Two Treatise of Civil Government*, and despite his statement that 'in the beginning all the world was America', few have attempted to study the events and systems that influenced this work.³⁸

An examination of the property regime of New England reveals the clear influence of these events and places upon Locke's work. Writing about Cain and Able, Locke noted that:

it was commonly without any fixed property in the ground they made use of till they incorporated, settled themselves together, and built cities, and then, by consent, they came in time to set out the bounds of their distinct territories and agree on limits between them and their neighbours, and by laws within themselves settled the properties of the same society.³⁹

This could just as clearly be an account of the settlement of Massachusetts Bay or any other New England colony. While the rise in philosophy and 'modern' thinking can be

³⁷ Laura Brace, *The Politics of Property: Labour, Freedom and Belonging* (Edinburgh, 2004); Christopher Tomlins, *Freedom Bound: Law, Labor and Civic Identity in Colonizing English America, 1580-1865* (New York NY, 2010).

³⁸ John Locke, *Two Treatise on Civil Government* (London, 1698), p. 124.

³⁹ *ibid.*, p. 121.

located in the seventeenth century these texts are only mirroring what is occurring ‘on the ground’, not inventing wholly new concepts or ideas. They are less the revolutionary texts that we often view them as and more reflective.⁴⁰ This is the major failing of property studies in this period, by overly relying on intellectual debates and tracts, historians have failed to understand the origins of these ideas and concepts.

This work aims to refocus attention on New England and redress this imbalance by examining the experiences and ideas of early settlers, the development of a new property regime, and the transportation and formation of identity. The intention of these migrants was to re-create an *English* landscape and identity, and this thesis will show that the legislation and actions taken demonstrate that they were trying to replicate familiar systems and patterns from England. However, Locke was right to focus on the important transition between natural rights, the claiming of land, and civil rights. The process of re-making England in a new landscape led to changes in the intended system, which clearly emerged during the conflict under the Dominion of New England.

Another area of research on concepts of ownership and colonization involve the pre- or early colonial years and look at notions of claiming, conquest and discovery. Barbara Arneil notes that in the ‘sixteenth century, new lands were considered to be the property of those who first arrived without need of labour or purchase. Sovereignty and ownership were merged into a right of discovery’.⁴¹ The majority of research on this earlier period has focused on these concepts, particularly as Michael T. Ryan notes, the ‘intellectual and psychological’ concepts of ownership implied by discovery.⁴² Those works looking beyond the early stages of colonization such as Patricia Seed, *Ceremonies of Possession*, focus on the construction of homes as way to establish a

⁴⁰ Carol M. Rose, ‘Property as Storytelling: Perspectives from Game Theory, Narrative Theory, Feminist Theory’, *Faculty Scholarship Series*, Paper 1822 (1990), p. 37.

⁴¹ Barbara Arneil, *John Locke and America: The Defence of English Colonialism* (1996: Oxford, 2007), p. 71.

⁴² Michael T. Ryan, ‘Assimilating New Worlds in the Sixteenth and Seventeenth Century’, *Comparative Studies in Society and History*, 23 (1981), p. 536.

claim on the land and connect this notion back to the rootness of English settlements – where villages could trace their history back hundreds of years. Seed notes that the building of a house ‘created a virtually unassailable right to own the place.’ Further, the act of claiming the land invoked conceptions of legitimacy and ownership which authorized the act of colonization itself.⁴³ This notion of self-justification and the need for legitimacy largely drove the actions of colonists in establishing and defending their property regimes as will be seen throughout the thesis, but in particular in chapters three and four. This thesis looks to link these disparate topics together and form a narration of property and identity as experienced by ordinary people in early New England.

A crucial way in which property regimes were established and defined was through narrative. In England this took customary forms and was often embedded in oral culture such as stories, songs, and place names. The narrative was collective and carried from one generation to the next. In a place with no history, narrative was crucial to establishing a firm link to the landscape and clear sense of identity and purpose.

This work will build upon the recent spacial turn and studies of the perception of the landscape. Place and space may offer a way of exploring the importance of location and geography. In New England the question is not just how did settlers react to or use the environment, but how did they actively seek to mould it into a desired form? What was the relationship between the individual or community and their environment? While the initial question here is informed by existing studies of space and place – the deeper interest lies in the ways people viewed and constructed places. Place has been a topic of interest in Western thought since ancient times, though it was not until the twentieth century that cultural geographers and anthropologists began using the concept

⁴³ Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492-1640* (Cambridge, 1995), pp.18-9.

to explore perceptions and meanings of space. Cultural geography, often seen as a loose connection of interests and approaches, ‘addresses the *concrete* questions of where and under what conditions a wide range of phenomena connected to the Earth and its occupants occur.’⁴⁴ While the work of some cultural geographers on nature and the landscape has influenced historians (though generally of European or modern history) it is the influence of the ‘discrete units of geographical space’ which have recently interested early modern historians.⁴⁵ This arises from the work of anthropologists, who in the 1980s began utilising the ideas and concepts of historical geographers in their own work.⁴⁶ Space, the more popular of the concepts with historians, allows people to examine general trends and ideas (such as spaces of power or spaces of worship) however the focus of this study is upon *meaning* and will instead focus on places (or regions).⁴⁷

The link between property and spacial theory is well covered by legal studies. Jeremy Waldron notes that ‘everything that is done has to be done somewhere...One of the functions of property rules. . .is to provide a basis for determining who is allowed to

⁴⁴ ‘Introduction’, *Human Geography: An Essential Anthology*, ed. John Agnew, David N. Livingstone and Alasdair Rogers (Oxford, 1996), p. 5, see also parts 2 and 3 for general introduction to topic; Anne Buttner, *Geography and the Human Spirit* (Baltimore MD, 1993); P.J. Bowler, *The Fontana History of the Environmental Sciences* (London, 1992); Donald Worster, *Nature’s Economy: a History of Ecological Ideas* (Cambridge, 1999).

⁴⁵ ‘Introduction’, *Human Geography*, p. 367; this influence most clearly seen in Clarence J. Glacken, *Traces on the Rhodian Shore: Nature and Culture in Western Thought from Ancient Times to the End of the Eighteenth Century* (Berkeley CA, 1967). On the construction of social identities and interplay of social relations see Henri Lefebvre, *The Production of Space*, trans. D. Nicholson-Smith (Cambridge MA, 1991); Edward W. Soja, *Postmodern Geographies: The Reassertion of Space in Critical Social Theory* (New York NY, 1990); Derek Gregory, *Geographical Imaginations* (Cambridge MA, 1994).

⁴⁶ Keith H. Basso, *Wisdom Sits in Places: Landscape and Language Among the Western Apache* (Albuquerque NM, 1996); Barbara Bender, *Landscape: Politics and Perspectives* (Oxford, 1993); *Senses of Place*, ed. Steven Feld and Keith H. Basso (Santa Fe NM, 1996); *Culture, Power, Place: Explorations in Critical Anthropology*, ed. Akhil Gupta and James Ferguson (Durham NC, 1997); *The Anthropology of Landscape: Perspectives on Place and Space*, ed. Eric Hirsch and Michael O’Hanlon (Oxford, 1995); Johnston notes ‘there are three components to the definition of a place – the physical environment, the built environment, and the people.’ Ronald J. Johnston, *A Question of Place: Exploring the Practice of Human Geography* (Oxford, 1991), p. 97; Anthony P. Cohen, *Belonging: Identity and Social Organization in British Rural Cultures* (Manchester, 1982), p. 2.; A place exists in many forms such as the land, city, home and body, Edward Casey, ‘How to Get from Space to Place in a Fairly Short Stretch of Time: Phenomenological Prolegomena’, in *Senses of Place*, ed. Feld and Basso, pp. 21-4; *House Life: Space, Place and Family in Europe*, ed. Donna Birdwell-Pheasant and Denise Lawrence-Zúñiga (Oxford, 1999).

⁴⁷ Casey, p. 33.

be where'.⁴⁸ Therefore understanding the rules and the geography of property, how it is understood and defined, is thus key to understanding it as a topic.⁴⁹ Nicholas Blomey cautions us not to get too caught up in the definition of property or the narratives surrounding it, on the ground that property is not just a 'thing', but linked with physical geography, social networks, power relations and identity. Thus it must be considered *spacially* with consideration to both the representation and physical object.⁵⁰

The way in which I intend to unlock the perception of property and the landscape is through narrative and rituals – both formal and informal. Carol Rose notes that discussions of property often take a narrative turn, 'treating property regimes as if they had origins and as if they developed over time' which allows the narrator to explain away or cover up any gaps in explaining how these systems emerged.⁵¹ Narrative is particularly important at the start of a property regime, which requires cooperation between participants. The telling of stories or establishing a common narrative helps to ensure cooperation and to render the system intelligible.⁵²

Narrative is the most important and visible tool used to establish and define property but Neal Milner notes that these type of property stories most often appear 'where matter[s] that were assumed as given can no longer be taken for granted.'⁵³ These property stories or narratives are part of a number of rituals which help define 'proper possession' of land. The three rituals Milner identifies are (1) rites of identity, (2) rites of settlement, and (3) rites of struggle.⁵⁴ In this thesis I will be taking these three categories identified by Milner and examining how these rituals or rites of ownership helped define English places and property in New England. Specifically, I

⁴⁸ Jeremy Waldron, 'Homelessness and the Issue of Freedom', *University of California Law Review*, 39 (1991), p. 296.

⁴⁹ Nicholas Blomley, 'Landscapes of Property', *Law & Society Review*, 32 (1998), pp. 567-612.

⁵⁰ Blomley, pp. 572-3.

⁵¹ Rose, 'Property as Storytelling', p. 38.

⁵² *Ibid.*, pp. 51, 55, 57.

⁵³ Neal Milner, 'Ownership Rights and the Rites of Ownership', *Law & Social Inquiry*, 18 (1993), p. 230.

⁵⁴ Milner, p. 231.

will explore: (1) identity through naming practices and commodification of the landscape; (2) settlement through documentation and division of the land; and (3) struggle and the use of narrative to help overcome external challenges to the accepted property regime. The benefit of this approach is that it offers a more complete view of the environment from the ordinary settlers' perspective and allows us to get closer to seeing the world as early modern people did by combining theories and evidence from different fields. Understanding this basic concept, 'how did people see and experience their world' will offer us a better understanding of them and their mentalities, and offer a firmer foundation for understanding society and culture as a whole.

Sources

This study seeks to use property as a way to access early modern people's relationship and perceptions of their environment, through the interpretation of a wide range of sources. These sources are a mixture of official government records, printed accounts, maps, and private letters and diaries. For this thesis I will be focusing on the records of the governments of Massachusetts Bay, Connecticut, Rhode Island, and Plymouth. The records for most colonies began with departure from England, or at the establishment of a new town or settlement. The majority of my research is based upon town records, and their counterparts at the colonial level. Due to the dominant nature of Massachusetts Bay, the Court of Assistants and General Court Records were the most heavily consulted works. The key colonial records are Nathaniel D. Shurtleff (ed.), *Records of the Governor and Company of the Massachusetts Bay in New England*; Shurtleff (ed.), John R. Bartlett (ed.), *records of the Colony of Rhode Island and Providence Plantation*; Charles J. Hoadly (ed.), *The Public Records of the Colony of Connecticut*; and Charles J. Hoadly (ed.), *Records of the Colony of Jurisdiction of New Haven*.

These printed collections are supplemented with archival holdings, chiefly those at the Massachusetts State Archives, which have a large collection of seventeenth-century surveying maps, which are part of the colonial court records, a resource which seems to have been overlooked by historians up till now. This collection will be used to examine the creation of colonial, town, and individual boundaries and the replication of traditional patterns of land usage and customary behaviour.

The General Court records provide only one portion of story; I have also considered a wide range of private and published accounts to help provide a fuller analysis of this period and topic. Relating to early voyages and pre-settlement accounts I have focused on those voyages printed in *The English New England Voyages, 1602-1608*, edited by David B. Quinn and Alison M. Quinn. Of particular importance to this study are the accounts of John Brereton and James Rosier, whose accounts were published shortly after their voyages, and thus are of more importance when considering the shaping of perceptions of the land prior to departure. The accounts by Martin Pring and Gabriel Archer, both published in 1625 are also consulted as is the unpublished account by George Weymouth. The other pre-colonization text fully examined is John Smith's, 'A Description of New England' (1618), which as we will see in Chapter 1 was enormously influential – particularly when it came to the selection of settlements and their names. There is a wide range of printed accounts and descriptions of the landscape from 1620 onwards, but it is not the intention of this work to examine only perceptions and descriptions of the landscape so I have been selective in those which I consult.

The personal records related to Massachusetts Bay are primarily those of its most well-known and influential founder, John Winthrop. The primary resource is the excellent, *The Journal of John Winthrop, 1630-1649*, edited by Richard S. Dunn, James Savage, and Laetitia Yeandle. This replaces the earlier version published by James Savage in 1825-6, though due to an unfortunate fire the middle part of the journal

(covering the period October 1636 to 8 December 1644) has since been lost and Dunn and Yeandle were forced to rely on Savage's transcription for this publication.⁵⁵ The journal itself provides an excellent supplement to court records, particularly as Winthrop was closely involved in government throughout the period and is able to provide additional detail and narrative which helps to contextualise the legislation. Winthrop often copied down official letters and private correspondence in his journal, thus on some occasions providing access to multiple accounts. Additionally, the letters published in Everett Emerson (ed.), *Letters from New England*, provide several good accounts of early settler's perceptions and actions. This is supplemented with contemporary published accounts and archival holdings.

The letters and accounts of Roger Williams, founder of Rhode Island, form the basis for additional resources on this colony. The primary source here is, *The Correspondence of Roger Williams, 1629-1653*, edited by Glenn W. La Fantasia and Robert S. Corcroft, though the older, *The Letters of Roger Williams*, John R. Bartlett (ed.) have also been consulted, due to easier access to this collection. Also used are *The Complete Writings of Roger Williams*, particularly volume 2 which provides detail of the dialogue between Williams and John Cotton regarding Williams's criticisms of the Bay Colony. I have also looked at some publications by Williams, most notably, *A Key Into the Language of America* (1643).

For Plymouth colony, the most important personal account is William Bradford's *Of Plymouth Plantation*, which provides a narrative of this colony starting from departure in Lyden and up till. This source remained in manuscript form, until its publication in 1841. Also of great importance for the early years of Plymouth colony are *A Journal of the Pilgrims at Plymouth: Mourt's Relation* (1622) and Edward

⁵⁵ The original manuscript was lost in a fire at Savage's office, where he had taken the document to work on it. Richard S. Dunn, 'Introduction', in *Winthrop Journal*, p. xi.

Winslow's, *Good Newes from new England* (1628) which continues the narrative begun in the former publication. Historians have speculated as to the identity of G. Mourt, with many suggesting that Winslow, and possibly Bradford, contributed to this publication, but there are no concrete conclusions on this matter.⁵⁶ Later publication by Nathaniel Morton also provides some additional information about Plymouth and highlight changes in memory and interpretation of events over time, as will be explored in chapter 3. A number of accounts by visitors to early Plymouth in Sydney V. James Jr. (ed.), *Three Visitors to Early Plymouth* are also consulted.

Structure

The analysis of this thesis is argued across four chapters. Chapter One begins prior to English settlement and first considers the period of discovery in the late sixteenth and early seventeenth centuries looking at how the landscape is portrayed and shaped into a 'New England' even before settlers arrive. The first way this is accomplished is in the naming and description of the landscape through a system of classification and naming which helped interested migrants and investors 'see' the New World. It also introduces ideas of control and authority – through the patent and later the centralized system of naming which emerges in the colony. It will focus on the connection between identity and the landscape and the importance of controlling the process of settlement and naming. On a deeper level, it will consider who was in control of this process, and furthermore will examine the struggle to erase native and other European histories in an attempt to control the English names and thus identity of places.

Chapter Two moves past ideas and cultural constructions and towards physical interactions with the landscape – in particular allocating, bounding, and using the land

⁵⁶ Roger King, *Cape Cod and Plymouth in the Seventeenth century* (Lanham MD, 1994), p. 284.

and the legal and cultural processes which support and bind this system together. The chapter first examines the creation and establishment of a system of documentation and control which is created to facilitate the re-creation of English patterns of land usage. The chapter then looks at the process of physically establishing boundaries – primarily through the role of the surveyor, who serves as an agent of the government and records boundaries both in paper and on the landscape – echoing the system in England (though there this dual method of boundaries reflects a transition). Finally, I will examine resources, specifically their distribution and restriction of access to them. This will refer back to the initial system of classification in chapter 1 but delve further looking at the resources considered necessary to establish an English settlement and also how ideas/fears about dearth and depletion of resources were transferred from England. Overall, the chapter builds upon the ideas established in Chapter One, concerning the transfer of English ideas and methods as a way of rendering the landscape intelligible, but will further look at the challenges presented by the new land and how this required flexibility and adaptation of English ways.

While the previous chapters established early settlers’ methods of imprinting identity onto the landscape and the importance of land, ownership, documentation and authority in this society the final two chapters will look at conflict and change. Despite contemporary claims to the contrary, this was not a barren landscape, nor were settlers cutting ties with England. The final two chapters focus on the external conflicts and challenges presented, and explore how these further our understanding of ideas about the land, ownership and the means in which these are transported, established and supported. Chapter Three looks at the role of narrative and how it acts as a bridge or support for documentation with regard to property. In particular the chapter focuses on the conflict between the natives and English and the trouble of native land rights – which at first are denied and later accepted in order to support English claims to the

land. The narratives or stories told about settlement and the land echo the processes in chapter 1 with the naming and imprinting/claiming of the land by settlers.

Chapter Four examines another external conflict – this time looking at conflict with England. The chapter first examines the period of isolation following the English Civil Wars and then the conflict, confusion and complexity of sorting out ownership and land policy in the Atlantic world of Restoration England. Most importantly, this chapter examines how the concepts and structures established during the first fifty year of settlement (most importantly: townships, common lands, natural and civil rights and documentation) are closely linked with common identity. This is clearly exposed during the challenges and threats made to these systems during the Dominion of New England.

Each chapter introduces new concepts while building upon ideas and events previously touched upon, reflecting the process of gradually constructing place and property regimes which was on-going in this century. By exploring this process of layering and how identity and a sense of place evolved over the century, this thesis offers a new perspective on the relationship between environment and early modern people – instead of burrowing into custom and identity through this study we can watch it being constructed.

Chapter 1: Claiming the Land

This chapter examines the start of English colonization in New England and the resulting process of re-fashioning the landscape through naming practices. It will focus on the connection between identity and the landscape and the importance of controlling the process of settlement and naming. On a deeper level it will consider who was in control of this process and furthermore it will examine the struggle to erase native and other European histories in an attempt to control the English names, and thus identity, of places. The process of transforming the ‘wilderness’ of the new world into a ‘new England’ began long before the *Mayflower* left Plymouth in 1620. While these may not have been *physical* changes, the accounts published by early explorers helped shape the perceptions of the land and establish the *idea* of New England. I will be focusing on three printed accounts published prior to permanent English settlement looking at the role of these documents as surveying texts and how they began the construction of an English place in the New World. This was achieved first, by recording and commodifying the land, and then by shaping it into an English place through the use of names and descriptions.

The naming of the New World was an important part of colonial construction, shaping the perception of these new settlements not only for their residents but also for the audience of scholars, potential investors and explorers back in England. Anthropologists and cultural geographers have increasingly recognized the importance

of names and their role in shaping and maintaining group identities, but historical consideration of this topic is still lagging.⁵⁷ A notable exception to this is the research conducted by landscape historians in England, where the shape, use and naming of land have long been of interest.⁵⁸ But as Nicola Whyte has noted, these works have paid little attention to cultural contexts and the contemporary meanings and perceptions of the landscape.⁵⁹ Similarly, historians of early America have explored the physical environment and the economic and agricultural uses of the land but have for the most part ignored the process of creating the new world and have given little attention, or oversimplified, the transportation of English ideas and culture.⁶⁰ Indeed, it was not a steady or even campaign of cultural relocation, instead culture and identity were transported and allocated via both formal and informal pathways creating a patchwork of names reflecting the complex and sometimes conflicting identities of English settlers.

The landscape according to Whyte must be studied as ‘a lived environment imbued with multiple and diverse meanings and associations’.⁶¹ Place names offer a way into examining this relationship between people and their environment and help us understand the construction of places, in this instance the planning and building of a new colony and transatlantic society. Further, by studying the names of places we are able to understand the perceived and intended relationship between people and their

⁵⁷ Basso, *Wisdom Sits in Place; Senses of Place*, ed. Feld and Basso; *Culture, Power, Place*, ed. Gupta and Ferguson; *Anthropology of Landscape*, (ed.) Hirsch and O’Hanlon; Johnston, *A Question of Place*.

⁵⁸ W.G. Hoskins, *The Making of the English Landscape* (London, 1955); Susanna Wade Martins and Tom Williamson, *Roots of Change: Farming and the Landscape in East Anglia, c. 1700-1870* (Exeter, 1999); Barbara Bender, *Landscape: Politics and Perspectives* (Oxford, 1993). Thomas, *Man and the Natural World*, and Schama, *Landscape and Memory*, only outline changing beliefs, but not how these beliefs function. McRae, *God Speed the Plough* examines meanings of cultivated landscape.

⁵⁹ Whyte, *Inhabiting the Landscape*, p. 3.

⁶⁰ On migration and culture see: Cressy, *Coming Over*; Allen, *In English Ways*; Fischer, *Albion’s Seed*; Archer, *Fissures in the Rock*. On the environment: Donahue, *The Great Meadow*; Daniel Vickers, *Farmers and Fishermen: Two Centuries of Work in Essex County Massachusetts, 1630-1850* (Chapel Hill NC, 1994). On representations of environment in this period see Armstrong, *Writing North America; European Visions*, ed. Sloan; Bach, *Colonial Transformations*; Conforti, *Imagining New England*, chp 1; Franciso J. Borge, *A New World for a New Nation: The Promotion of America in Early Modern England* (Oxford, 2007).

⁶¹ Whyte, *Inhabiting the Landscape*, 3.

environment and the way in which these two interacted with each other.⁶² Iain Chambers notes that language is the way in which ‘our very selves are constituted’ and that there are “no neutral means of representation”.⁶³ This is seen with two main approaches to naming in this period: those selected to deliberately convey an identity, and those which reveal the usage and the relationship with the environment. This examination of settlement and naming is not merely about the ‘invention’ of New England nor is it just a categorization of place names, and is broken into three sections: first on discovery, claiming and commodification; then on examining naming patterns pre- and finally post-permanent settlement, each section considering who is controlling the naming of the landscape and places and what factors are influencing their choices. This chapter will show how through an examination of the selection and pattern of names we can better understand the identity of seventeenth-century English migrants and their worlds (England and New England). At its heart it is a study of how identities and culture can be recovered from a study of the creation and perception of the landscape.

Discovery and Claiming

This section examines the period leading up to permanent colonization (1602-1620), during which time early English explorers served as an advance guard, sent ahead by interested investors to collect information on the land and then to translate and transmit it back to interested parties in England (this was done both as reports to investors and also in print to a wider audience). Prior to 1600, the English experienced little success

⁶² Charles Phythian-Adams, ‘Environments and Identities: Landscape as Cultural Projection in the English Provincial Past,’ in *Environment and Historical Change: the Linacre Lectures 1998*, ed. Paul Slack (Oxford, 1999), p. 143; Johnston, *A Question of Place*, p. 97

⁶³ Iain Chambers, *Migrancy, Culture, Identity* (London, 1994), p. 22.

exploring or colonizing the American continent, despite the knowledge, and use, of the northern coast by Devonshire fishermen since the late fifteenth century and explorations by the Cabots in the 1490s. Nearly a century later, Sir Humphrey Gilbert and his brother-in-law, Sir Walter Raleigh, both attempted to establish new world colonies with little success. Gilbert's 1583 attempt ended with his death and Raleigh's in 1585 ended with the threat of the Spanish Armada and the mysterious disappearance of his colonists from Roanoke.

Despite these failures, what did occur during the late sixteenth century was a sustained effort by a small number of gentlemen who sought to convince investors and the crown that colonization, though risky, was a worthwhile venture. In addition to the few adventurers such as Gilbert and Raleigh, this group was comprised of writers and artists such as John White, Theodor de Bry, Samuel Purchas, and Richard Hakluyt.⁶⁴ The accounts of sixteenth-century English voyages which were published individually and as part of Richard Hakluyt's *Principal Navigations* (1599) which achieved success and re-kindled interest in colonial ventures beyond Ireland.⁶⁵

With Hakluyt's text circulating and the Spanish threat waning, the start of the seventeenth century saw a number of privately commissioned voyages to discover and chart the New World. In 1602, the earl of Southampton along with several other men (mainly second sons of nobles and wealthy merchants) commissioned Bartholomew Gosnold and Bartholomew Gilbert to undertake an exploration of the coast and find a location suitable to establish a permanent trading colony. The expedition spent a month exploring the islands and coastline before returning to England where a brief 24-page account was published that same year, written by Reverend John Brereton. In 1605,

⁶⁴ Borge, *A New World*, p. 11-12.

⁶⁵ Douglas R. McManis, *European Impressions of the New England Coast, 1497-1620* (Chicago IL, 1972), pp. 15, 56, 61; M. Fuller, *Voyages in Print: English Travel to America, 1576-1624* (Cambridge, 1995), pp. 17, 25, 33; *The English New England Voyages, 1602-1608*, ed. David B. Quinn and Alison M. Quinn (1605, London, 1983), p. 31.

Captain George Waymouth was commissioned by a group of Plymouth merchants to explore this same area, their interest was in fishing rights and trade. Like Gosnold and Gilbert, Waymouth and his crew of 29 men set sail in March and arrived in mid-May. This exploration also spent a month exploring the region before returning home. James Rosier published an account of this expedition, which was more descriptive and detailed than Brereton's, though at times more exaggerated in its description of the bounty and grandeur of the landscape.

In 1606 the Plymouth group joined with a group of London merchants (who had been exploring the southern part of Virginia), renamed themselves the 'Virginia Company', and were that year granted a royal charter. The Plymouth group maintained interest in the northern territory and like its counterpart attempted to establish a colony in 1607. Known as Sagadahoc, the settlement did not last a year due to a harsh winter and food shortages. An expedition was sent the following year to prove the area was inhabitable in winter, but did not stay permanently. However, with the eventual (though narrow) success of Jamestown, and the economic potential of northern Virginia, interest in establishing a colony remained. To this purpose, Captain John Smith – formerly of Jamestown – was commissioned by James I to explore and chart the region north of Jamestown and select a suitable location for a colony. Smith's 1614 voyage was published in 1616, with a specifically commissioned map accompanying it.⁶⁶

All three of these documents were influenced by the aspirations and agendas of the authors and backers (particularly that by Smith who was as interested in promoting himself as he was in the new world, if not more so). But as for this region these were the documents most easily available pre-settlement, they were particularly important in shaping migrant and English perceptions of the landscape even before people left the

⁶⁶ John Smith, 'A Description of New England' (1616) in *Captain John Smith: Writings with Other Narratives of Roanoke, Jamestown, and the First English Settlement of America*, ed. James Horn (New York NY, 2007).

shores of England. As one of the primary motives for exploration was economic it is logical that one of the main ways the land was translated and transformed was a sort of commodification of the landscape.⁶⁷ This included the affixing of English units of measure and terminology onto natural features and the further division of these features into their use and value. All three of these voyages produced charts and maps (though only Smith's survives) because to represent and assess the region accurately it was necessary to survey and measure the land. This was done in English miles. This not only allowed future voyages and migrants to navigate this region, but also conveyed the extent and potential use of the land. Similarly, the terminology and images used to describe the landscape drew upon a culturally shared system of signs, symbols and speech patterns. Terminology helped order the landscape, while measurements allowed people to grasp the scale and dimensions of the land.⁶⁸

This terminology was not just about technical detail but also about creating familiar categorizations. In all three accounts, lists are provided which broke down the landscape into familiar categories: trees, fowls, beasts, fruits, plants and herbs, fishes, metal and stones. This meant that not only was the landscape translated and conveyed in a language which was familiar to people in England, but it was also divided up and conveyed according to its use and suitability for English interests. In this case, terms such as meadows, rivers, trees, hills which corresponded to what was familiar in England and thus provided a key for English audiences to understand the shape, value

⁶⁷ Armstrong, *Writing North America*, p. 77; Matthew Johnson, *An Archaeology of Capitalism* (Oxford, 1996), pp. 192-9.

⁶⁸ James Rosier, *A True Relation of the most Prosperous Voyage* (1605), in *English New England Voyages*, ed. Quinn and Quinn, pp. 258, 264, 298-9; John Brereton, *A Briefe and True Relation of this Discoverie of the North part of Virginia* (1602) in *The English New England Voyages*, ed. Quinn and Quinn, pp. 148, 180; Armstrong, *Writing North America*, p. 64.

and use of the landscape. The primary focus was on the variety and bounty in the new world – enhanced by descriptions which mention the plethora and quality.⁶⁹

These lists and categories provided further detail in the reports and descriptions of these three accounts. Sometimes value was implied simply by listing or labelling resources (such as brooks, flowers, animals) but other times the value or suitability of a particular resource was enhanced with further description. Upon finding a river, Rosier mentions that it possessed a safe harbour and suggests that it would be good for shipping.⁷⁰ Similarly, upon finding a number of large spruce trees, he remarked upon their ‘excellent timber and height able to mast ships of great burthen.’⁷¹ This mention of timber and its possible suitability for shipping and construction was of particular importance given shortages of wood, a resource which was depleted due to it being the primary fuel source in England at this time. This interest in timber and trees is noted by the further list of trees found and the items or products which could be gained from these trees.⁷² Rosier further described the cutting down of trees on one island to use for repairs, which not only suggests but proved the suitability of the natural resources for English use.⁷³ Not only were the resources noted but also potential locations for development. On one island explorers found a pond and ‘strong run’ with timber which Rosier noted would be very suitable for a mill.⁷⁴ Another island was selected for a good location for settlement as it possessed a large lake, broad river, good harbour, woods and meadows.⁷⁵ While resources were important for economic reasons and crucial to convincing investors of the value of the land, the land in its wild state was considered unsuitable for English bodies. However, Smith, with his eye towards a permanent

⁶⁹ Brereton, *Brief and True*, pp. 148, 151.

⁷⁰ Rosier, *True Relation*, p. 259.

⁷¹ *ibid.*, p. 286

⁷² Rosier, *True Relation*, pp. 259, 266. Brereton’s account provides a similar list, pp. 148, 151.

⁷³ Rosier, *True Relation*, p. 263

⁷⁴ *ibid.*, p. 286.

⁷⁵ Brereton, *Brief and True*, p. 180.

English colony, noted that once they cleared some trees it became a healthy environment.⁷⁶

With the emphasis on encouraging development and permanent settlements (not just harvesting resources) it was not only familiar categories of resources which were of interest, but also the quality of the soil and its usefulness for agriculture. The land was labelled according to familiar patterns of use, such as meadows, and parks.⁷⁷ Brereton described soil in one location ‘as fat and lustie’ with a colour ‘of our hemeplands in England’ which could be used for agriculture with limited labour.⁷⁸ Rosier described the land on one island as excellent pasture land, which could easily be claimed and made arable, but would suffice for cattle as it was.⁷⁹ This demonstrated that it would not be difficult to re-create traditional agricultural methods, and further that the mixed-agricultural system in use could easily be transplanted. As with other resources, this was tested by the expeditions who made physical alterations to the land. This helped prove the suitability of the land and leave some mark of English possession. Rosier mentions the digging of wells and clearing of trees.⁸⁰ All three expeditions attempted to grow English crops, such as wheat, barley, oats and peas, which Brereton reported ‘sprung up nine inches and more’ in only fourteen days – despite the lower quality soil.⁸¹ Brereton reported constructing a small house on one island, in which they lived for much of the month. It is possible Smith also constructed a temporary dwelling, but it is the symbolic and imagined house, which he describes to the reader, that is most important.⁸² These physical and imagined alterations improved (or created the illusion

⁷⁶ Jim Egan, ‘The East in British-American Writing: English Identity, John Smith’s *True Travels* and *Severed Heads*’, in *Environment and Embodiment*, ed. Floyd-Wilson and Sullivan Jr (Basingstoke, 2007), p. 115.

⁷⁷ Rosier, *True Relation*, pp. 291, 294.

⁷⁸ Brereton, *Brief and True*, p. 151.

⁷⁹ Rosier, *True Relation*, p. 293.

⁸⁰ *Ibid.*, p. 263.

⁸¹ Brereton, *Brief and True*, p. 150; Rosier, *True Relation*, p. 264.

⁸² Brereton, *Brief and True*, p. 153.

of improvement) which is an important, part of defining ownership and rights in this period. The actions of these explorers help solidify English claims to the land – particularly the construction of houses and clearing of trees, which would leave physical remains.

Pre-arrival to First Settlement

It was not only the resources and physical landscape which needed translation and familiarization. Just as it was important to demonstrate that the landscape could suit English patterns of development and settlement, it was also necessary to create an English identity for the landscape to further encourage interest and familiarity. The names of the places ‘discovered’ on these expeditions reflected this purpose: either serving to describe or narrate the landscape or voyage; or paying tribute to English people or locations; or seeking to hide any competing interests or threats (both indigenous and European). Of interest are not only the names which were selected for publication or reporting, but also those names omitted, namely Indian and other European place names and what these selections or omissions reveal about their perceptions and intentions towards the New World.

Descriptive or narrative names were the most common in these early expeditions. Bartholomew Gosnold and Bartholomew Gilbert’s 1602 expedition was the first major English voyage in thirty years and needed to create navigable and memorable names for the locations encountered. These include: Cape Cod, named for the topography and the abundance of fish there; Point Care, named for the dangerous shoals; the nearby breach was named ‘Tuckers Terror vpon his expressed feare’; Savage Rock, so named for the many Indians there; Northland was the land north of where they landed; and ‘Shole-

hope' (shallow haven).⁸³ This voyage produced the largest number of descriptive names of the early expeditions, though later voyages such as Martin Pring's 1603 voyage produced 'Foxe Illand' (because of the many foxes) there and the Great Bay.⁸⁴ These names helped to create an image of the New World for the audience of interested scholars, and potential investors back in England through the use of terms they would be familiar with. This included the use of topographical terms (rock, cape, island) which could easily be understood and the use of descriptive (shallow, fox, cod) or narrative (care, terror, north) elements which created a functional and picturesque place name. In addition to aiding with the visualization of the landscape, these names also served a practical purpose assisting with navigation and exploration.

Yet, aside from the use of familiar terminology these names did not have any clear ties to England and thus did not create correspondingly strong claims on the landscape. Other locations were given more 'English' names, after people or locations - a more imperialistic practice in line with other rituals of 'discovery' such as the issuing of royal patents, and the planting of a banner or cross as a way of staking a claim.⁸⁵ This begins with Gosnold and Gilbert's voyage which created Elizabeth's Isle (named after the Queen, and likely following the pattern set by Sir Walter Raleigh who named the English claim 'Virginia' after the Virgin Queen).⁸⁶ George Weymouth's 1605 voyage saw the naming of St George's River and Island after the patron saint of England.⁸⁷ Other locations were named in honour of patrons or financiers, in particular Pring's voyage which was funded by Bristol merchants and from which we get:

⁸³ Gabriel Archer, 'The Relation of Captain Gosnolds Voyage' (1625) in *Hakluytus posthumus, or Purchas his Pilgrimes*, Samuel Purchas, in *English New England Voyages*, ed. Quinn and Quinn, pp. 116-21.

⁸⁴ Martin Pring, 'A Voyage Set out from the Citie of Bristoll' (1603) in *Hakluytus Posthumus, or Purchas his pilgrimes*, Samuel Purchas, in *English New England Voyages*, ed. Quinn and Quinn, p. 217.

⁸⁵ Patricia Seed, 'Taking Possession and Reading Texts: Establishing the Authority of Overseas Empires', *WMQ*, 49 (1992), pp. 183-209.

⁸⁶ Archer, *Relation*, p. 126; Brereton, *Brief and True*, p. 150.

⁸⁷ Rosier, *True Relation*, p. 290.

Whitson Bay for ‘Worshipfull Master John Whitson then Maior of Citie of Bristoll’ and Mount Aldworth for Master Robert Aldworth.⁸⁸ Other places were given more self-promotional names such as Gilbert’s Point, Gosnolls Hope, and Martha’s Vineyard (after Gosnold’s daughter or mother-in-law and for the vineyards there).⁸⁹

In this early stage it was not common to directly connect a location in the new world to one in England; the one exception seems to be the naming of ‘Dover Cliffe’ for its resemblance to those cliffs in England.⁹⁰ Rossier noted that upon travelling up the newly named St. George’s River that it was comparable to (but he hesitated to say as great as) the ‘jewel of England’, the Thames. Along it he viewed a spot which had ‘much diversity of good commodities as any reasonable man can wish, for present habitation and planting’.⁹¹ While the comparison to the Thames was not unusual for the period, the notion of the fruitfulness of the landscape and the focus upon trade in these early voyages indicate that Rosier was imaging the site of a new London, located (conveniently enough) upon the New Thames in the New World. As the economic benefits of the colonies became better known, and following the success of the Jamestown settlement in Virginia, this more comparative and aspirational naming takes over from more descriptive useful names

This new naming is evident in John Smith’s 1616, *Description of New England*, an account of his 1614 voyage.⁹² This is likely due to the shift in audience and the growing intent to establish permanent settler-colonies instead of economically driven out-posts. One of the clearest examples of this new focus is in the re-naming of this region ‘New England’, replacing ‘Northern Virginia’ or ‘Norumbega’. Not only is this

⁸⁸ Pring, ‘Voyage’, p. 219.

⁸⁹ Archer, ‘Voyage’, pp 121, 124 126; Brereton, *Brief and True*, p. 148; W.F. Gooking and Phillip Lee Barbour, *Bartholomew Gosnold, Discoverer and Planter, New England-1602, Virginia- 1607* (Hamden CT, 1963), p. 133.

⁹⁰ Archer, *Relation*, p. 126.

⁹¹ Rosier, *True Relation*, p. 291.

⁹² Smith noted an area of coastline which ‘for the most part so resembleth the coast of Devonshire’, ‘Description’, p. 138.

an important and powerful change as the name appears both in the title of the work and on the accompanying map, thus affixing the name in print, but further it reflects and vocalizes much more clearly a developing sense of ownership over the land. This choice of a name also draws upon a wider trend in European explorations, following New Spain, New France and later New Netherland (or New Belgium) all of which demonstrate not only a sense of ownership but also that these locations are extensions or copies, rather than new entities.

In addition to more direct patterns of naming, Smith's account also differed from earlier ones as he utilized Indian place names in his text, documenting what he saw and inadvertently providing a native history of the landscape. However, the text is prefaced by a map (**figure 2**) and guide to the place names of New England which are only in English, and according to the introduction selected by Prince Charles.⁹³ This was intended to help people reconcile the map or vision of "New England" with the lands Smith explored and described. Smith presented these changes asking that the prince 'change their Barbarous names, for such English,' effectively undermining native claims even as he recorded it.⁹⁴ If we look closely at the names chosen by Prince versus those listed by Smith it is clear how effective this was. Smith had selected some names himself: Cape Trabigzanda (related to his exploits in Turkey) and Smiths Iles echoing the earlier self-promotional practices. The other English name Smith uses in his text is Cape Cod, which along with Cape Trabigzanda he states the main headlands for navigation, so as with earlier accounts it is still those locations which are most useful which are given names. Charles follows earlier naming patterns, with some locations named after people: Cape James, Charles River, Willowby's Iles, Hoghton's Iles, Barties Iles and Cape Anne; and but also existing English places: Milford Haven,

⁹³ The name 'New England' is also credited to Charles in the State Papers as well, *Calendar of State Papers: Colonial*, i, p. 23.

⁹⁴ Smith, 'Description', p. 123.



Figure 1. 'New England', John Smith (1617)⁹⁵

⁹⁵ University of Southern Maine Osher Map Library, 'Smith Center for Cartographic Education'.



Figure 2. ‘Map of New England’, John Smith (1635)⁹⁶

⁹⁶ University of Southern Maine Osher Map Library, ‘Smith Center for Cartographic Education’.

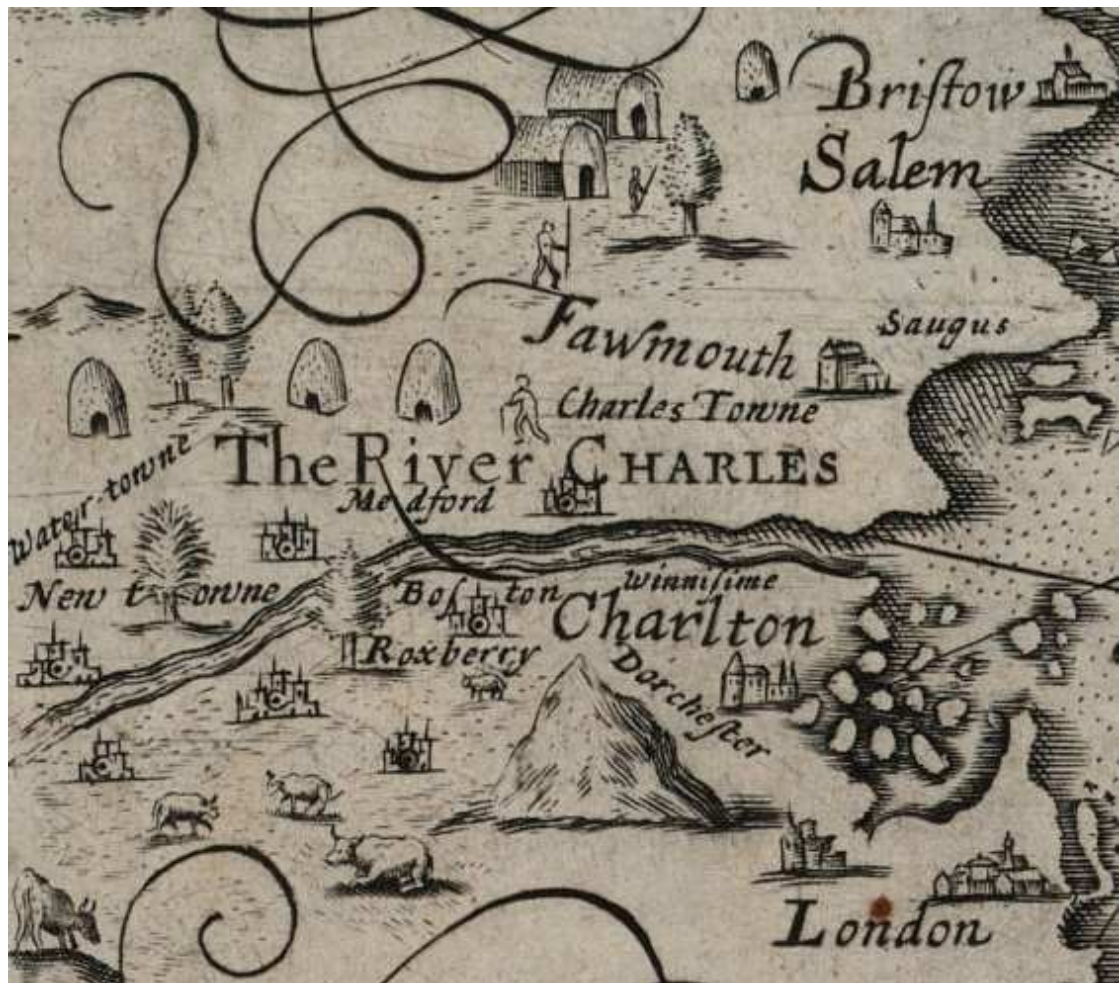


Figure 3. Detail 'Map of New England', John Smith (1635)

Plimouth, Oxford, Bristow, Southhampton, Hull, Boston, Ipswitch, Cambridge, Edenborough, and Norwich. Here we are presented with a landscape in transition, caught between the present, native, wild landscape in the text, and the vision of an English future in the accompanying map. The vision of a new world is furthered with the inclusion of buildings on the map. This was copying the practice in England, where towns were depicted as buildings, which varied in design ‘there-by preserving the uniqueness of each locality.’⁹⁷ With subsequent editions of Smith’s text this image was embellished adding additional images to reflecting the growing construction and settlement there (**figures 3 and 4**).

It is important to note that the names and ‘vision’ were created in England by a person who has not seen the location. The renaming was thus much more sweeping and focused with almost no thought given to topography or similarities between English places and their New England counterparts. It was easier to imagine a ‘New England’ if one ignored or was unaware of the realities of the landscape and in the absence of any permanent settlement it did help to create the illusion of an English colony and to sanitize the landscape for any potential settlers or investors. However, most of the names chosen by Charles and these early explorers failed to survive through the process of colonization. This is because, as Richard D’Abate notes, ‘[I]ike any linguistic sign, a place-name requires a community of speakers who will agree that a certain name should be attached to a certain piece of the landscape’⁹⁸ So while the creation or imagination of a ‘New England’ was easier when detached from the landscape, it did not have any community to maintain it, and did not necessarily reflect the groups who would later

⁹⁷ Matthew H. Edney and Susan Climburek, ‘Telling the Traumatic Truth: William Hubbard’s *Narrative of King Philip’s War* and his “Map of New England”’, *WMQ*, 61 (2004), p. 330. For an English example from this period see P.D.A. Harvey, *Maps in Tudor England* (Chicago IL, 1993), pp. 10, 23.

⁹⁸ Richard D’Abate, ‘On the Meaning of a Name “Norumbega” and the Representation of North America’, in *American Beginnings: Explorations, Culture, and Cartography in the Land of Norumbega*, ed. Emerson W. Baker, Edwin A. Churchill, Richard S. D’Abate, Kirstine L. Jones, Victor A. Kinrad, and Harald E.L. Prins (Lincoln NB, 1994), p. 65.

settle this region. These early names laid the foundation for future patterns of naming by settlers, in particular the practice of ignoring or erasing previous ownership or claims to the land.

This process is what J. B. Harley terms the ‘silence of maps’ and while most evident in Smith’s account, occurs in all early reports where Indian names are rarely reported though the presence of indigenous populations is noted.⁹⁹ These omissions were both calculated and the result of cultural misunderstanding. While it was in the promoter’s interests to show the land as safe and open and thus to conceal or downplay any Indian presence, there were also basic cultural differences in concepts of ownership, which continued through the first decades of colonization as well.¹⁰⁰ This misunderstanding is due not only to difficulties with communication but also to a sense of xenophobia and self-centeredness on the part of English. David B. Quinn notes that the English did not like foreigners, including the Welsh, Scots, Irish and other Europeans, for ‘what could the nationalistic, xenophobic English be but ethnocentric, absorbed as they were in the uniqueness of their own society, especially that of the leaders in its social hierarchy?’¹⁰¹ This distrust and aversion to outsiders was not limited to those outside of their national borders; Whyte notes that the distrust of ‘outsiders’ and ‘strangers’ existed even between neighbouring parishes.¹⁰² This xenophobia meant that not just Indian names and ownership were omitted by these early accounts, but also the history of other European people as well, and pre-settlement it seems this is the more notable and dominant ‘silence’. While it is not clear how far explorers were communicating with Indians, or if they recognized Indian land usage as ownership, the

⁹⁹ J.B. Harley, ‘Silences and Secrecy: The Hidden Agenda of Cartography in Early Modern Europe,’ *Imago Mundi*, 40 (1988), p. 68.

¹⁰⁰ Francis Higginson, *New-Englands Plantation with the Sea Journal and other Writings* (London, 1630), sig. C4.

¹⁰¹ David B. Quinn, *European Approaches to North America, 1450-1640* (Aldershot, 1998), p. 147.

¹⁰² Whyte, *Inhabiting the Landscape*, p. 88.

circulation of maps and reports of other European explorations is well documented so the omission of their names and explorations is much more likely deliberate.¹⁰³ The clearest example of this exclusion is in Smith's account and map, which ignores Samuel Champlain's 1607 explorations which had been published in 1612 along with several maps. Smith did not utilize the names Champlain created though he mentions the use of the region by France and Holland for trade.¹⁰⁴ Brereton's account also mentions other European explorations and interest in the area, particularly the French explorations of the St. Lawrence River and Canada territory in relation to the search for the North-West Passage.¹⁰⁵ In both instances the reference to other Europeans is in a competitive or suggestive manner, showing that other less capable countries are able to use the land (Smith refers to the 'poor Hollanders') but by omitting any European names or explorations it is still possible to claim the land for English purposes and settlement.

The importance of these early accounts, in particular their effectiveness at initiating the formation of an English new world is seen in the first permanent settlement in New England; Plymouth Colony in 1620. Despite having drifted off course the settlers were able to identify their location as Cape Cod in Northern Virginia, showing not only their familiarity with early accounts but also reinforcing Smith's note that Cape Cod was an important and easily navigable point.¹⁰⁶ Following their landing the group searched about for a suitable location for settlement, some desiring to go north to 'Anguim' but finally settling on a location within the Bay on slightly elevated land which would afford some protection. The popular view of this founding is that the Pilgrims named the location Plymouth based upon the location last sailed from in

¹⁰³ Peter C. Mancall, *Hakluyt's Promise: An Elizabethan Obsession for an English America* (New Haven CT, 2007).

¹⁰⁴ Smith, 'Description', pp. 133, 139.

¹⁰⁵ Brereton, *Brief and True*, pp. 177-8.

¹⁰⁶ William Bradford, *Of Plymouth Plantation, 1620-1647*, ed. Samuel Eliot Morison (1952: New York NY, 1981), p. 84.

England, which is supported by *Mourt's Relation*.¹⁰⁷ However Bradford's account, published later, suggests that the name was selected from Smith's map, seen in a letter written by Mr. Dermer dated June 30, 1620, 'I will first begin (saith he) with that place from whence Squanto or Tisquantum, was taken away; which in Captain Smith's map is called Plymouth; and I would that Plymouth had the like commodities. I would that the first plantation might here be seated.'¹⁰⁸ Dermer was employed by Sir Ferdinando Gorges, a rival adventurer, and was exploring the region for him. It is unclear from the account whether Bradford was given this letter before or after the *Mayflower* sailed. Along with the desire to settle at 'Aggum' (described by Smith as an ideal location for settlement), and the use of the name Cape Cod, this letter indicates the success of early publications and their influence on early settlements. The mixture of names used early on shows that while these texts were useful to settlers the names chosen were less so - the group accept the name Plymouth but use Aggum instead of Southampton (which was the English name selected by Charles). Further, while the settlement retains the name Plymouth it is also referred to by the Indian name 'Pautext'. Plymouth is an important connection, showing the success and continuity of some names from early explorations and writings, but also how with the establishment of permanent settler-colonies the process of naming became much more complex. The early patterns of naming set by explorers continued through the first couple decades of settlement, but as more people began to have input in the names of places it became more difficult to maintain a clear or even wholly English landscape.

¹⁰⁷ *Mourt's Relation: A Journal of the Pilgrims at Plymouth* (1622), ed. Dwight Heath (Bedford NY, 1963).

¹⁰⁸ Bradford, *Plymouth*, p. 90.

Settlement and Renaming

Once the planned colonization of New England shifted from economic-outposts to permanent settler-colonies there was a corresponding shift in naming practices, or at least in the process of selecting and determining the names for places. Names needed not only to demonstrate that they were either clearly ‘English’, or serve a useful purpose, but now they also needed to be accepted by a residential or local population. This was further complicated as the settlement of New England was not organized by a single group, nor was it done all at once or in a systematic fashion. Instead it saw the piecemeal relocation of English place names and occasionally the creation of new names, forming an interesting patchwork as seen by Samuëll Symonds’ description of his location as ‘Ipswich in the shire of Essex in New England’.¹⁰⁹ This section explores how he came to reside at a location with that name and more generally the process of naming associated with settlement.

Unlike Plymouth most locations were not named immediately, instead many adopted temporary Indian or English names. While it is not clear in every case when a settlement was officially named the delay in doing so could be anything from a few days to over a decade. It is this hesitation in officially naming these new settlements which highlights the importance of selecting a place name, a contrast to the immediate and widespread ‘cleansing’ seen in Smith’s and earlier publications. The first permanent settlements in the Massachusetts Bay region were all delayed in renaming; Salem and Boston both renamed a year after their formation with Salem replacing the Indian name ‘Neihum kek’ and Boston the descriptive name of ‘Tramount’ (so named as it was an

¹⁰⁹ MSA, SC1-45x, v. 45: 58.

elevated location with three hills on top).¹¹⁰ The settlements around Boston were renamed a couple months after their founding: Mattapan becoming Dorchester and ‘the towne upon the Charles Ryver, Waterton’.¹¹¹ These early settlements set the pattern for the colony, of first forming a settlement then naming after its physical creation.¹¹² In 1636 the General Court decided that there ‘shalbe a plantac[ti]on settled att Wenicunnett’ which was renamed Hampton three years later.¹¹³ At that same meeting it was decided that the ‘other plantation beyond Merrimack shalbee called Colechester’.¹¹⁴ This process of renaming was not always just a desire to eliminate a non-English place name as the following year Colchester was renamed Salisbury.¹¹⁵ Nor was this just occurring in Massachusetts either: Newport, part of the area later known as Rhode Island, was founded in April 1639 with no name given at the time and only named a month later.¹¹⁶ Similarly, the town of Portsmouth founded in 1638 was described as ‘the Plantation at the end of the Island’ until being officially named in 1640.¹¹⁷ A few settlements were granted names immediately upon formation, in 1635 the court granted that ‘Wessacu[on]’ was allowed to be a plantation and the ‘name of the said plantac[i]on is change[d], & hereafter to be called Neweberry’.¹¹⁸ Dedham was granted a name immediately as well with the court deciding that there was to be a ‘plantation to bee settled above the falls of Charles Ryver...& the name of the said plantation is to be bee Deddam’.¹¹⁹ Both of these settlements were near to Boston and bordered existing towns so the landscape was familiar to the colonists. Those settlements further away

¹¹⁰ Higginson, *New Englands*, sigs. B.1, D1; ‘Thomas Dudley to the Lady Bridget, Countess of Lincoln,’ in *Letters*, p. 68; William Wood, *New England’s Prospect* (1634; New York, NY, 1968), p. 38; Emerson, *Letters*, p. 54; *Rec MBC*, Nathaniel B. Shurtleff (ed.), 5 vols (Boston MA, 1853-4), i, p. 76.

¹¹¹ *Rec MBC*, i, p. 76.

¹¹² *ibid*, i, p. 211.

¹¹³ *ibid*, i, p. 127.

¹¹⁴ *ibid*, i, p. 271.

¹¹⁵ *ibid*, i, p. 305.

¹¹⁶ *RCRI*, John Russell Bartlett (ed.), 7 vols. (Providence RI, 1856), i, pp. 87-8.

¹¹⁷ *ibid*, i, p. 101.

¹¹⁸ *Rec MBC*, i, p. 146.

¹¹⁹ *ibid*, i, pp. 179-80.

from the Bay region were in unfamiliar territory and less certain of survival and therefore never granted names immediately upon formation.

Depending on the remoteness of the settlement the naming of a community could stretch into years. Nauset in Plymouth took six years to be named Eastham as the government saw it as too remote a location for permanent settlement.¹²⁰ Similarly in 1635, settlers from Roxbury along the Massachusetts Bay, unhappy with the available land in that town, selected a location on the Connecticut River which they named Agawam after the river there.¹²¹ In April 1640, five years after the purchase of the land and four years after the covenant and permanent settlement it was decided in the town meeting ‘[tha]t [th]e Plantation shall be called Springfield’.¹²² The settlement of Wessaguscus was founded in 1630, but at the time of William Wood’s map of 1634 had not yet been renamed and was noted by him as the ‘outmost plantation’ and further singled out for having an ‘*Indian* name’ which was replaced with Waymouth the following year.¹²³ This long delay in naming for more remote settlements shows the uncertainty of their success and that naming was not necessarily the most important part of building a new place in the wilderness. Unlike early explorers who needed to rename the landscape for navigation, to show ownership, or demonstrate the potential usage of the land, settlers had a different relationship with their surroundings and took the time to establish a new place before selecting a name which formalized the settlement.

The process of naming which developed in the early years of the New England colonies show that the naming or renaming of the landscape was not just about creating an ‘English’ landscape, but creating a pattern or series of names which were both

¹²⁰ King, *Cape Cod and Plymouth*, p. 53.

¹²¹ SHLA, ES MS Ser. 7 Bx 1 [July 1636].

¹²² *The First Century of the History of Springfield VI: The Official Records from 1636 to 1736, with an Historical Review and Biographical Mentions of the Founders*, ed. Henry M. Burt (Springfield CT, 1898), p. 167.

¹²³ Wood, *New Englands Prospect*, p. 36; *Rec MBC*, i, p. 157.

English and significant to each individual settlement. The reasons behind these name choices varied but follow a few general patterns, as can already be seen appearing – either named after important locations back in England, named to indicate the religious spirit of the community, or given practical and descriptive names. The selection of the latter two names reflect the religious or physical identity of the town: Salem was seen as the foundation of the new temple which the Bay colonists were constructing while Waterton was the first inland settlement in the Bay region and was located up the Charles River on the water, and the Rhode Island port settlements highlight the importance of water transport for a region where towns were spread across rivers and on small islands.

The use of existing English place names for other locations is more complex as the settlers were transplanting names which already had a certain identity or history. This selection could be determined by the leader of the colony, as Springfield which was named after the hometown of its founder William Pynchon who came from Springfield, Essex. In 1635, 143 people migrated from parish of St. Andrew in Hingham, Norfolk and formed a new town in Massachusetts which, although it had already been renamed Bear Cove, they re-named it Hingham.¹²⁴ The connection did not have to be the hometown of an individual; in 1689 Samuel Sewall re-named ‘New Roxbury’ to ‘Woodstock because of its nearness to Oxford, for the sake of Queen Elizabeth, and the notable meetings that have been held at that place, bearing the name in England.’¹²⁵

There was a dominance of East Anglian names in the first decade of settlement as many of the founders or leaders of the colony were from this region and this sometimes led to the naming of locations which did not reflect the identity of the

¹²⁴ Thompson, *Mobility and Migration*, pp. 188-9; *Rec MBC*, i, pp. 149, 157.

¹²⁵ *The Diary of Samuel Sewall, 1674-1729: Newly Edited from the Manuscript at the Massachusetts Historical Society*, ed. M. Halsey Thomas (New York NY, 1973), p. 254.

general population. In 1635 Peter Noyes, from the West Country, and Brian Pendleton of London petitioned the General Court to start a new settlement, however it was the addition of Reverend Edmund Brown from Sudbury, Suffolk, which seems to have helped push the petition through. Further, despite the majority of the new town residents hailing from locations west of London, the new settlement was named Sudbury.¹²⁶ This dominance of East Anglian names is also seen in the creation and naming of four counties or shires for the colony in 1643 named: Norfolk, Suffolk, Middlesex and Essex.¹²⁷ Out of the twenty-eight towns or villages listed at this division nine are named after Greater East Anglian towns (including Essex), ten have descriptive or religious names, seven are named after non-East Anglian towns and two still used Indian names. This dominance of Greater East Anglian names was particularly concentrated around Boston where the colonial government sat and where names were granted and recorded.

This power to incorporate and name towns resulted from a movement of power and control over the Atlantic, with the relocation of the Court of Assistants and the royal charter along with the Winthrop fleet in 1630. This was an important departure as previous colonies like Virginia had their governing body and charter residing in London; while Plymouth did not have a charter for its new colony until after settlement began (later this was the case with Connecticut and Rhode Island who retroactively applied for charters). The rights granted to Massachusetts Bay and other colonies by their charters in this early period were vague, and in the absence of any model for colonization appear to be based upon town charters. The charter established a system of government forming ‘one body politic and corporate, in deed, fact, and name’ which

¹²⁶ Powell, *Puritan Village*, p. 98.

¹²⁷ *Rec MBC*, ii, p. 38. Towns at time: Norfolk [Salisbury, Hampton, Haverhill, Exeter, Dover, Strawberry Bank]; Suffolk [Boston, Roxbury, Dorchester, Dedham, Braintree, Weymouth, Hingham, Nantasket]; Middlesex [Charleston, Cambridge, Watertown, Sudbury, Concord, Wooborne, Medford, Linn village (Redding)] Essex [Salem, Linn, Ipswich, Rowley, Newberry, Gloucester, Conchichawick].

was granted the right to purchase and distribute land, but not the right to create new civic bodies which traditionally was a privilege reserved for the crown in England who regulated the incorporation of towns.¹²⁸ Prior to the settlement of the Massachusetts Bay Colony this issue had not been encountered as Virginia struggled to survive the first decade, and the later settlement pattern which emerged was large plantations scattered along the Chesapeake Bay. Plymouth colony stayed within the boundaries of the original town for the first decade of its existence with only occasional trading posts established any distance from the original settlement. In contrast, Massachusetts Bay would see a steady stream of settlers in the first decade - nearly 30,000 by some estimates - and within the first year it became clear that the settlement would need to spread beyond the Bay region.¹²⁹ As already seen settlements in this region would be constructed first (after receiving permission from the court) and later be officially recognized and renamed when formally incorporated.¹³⁰ This practice was exported from Boston to neighbouring colonies Rhode Island and Connecticut where again it was generally at the formal act of incorporation that a town was named.¹³¹

Incorporation varied in New England from system established in England. The number of incorporated towns was on the rise in England, jumping from 38 in 1500 to 181 by 1640.¹³² The incorporation of a town in England meant the bestowing of a charter and granted the town several rights among them: right to perpetual succession; to sue and be sued; to hold lands; a common seal; and to issue by laws.¹³³ Towns were also allowed to have more formal and extensive local governments, and the right to self-

¹²⁸ Robert Tittler, *Townpeople and Nation: English Urban Experiences, 1540-1640* (Stanford CA, 2001).

¹²⁹ Thompson, *Mobility and Migration*, chp. 1.

¹³⁰ *Rec MBC*, i, p. 291.

¹³¹ *RCRI*, i, p. 14; CHS, MS Connecticut General Assembly Records, 1643-1842, Bx 1, f 1, doc 9 [May 10, 1666].

¹³² Withington, *Politics of Commonwealth*, p. 18.

¹³³ Ian A. Archer, 'Politics and Government, 1540-1700', in *The Cambridge Urban History of Britain*, v. 2, 1540-1840, ed. Peter Clark (Cambridge, 2000), p. 236.

government through an elected council.¹³⁴ The system in New England varied somewhat from this – towns were granted the right to self-government, and elected local officials. There is no evidence of towns being issued either seals or charters, but the right to own land and to function as a legal entity were important. The decision to incorporate so many towns was determined by the isolation of many settlements and the limited ability of the central government at Boston to monitor and control settlements. The primary importance of this act of incorporation was the ‘recognizing the right of the community to act collectively’.¹³⁵

The importance of incorporation and the creation of towns was also seen in the lack of other settlement patterns. There are a few fishing and trading posts along the fringe of the colonies which served a unique economic purpose but were not ‘community’ or family settlements. Within the colony itself the main settlement type is the town with only a handful of villages or plantations created by the government in these early years and these adopted the name of the nearest town. Some settlements, more removed from the Bay region, such as Springfield had satellite villages form but even these were eventually recast as towns.¹³⁶ The Bay government also limited the number of new settlements, as in 1634 when the General Court ordered that ‘Winetsement, & the howses there builte’ join themselves either with Charlestown or Boston by September otherwise the court would ‘do so for them’.¹³⁷

In other colonies the regulation of naming followed a similar pattern. Roger Williams left Massachusetts in 1635 and purchased from the Narragansett Indians territory to the south known as Aquidneck. The first town founded was given a religious name, ‘Providence’, as Williams reported feeling ‘a sense of God’s mercifull

¹³⁴ Paul Glennie and Ian Whyte, ‘Towns in an Agrarian Economy, 1540-1700’, in *Cambridge Urban History*, ed. Slack, pp. 169-70.

¹³⁵ Peter Clark and Paul Slack, *English Towns in Transition, 1500-1700* (Oxford, 1976), p. 6.

¹³⁶ MSA, 45: 17; *Rec MBC*, i, pp. 329, 272.

¹³⁷ *Rec MBC*, i, pp. 119, 123.

providence unto me in my distresse'.¹³⁸ The larger territory remained known as Aquedneck or Narragansett Bay until 1644 when it was renamed the Isle of Rhodes (later known as Rhode Island), a year after Williams secured a patent for his colony. The name 'Rode Iland' was a classical reference, which according to Williams meant 'Ile of Roses' in Greek.¹³⁹ While there was a notable delay in naming the colony the same does not apply to the towns: Portsmouth was renamed shortly after its founding, having previously been described as 'the Plantation at the end of the Island'; the Isle of Chibachuwese was re-named 'Providence'; and Newport, founded April 1639 had no name given at the time but was formally named the following month.¹⁴⁰ In Rhode Island (as in Massachusetts) the act of naming also remained controlled by the central government. The naming of towns prior to the granting of an official charter shows the importance of establishing or confirming the status and 'Englishness' of a local settlement was vital, while the name of the larger region or colony was less important. The importance of local verses regional identity is also seen in the fact that Massachusetts was never given an English name nor was the colony of Connecticut.

Connecticut presents a more complex picture in general as there were several competing claims to the land; some supported by charters others simply by occupation. In 1635 several prominent settlers from Massachusetts Bay developed an interest in the more fertile land along the Connecticut River and after a couple years of petitioning the government they were given permission to settle there.¹⁴¹ In 1635 a group from Dorchester led by Roger Ludlow rushed to establish a settlement along the Connecticut River, first known by its native name of Matianuck then renamed Dorchester, and again

¹³⁸ *RCRI*, i, p. 22.

¹³⁹ *ibid.*, i, pp. 45, 27; *Correspondence*, ii, p. 535.

¹⁴⁰ *RCRI*, i, pp. 101, 87- 8.

¹⁴¹ Robert J. Taylor, *Colonial Connecticut: A History* (New York NY, 1979), p. 6; Arthur H. Hughes and Morse S. Allen, *Connecticut Place Names*, The Connecticut Historical Society Publication (Hartford CT, 1976), p. 693.

in 1637 renamed Windsor after the town in Bershire.¹⁴² Another competing group from Massachusetts was led by John Davenport and Theophilus Eaton who selected a site at the mouth of the Connecticut River initially known as Quinnipiacs (after the local tribe) and renamed both the town and the colony New Haven in 1640 only after the establishment of a formal government. At the same time a fort settlement was formed along the coast line to the south which was named Saybrooke, in honour of the patent holders 'Lords Sey & Brook, & others' who had held the patent since 1620.¹⁴³ John Winthrop Jr. had yet another competing interest in the area and established a settlement in 1646 known as Pequot (again after the local tribe). There was some debate over the name, with General Assembly planning to name it 'Faire Harbor', but it was finally named New London 'in memory of the Citty of London' in 1658 and the nearby river renamed Thames.¹⁴⁴ The naming patterns of Connecticut follow those of other colonial adventures, with the use of temporary names early in settlement (either English or Indian) and the later renaming of locations either after people or places in England or as a reflection of religious identity.

These settlers were seeking not only to establish an English identity through their choice of names, but also one which reflected their local or communal identity. This was generally done with the consent of the inhabitants, but as with Sudbury a name did not always reflect the identity or history of the majority of the community and in some instances the leadership of Massachusetts tried to eliminate other settlements' history or identity. Winthrop notes coming upon a location named 'Hues Crosse' however, the Governor expressed displeasure at such a 'papiste' name and renamed the site 'Hues follye'.¹⁴⁵ However, this is most clearly seen with the acquisition and renaming of the

¹⁴² 'Bartholomew Greene to Sir Richard Saltonstall' in *Letters*, pp. 183-4.

¹⁴³ BL, Egerton 2395, f 432b.

¹⁴⁴ *Conn Recs*, ed. Hammond J. Trumball and C. J. Hoadly (Hartford CT, 1850-90), i, p. 313.

¹⁴⁵ *Journal Winthrop*, p. 83.

colony of Maine, which took place during the period of the Commonwealth in England when the Bay Colony annexed the largely Anglican colony of Maine in 1652. Sir Ferdinando Gorges had established the colony in 1629 and named the capital Gorgeana after himself, though it was also commonly known by the native name of Agamenticus. Upon taking control of the colony in 1652 the Puritan leadership of Massachusetts renamed Gorgeana to York and Maine was renamed York County. Richard D'Abate notes that this was a symbolic gesture as Gorgeana was not only the name of their rival but also the site of first Anglican church in New England and just as York fell to Puritans during the Civil War so Gorgeana and Maine fell to Massachusetts. Again this reflects the importance of not only having an English name but one which reflects a group's identity. This incident is similar to the omission of Indian or other European names by early explorers; however the residents of Gorgeana were aware of this attempt to erase or cover up their identity and continued to use the original names.¹⁴⁶ This continued use of a commonly accepted but unofficial name was not limited to this one incident, with several locations having either multiple names or unofficial common ones.

The official name selected by the court not only way a location was named, though for settlements it was the most common method for selecting the official or formal name. This reflects a division between the formal identity of a community as selected by the government or town leaders and the common identity which may be subversive or relate to the popular perception or usage of the land. In particular the continued use of an Indian or descriptive name could relate to an acceptance of that name for purposes of communication with Indians (thus an acceptance that there was more than one interpretation of the landscape) or it could be that the selection of an

¹⁴⁶ D'Abate, 'On the Meaning', pp. 278-82.

‘official’ name for a community was not desired, acknowledged or needed by all members of that group. In describing the history of ownership for Dover to the General Court in 1641 the land was recorded as being ‘called Wecohaunet, or Hiltons Point, com[m]only called or knowne by the name of Dover, or Northam’.¹⁴⁷ This points to use and acknowledgement of a name which was Indian in origin, but also one which indicates ownership, one of common usage and finally the official name of Dover (which interestingly is not the first one listed either). Similarly, the General Court renamed Cochickewick (settled 1634) Andover in 1646 but continued to use both names when discussing town later that year.¹⁴⁸ In describing land ownership in the Plymouth region, Bradford uses both Plymouth and the Indian name Patuxet and that the nearby Isle of Capawack was also known as Martha’s Vineyard.¹⁴⁹ Records for Rhode Island show dual names for several towns such as ‘Mooshausick or Providence’, sometimes retaining use of both names years after the granting of an official English name.¹⁵⁰

As with the prolonged use of Indian names for towns at the border or edge of the colonies there is a similar increase in the acknowledgement of dual naming in these regions, which is particularly seen in surveyors’ reports, allowing us (as with Smith’s map) to see the transition from one landscape to the other. In 1632 describing an area of land three miles from Salem the surveyor notes both the Indian name and the ‘common’ name for places such as: ‘a ryver called in the Indean tongue Soewamapenessett, com[m]only called the Cowe Howse Ryver’ and ‘a ryver called in the Indean tongue Conamabsq[u]nooncant, com[m]only called the Ducke Ryver’.¹⁵¹ Rhode Island records indicate the ‘river commonlie called Sachuis River’.¹⁵² This is

¹⁴⁷ *Rec MBC*, i, p. 324.

¹⁴⁸ *ibid.*, i, p. 141; MSA, SC1-45x, v. 30: 6.

¹⁴⁹ Bradford, *Plymouth*, pp. 40, 91.

¹⁵⁰ *RCRI*, i, p. 18.

¹⁵¹ *Rec MBC*, i, p. 97.

¹⁵² *RCRI*, i, p. 108.

also seen in the Connecticut River settlements where surveyors for Springfield record the ‘meddow comonly called by the name of wattchuett’, ‘the brook called Wullamansep’, and ‘[th]e common landing place usually called [th]e Hay Place’.¹⁵³ While dual names existed for permanent settlements, it was more common for natural features which generally did not attract the attention of the colonial government and instead were selected by settlers through common usage.

This method of creating names for the natural features or important locations is similar to the use of descriptive names for towns, but as these are not civic entities there was no formal process for naming them. Instead, these names evolved from their usage and the perceptions of the landscape by settlers. This mirrors what was done in England where names often referenced historical events or usage which aided in understanding and describing boundaries and the use of landscape. Some names began as descriptions of the landscape such as: Deer Island, Bird Island, Stone Meadow, ‘the wading river’, Long Island, Muddy River, Cedar swamp, Sandy Bank, and Stony-river.¹⁵⁴ In other cases a name was given based upon its usage: many of these defensive in purpose, which indicates the fear of attack either from Indians or other colonies. These locations include Castle Island, ‘the fort field’; ‘the Centry Hil’ (later Sentry Hill), Powder Horn Hill, and Fort Hill.¹⁵⁵ Many locations point to the importance of agriculture and animal husbandry for the new settlers like: ‘the Corne field’, Hog Island, Cowe Island, and Pullen Point.¹⁵⁶ Others reflected developing patterns of ownership like Governors Isle/Garden and Robert Ballow’s Brook which would have been useful for

¹⁵³ *History of Springfield*, pp. 265, 235, 234, 231, 240, 257, 234.

¹⁵⁴ BPL, f Bos. 1 v. 1A: 11 [Nov, 28 1636], 69, 3 [Mar 23, 1635] , 17 [Jan 8, 1637]; *Rec MBC*, i, p. 226; CSL, Roll 104-75, Ser 1 vol 1 doc 212a [Nov 1668]; *RCRI*, i, p. 82; Wood, *New England Prospect*, pp. 37, 40-2.

¹⁵⁵ *Rec MBC*, i, pp. 123, 101; BPL, MS f Bos. 1 vol 1A, 6 [Jan 23, 1635], 52 [Feb 29, 1641], 2 [Jan 9, 1635], 40 [Mar 10, 1640]; 69 [Nov 29, 1643].

¹⁵⁶ BPL, MS f Bos 1 vol 1A, 7 [Mar 21, 1636], 1 [Nov 10, 1634]; *RCRI*, i, p. 59; GTA, *Transcript of the First Volume of Gloucester Towne Records Commencing 1642*, transcribed by Joshua P. Trask (unpublished, 1850), p. 7; Wood, *Prospect*, p. 40.

understanding what areas of land were public and which were privately owned.¹⁵⁷ Thus even commonly constructed names served a purpose, but the audience for these names was a much more localized one. The names which evolved through usage served to help residents navigate their immediate world and demonstrate their personal relationship with the environment.

It was not only usefulness or a connection to England which determined names of places. Some names were selected in remembrance of events, thus building a history of the community into the landscape.¹⁵⁸ Anthony Thatcher travelled with his family to Marblehead, Massachusetts in 1635, however on the way over the ship encountered a storm and capsized. Thatcher's children drowned while he and his wife were 'cast away on a strange island'. They were eventually rescued, and he named the island (previously described as 'wilderness') Thatcher's Woe and a rock upon the island 'Avary' after his cousin who died in the wreck. This was done 'to the ende their fall and losse and mine owne might be had in perpetual remembrance.'¹⁵⁹ However, not all locations which were named after an event had such a grim story. Winthrop recorded a journey in 1632 where a number of new locations were named. Among them were Cheese Rock, so named 'because when they wente to eate. . .they had only Cheese (the Governors man forgettingte for haste to putt vp some bred).¹⁶⁰

Conclusion

Competing visions of the landscape emerged through an examination of the naming patterns in New England, with practical and descriptive names forming through

¹⁵⁷ *RCRI*, i, p. 83 ; *Rec MBC*, i, p. 139.

¹⁵⁸ Basso, *Wisdom Sits in Places*.

¹⁵⁹ BL, Sloane 922, ff. 109-115.

¹⁶⁰ *Winthrop Journal*, p. 62.

common usage of the land, a shared vision of the landscape, and the important features upon it. While more aspirational or political names might be selected by the colonial governments which reflected the intention and identity of the colonial leaders. Both of these types of naming patterns are a continuation of pre-settlement naming, where explorers and promoters were looking either for the economic usage of the landscape or for navigable points, or to create an idealized 'English' colony. In some cases these two groups constructed rival identities; this was most common in Massachusetts where the dominate East Anglian leadership sought to construct a new colony based upon their religion and specific English origins. The continued uses of un-official common names reveal that they were not able to dominate the construction and naming patterns of the colony. These struggles over names not only reveal the importance of local identity, but also offer a new way to study the transportation of culture and ideas in this period and the structure and organization of society in New England. Further these early patterns of settlement and naming help form a better understanding of the foundation for the developing American colonies and may offer insight into the development of cities and the continuation of negotiation and cultural exchange in the emerging transatlantic world. The control exerted by the central courts of the colonies was not just over naming practices but also over the timing, location and resources for settlement. This will be further explored in the next chapter. We will also see how the incorporation of towns was important not just to provide a sense of identity, but also to allocate power and authority for these settlements to distribute and regulate land and resources on a smaller scale.

Chapter 2: Division and Alteration

Ownership and property rights were tightly controlled by the colonial governments from the start of colonization in New England. As with naming, the physical location and description of towns and settlements were recorded and monitored by the courts or local officials. Documentation was of primary importance and was necessary at every level of ownership – from the charter granting permission and rights to settlement for the colony down to the recording of access to commons. This documentation was typically just in court or town records but could also include the creation of individual titles, deeds or maps.

This chapter will examine the division of the land and the alterations which transformed it from wilderness to an English landscape by focusing on surveying, boundaries, construction and change. It continues with the themes and concepts introduced in previous chapter (particularly with notions of identity and control) but moves beyond ideas and documentation to examine interactions with the physical landscape and the changes early settlers made to shape the identity and function of the land. While Chapter One established the level of control held by the central courts in forming and incorporating towns, we will now look at exactly what this formation of towns entailed and how authority, identity and custom intertwined in the process of forming settlements and towns. The chapter will first examine the process of allocating land, looking at who controlled expansion and the importance of documentation in the

creation of a new property regime. It will then look at the process of physically and culturally dividing the land through mapping and the creation of boundaries. Finally, we will examine the use of the land, considering themes of control, the transplantation of culture, and the commodification and ownership of land.

Patterns of Settlement

At first, settlements clustered around Cape Cod and Massachusetts Bays, but began to move inland as coastal regions filled up with groups of English settlers who broke off from the coastal towns and moved further west along the Connecticut River, to the south in Rhode Island and to nearby islands. As towns began spreading further away, the nexus of government shifted and a new system arose where control over land distribution was structured into a chain of command. In New England, land was divided according to towns, where local government parcelled out land to individuals.¹⁶¹ Over the first five years of settlement, and by using the charter as justification the central authority in Massachusetts, the General Court at Boston, established itself as the only pathway to legitimate ownership of land in that colony. This pattern was replicated by satellite settlements. The central authority in the colony - the courts - granted a sizable chunk of land to a number of petitioners who selected a rough location to which they wished to move. This large chunk of land was laid out and given boundaries approved by the central court, but divided internally by town proprietors.

¹⁶¹ Edward T. Price, *Dividing the Land: Early American Beginnings of Our Private Property Mosaic*, University of Chicago: Geography Research Paper No. 238 (Chicago IL, 1995), p. 7, 13, 29. There are several important studies which examine the settlement patterns at town levels see: Brian Donahue, *The Great Meadow: Farmers and the Land in Colonial Concord* (New Haven CT, 2004); Kenneth Lockridge, *A New England Town: The First Hundred Years* (New York NY, 1970); John Frederick Martin, *Profits in the Wilderness: Entrepreneurship and the Founding of New England towns in the Seventeenth Century* (Chapel Hill NC, 1991); Daniel Vickers, *Farmers and Fishermen: Two Centuries of Work in Essex County, Massachusetts, 1630-1850* (Chapel Hill NC, 1994); Philip J. Greven, Jr., *Four Generations: Population, Land and Family in Colonial Andover, Massachusetts* (Ithaca NY, 1970).

The group moving to this new settlement then divided the land between them; usually the main petitioners were in charge of this. The central authorities in the colonies issued few land grants to individuals and while those applying for new land grants had some say in the location most residents were not given unlimited choice in selecting where they would live.¹⁶²

As the town, not the central government were responsible for internal distribution of land this led to a mixture settlement pattern. There was no single system or method for dividing and using the land in New England.¹⁶³ The English open-field system was the most common model for layout, with houses along a green or commons on long plots to allow for a back garden and with open fields, meadows and woodland divided into strips.¹⁶⁴ After the first wave of settlement, in the 1630s, settlers began to move away from this system: open fields and compact villages were replaced with dispersed settlements and enclosed farms.¹⁶⁵ This change echoes what was occurring in England at this time as Tom Williamson notes that it was 'likely that by 1600 nearly half of open-field England had been enclosed, with a further quarter disappearing in the next hundred years'.¹⁶⁶ The leading areas of these changes were the Midlands and East Anglia but also Somerset and South-West England, which were the primary locations from which New England migrants originated.¹⁶⁷ This suggests that the patterns of settlement not only originated from England, but also evolved alongside it.

¹⁶² *ibid.*, p. 29.

¹⁶³ *ibid.*, p. 7; for a recent overview of English agricultural history see Joan Thirsk, ed., *The English Rural Landscape* (New York NY, 2000); and for the relationship of this system to New England see Donahue, *The Great Meadow*, chp. 3.

¹⁶⁴ Tom Williamson, *Shaping Medieval Landscapes: Settlement, Society, Environment* (Macclesfield, 2003), pp. 3, 5.

¹⁶⁵ William Haller, *The Puritan Frontier: Town-Planning in New England Colonial Development, 1630-1660* (New York NY, 1968), pp. 32-3. See also, Greven, *Four Generations*; Price, *Dividing the Land*, p. 9.

¹⁶⁶ Susanna Wade Martins, *Farmers, Landlords and Landscapes: Rural Britain, 1720 to 1870* (Macclesfield, 2004), p. 7.

¹⁶⁷ Williamson, *Shaping Medieval Landscapes*, p. 1.

Beyond 1630, the planning for new settlements occurred prior to migration (whether the group was moving across the Atlantic or within the colony itself). Massachusetts Bay Colony was the first English colony to send a surveyor to select the location for settlement and to plan the division of the land prior to arrival. Already in 1628 the Massachusetts Bay Colony had sent an advance party to prepare for the arrival of the fleet. John Endicott led this first expedition which settled a few miles away from another English settlement at Cape Anne (settled by the Gloucester Company the same year). The settlement retained the native name for the location, Naimkecke, and was located in a natural harbour, north of the Plymouth colony but south of the failed 1607 settlement at Sagadahok.¹⁶⁸ In March 1629 as the second group in England was making preparation for the journey, the Company leaders discussed the ‘devission of the lands’ and decided that a surveyor should be sent over with the advance party to select a location for settlement and begin dividing up the land. The person selected for this mission was Mr Thomas Graves, a gentlemen with a wide variety of training, including ‘experience in iron workes, in salk workes, in measuring & surveyinge of lands, & in fortifficac[tions], in lead, copp[er] & allammynes, etc’.¹⁶⁹ He was to be paid £5 a month and promised further remunerations if he stayed more than three years, reflecting both the risks involved but also the importance of this position.

¹⁶⁸ ‘Thomas Dudley to the Lady Bridget, Countess of Lincoln’ in *Letters*, p. 70; Edward Johnson, *Wonder-Working Providence of Sions Saviour in New England*, (1623) ed. J. Franklin Jameson, (New York NY, 1910), p.44; Higginson notes that about half a score houses at Naimkecke and a ‘faire House newly built for the Govenor’, his fleet brought 200 passengers and planters - joined settlement at Neimkecke (which was then renamed Salem). Group then divided - 200 in total settled at Salem (including those originally there) and 100 went further along the bay to settle a new town ‘which wee doe call Cherton or Charles Towne’ *New-Englands Plantation*, pp. 79, 107-8.

¹⁶⁹ ‘This 10 March, 1628, I, Thomas Graves, of Gravesend, in the County of Kent, gent[leman], and by my p[ro]fession skillfull & experienced in the discovery and finding out of iron mynes, as also of lead, copp[er], minerall salt & [allam], in ffortifficac[tions] of all sorts, according to the nature of the plase, in surveying of buildings & of lands, & in measuringe of land, in describing a country by mappe, in leading of water x to p[ur]p[or]usses for milles or other uses, in fynding out [all] sorts of lymestones & materials for buildings, in manufacturing, ect., have this present day agreed to serve the Newe England Comp[any]’ *Rec MBC*, i, pp. 30, 32; *Chronicles of the First Planters of the Colony of Massachusetts Bay from 1623-1636: Now First Collected from Original Records and Contemporaneous Manuscripts*, ed. Alexander Young, (Boston, 1846), pp. 53-4, 56-9, 152-5.

Upon arrival in New England, Graves decided the location selected by Endicott was not suitable and directed the fleet further inland at a location he named 'Charles Towne'.¹⁷⁰ Along with a group of men from fleet they 'built the great house this year for such of the said Company are shortly to come over', after the main fleet arrived this building was primarily used as the town meeting house'.¹⁷¹ This concern for the distribution of land, and the suitability of a location for such a large party, was driven by the knowledge of earlier troubles encountered by the Plymouth settlement (not to mention even earlier expeditions along this region).

Nearly a decade before the Massachusetts Bay Company prepared to depart from England; the *Mayflower* arrived at Cape Cod Harbour on 11 November 1620. The group had several guides and reports of early expeditions but had not selected the exact location where they wished to settle, nor had they sent an advance party to scout the region. Therefore the group was forced to wait on the ship for several additional weeks while expedition parties travelled up and down the coast looking for a suitable location to settle. The location selected, named Plymouth, had a 'good harbor for our shipping' and 'divers cornfields, and little running brooks' which they deemed a 'place very good for situation'. There were alternative locations considered, but other sites were either heavily wooded (though more defensible), or lacked easy access to fishing (though had better planting grounds). Plymouth was also a location on high ground, with easy access to fishing and near another hill from which the settlers could situate an ordnance.

¹⁷⁰*Letters*, p. 39; Seems Graves stayed until 1632. He is absent from list of inhabitants for 1633/4 and makes no further appearance in future records so likely he returned to England or moved to another colony at this point, Robert Charles Anderson, *The Great Migration Begins*, (Boston MA, 1995) ii, pp. 805-7.

¹⁷¹The only record of Graves' report is the published version printed along with Francis Higginson's account from the same voyage. Higginson's is actually more elaborate and detailed as Graves six pages consists only of a short account of the landscape and list of natural features before referring the reader to consult Capitan Smith's work. Higginson, *Plantation*, pp. 109-15. There must be a longer report given to the Bay leaders as evidenced by agreement on the 'model & lay out the form of the town with streets about the hill which was accordingly done and approved of by the Governor', Anderson, *Great Migration Begins*, ii, pp. 805-7.

However, Plymouth was lacking in woodland which was located ‘half a quarter of an English mile’ inland. With the added pressure of winter encroaching, and cramped conditions on the boat, where most of the group had been living for three and a half months, the leaders decided they could not find a better location and the settlers were finally able to leave on 16 December and begin the construction of permanent buildings.¹⁷²

The first goal of the Plymouth settlers was to build a platform on the second hill for the mounting of ordnance, from which they could survey the land and see out into the sea for defensive purposes. This action highlights the importance of surveying and planning a settlement; even though they had not pre-selected a location the settlers still desired to organise their town. They decided to arrange their settlement into ‘two rows of houses and a fair street...[the men] went to measure out the grounds, and first we took notice how many families there were...willing all single men that had no wives to join with some family...that we might build fewer houses’. Based on the number of migrants who had survived the journey, it was estimated that nineteen homes would be required. Plots of land were to be granted according to family size and the group cast lots to determine distribution. William Bradford sketched out this first division of land which showed seven lots facing ‘the street’ crossed with a ‘highway’. Lots were clustered on south of ‘the street’ with some further to the east of the and west of the highway.¹⁷³ This sketch done by Bradford, along with the surveying of the settlement from the higher ground, afforded by the nearby ordinance, reflected the settler’s desire to understand the boundaries and composition of their town.

The importance of boundaries and the limits of property and settlement are also seen in the creation of boundary markers around the selected location. After the

¹⁷² *Mourt’s Relation*, pp. 66.

¹⁷³ James Deetz and Patricia Scott Deetz, *The Time of Their Lives: Life, Love, and Death in Plymouth Colony* (New York NY, 2000), p. 65.

division of land, the able bodied men went and impaled around the land granted. Following this the next thing constructed was a house which was built by the 9 January 1621 and even though the roof was not yet completed the settlers packed into the building taking up all available floor space. By December that year Edward Winslow reported that a total of seven houses and four common houses had been constructed. There was no need for the initial nineteen houses estimated as due to the high mortality rate, 'scarce fifty' survived the first winter.¹⁷⁴ The crowded conditions on the boat - which the majority of the settlers had to endure for several months past the initial voyage due to the lack of location or shelter on land - likely contributed to the spread of disease. Further, those going ashore had to wade through freezing water to get to boat, encouraging illness. In total, it took two years for the population of the settlement to recover and for the completion of the initial plans for the town.¹⁷⁵ Thus, selecting the correct location was not only important for the physical health of the inhabitants but also to encourage economic growth and profitability. Both Jamestown and Plymouth had limited expansion, much of this due to the poor location and both settlements became backwater locations out competed by larger more successful towns which were built later.

The problems at Plymouth were not only due to location, but also to settlement type. Land while divided between individual settlers was held in common. Following the arrival of a new group of migrants in 1623; the number of complaints grew that some people were not working hard enough to be given an equal share so town leaders began dividing allotments in proportion to family size. These divisions were made permanent the following year and over next decade the colony began dividing up the

¹⁷⁴ *Mourt's Relation*, pp. 68.

¹⁷⁵ 'Emmanuel Altham to his brother in England' in *Three Visitors to Early Plymouth: Letters about the Pilgrim Settlement in New England During its First Seven Years*, ed. Sydney V. James Jr. (Bedford MA, 1963), p. 24.

land, tools, and buildings converting them to private property. William Bradford reported after this division that there was ‘more corn was planted that otherwise would have been by any means the Governor or any other could use’.¹⁷⁶ This allocation was not only about ensuring the success of settlement but also replicating known patterns. The other major concern at this time was the security and safety of the community and in 1622 the colonists finished constructing a fort and barrier around Plymouth – the fort was needed for fear of local Indians particularly after ‘hearing of that great massacre in Virginia, [which] made all hands willing’.¹⁷⁷ John Pory, returning to England after serving a term as secretary in Virginia commented on the ‘substantial palisado’ at Plymouth, about 2,700 foot around which was ‘stronger than I have seen any in Virginia’.¹⁷⁸

In contrast, due to the two advanced parties sent ahead by the Massachusetts Bay Colony, the main fleet not only had two possible locations but also some buildings and shelters already constructed. The majority of settlers and leaders agreed with Graves’ report and selected the region by Charlestown over Salem, but also founded a new settlement across the river at Boston. Thomas Dudley noted that ‘[t]his dispersion troubled some of us, but help it we could not, wanting ability to remove to any place fit to build a town upon, and the time too short to deliberate any long, lest the winter should surprise us before we had builded our houses.’¹⁷⁹ This reference to winter and the importance of shelter may be in relation to the troubles experienced by the Plymouth settlers. Over the next couple years groups continued moving further away spreading along the coast and founding Medford, Watertown, Roxbury and Dorchester. By 1633 John Eliot reported that there were ‘eleven several plantations, whereof eight be pretty

¹⁷⁶ Bradford, *Plymouth*, pp. 120-1, 144-5.

¹⁷⁷ Bradford, *Plymouth*, p. 111.

¹⁷⁸ *Three Visitors*, p. 11.

¹⁷⁹ ‘Thomas Dudley to the Lady Bridget, Countess of Lincoln’, in *Letters*, p. 71.

competent towns.’¹⁸⁰ This is again a contrast to Plymouth which expanded from eleven houses to twenty in the same time frame. The standard for towns in this new colony became to have a set area for housing and strips of land dotted about the settlement for agricultural use. Eager to keep settlements close together the Massachusetts Bay court ordered that inhabitants were not to settle more than a half mile from town meetinghouses. Those found in breach of this had to petition to the court for permission to retain their dwelling.¹⁸¹

While the locations for settlements in the Massachusetts Bay region were established prior to arrival, the rate of expansion meant that the whole town could not be laid out at once. Instead, these towns expanded over time, requiring additional grants, surveying expeditions and committees to allocate ‘allotments for townspeople and new arrivals.’¹⁸² In areas such as Boston, the settlement grew so quickly, and some people began erecting dwellings without permission. This caused anxiety and the town soon became disorderly prompting the General Court in October 1636 to order ‘that from this day there shall noe house at all be built in this towne neere unto any of the streets or laynes thereing, but with the adivise and consent of the overseers of the townes occasions for the avoyding of disorderly building to the inconvenience of the streets and laynes, and for the more comely and Commodious ordering of them upon the forfeiture for every house built Contrarie to this order, of such some as the overseers shall see fitting, under the sume of x li.’¹⁸³

Distribution of land granted to towns was done quickly in most colonies which were anxious for the settlement and cultivation of land.¹⁸⁴ In most towns the common

¹⁸⁰ ‘John Eliot to Sir Simonds D’Ewes’, in *Letters*, p. 106.

¹⁸¹ MSA, SC1-45x, v. 112:69.

¹⁸² *Second Report of the Record Commissioners of the City of Boston: Containing the Boston Records, 1634-1660 and the Book of Possessions* (Boston MA, 1877), p. 9.

¹⁸³ *Boston Records*, p. 12.

¹⁸⁴ *Conn Recs*, i, p. 36.

method was to cast lots for land at the start of a new town and thereafter land was parcelled out to new settlers or when an individual required additional land.¹⁸⁵ However, this process was still overseen by the central court in Boston – in 1640 Watertown freeman were asked to explain the uneven distribution of land in their town. The General Court ordered the land had to be distributed evenly regardless of an individual being a freeman or not.¹⁸⁶

While the colonial leaders were anxious to avoid disorderly settlement, the construction of houses and improvement of land were some of the main components of property rights in New England. To avoid land lying empty or wasted, several towns enacted orders that on all new grants homes must be constructed within a given time frame (six months to a year generally), with the threat of forfeiture of the grant for non-compliance.¹⁸⁷ This process of construction, Patricia Seed identifies as the primary English way of claiming possession of land.¹⁸⁸ This is supported by the focus on improvement and cultivation not only as a requirement for maintaining ownership, but also a way to claim land. In 1652 the General Court of Massachusetts ordered that anyone in possession of land for fourteen years shall be granted a ‘good and full title’ which ‘shall stand unquestionable and irrevocable’.¹⁸⁹ Not only was this intended to reward people for the improvement and maintenance of land but reflects the growing importance of documentation as proof of ownership. At that same meeting the court ordered that henceforth any sale required a written deed and must be viewed by the Governor or attorney.¹⁹⁰

¹⁸⁵ MSA, SC1-45x, v. 45: 6, 15.

¹⁸⁶ *Record of Court of Assistants Massachusetts Bay Colony, 1630-92*, 3 vols. (Boston MA, 1901-28), ii, p. 99.

¹⁸⁷ GTA, *Town Records*, p. 5.

¹⁸⁸ Seed, *Ceremonies of Possession*, pp. 16-8.

¹⁸⁹ MSA, SC1-45x, v. 15b: 3b.

¹⁹⁰ MSA, SC1-45x, v. 15b: 3.

As seen in Chapter One each of these new towns had to first gain approval from the General Court. Following approval of a request the court would appoint a group of men to go out and survey the region. Groups would also be sent out to investigate or chart the land in cases of dispute, which mainly involved boundaries and resources.¹⁹¹ This established a chain of authority which ensured control over the settlement. The court even controlled who was allowed on these missions, either specifying precisely who was allowed or limiting the numbers.¹⁹² This varied from mission to mission, sometimes the officials laying out the land were ‘indifferent men’¹⁹³, other times, particularly with town boundaries, it was specified that ‘noe other are allowed to accompany them’.¹⁹⁴ On these surveying missions it was important that all interested parties were represented in addition to an official working for the courts. The inclusion of representatives from the town or area being divided showed a desire to ensure that division of land met the petitioners needs, but also that the boundaries and property divisions were recognised by all interested parties to help prevent disputes later on.¹⁹⁵ Another reason for a group to attend these missions was the risk involved in venturing into uncharted land which could be dangerous, or at the very least uncomfortable. On one such mission, John Hull recalled going ‘up beyond Medfield with a survegher to lay out a farm of three hundred acres of land w[hi]ch I bought of Mr W[illi]am Colbron. We almost did accomplish it that day but I could not catch my horse & soe we were forced, to lie in the woods that night’.¹⁹⁶ The next day, Hull and the surveyor (who is not named), were forced to walk home as they could not retrieve the horse and were afraid to miss the Sabbath. While this mission was not particularly dangerous, those

¹⁹¹ *Rec MBC*, i, pp. 101, 102, 119.

¹⁹² *Rec MBC*, i, pp. 142, 149.

¹⁹³ *Rec MBC*, i, p. 119.

¹⁹⁴ For boundaries of Boston and Charlestown, *Rec MBC*, i, p. 139; boundaries of Newe Towne and Watertown, p. 139 and Newe Towne and Rocksbery, p. 142.

¹⁹⁵ *Rec MBC*, i, pp. 139, 141, 142, 159.

¹⁹⁶ MS N-791 Bx 7 ‘Diary of John Hull, MS Copy made 1849’.

surveying missions for new towns or regions far away from the colonial centres meant individuals risked becoming stranded, lost, or attacked.

The primary mission of these expeditions was to survey the land in question, assess its possible use, and provide boundaries and a description of the plot. This was necessary as much of the landscape of New England was unknown or unrecorded by English settlers. Further, the land lacked the history and boundaries which were necessary to define property and ownership in the English legal system. There were some natural boundaries, particularly water features, which often formed the basis of the initial grant by the courts, but it was often just *land* which was being granted without any specifics attached to it, such as the 100 acres of land granted along the Merrimac River north of Watertown (so long as it didn't intrude on any other previous grant). The surveyor thus held a very important position in early New England society as he controlled the land in his capacity as an extension to the courts. Many surveyors also worked in government, or would be people who were sought out for possessing relevant experience. As with early explorers, the surveyor was often going into the 'wilderness' and had the duty of discovery, transcription and translation. Particularly early on in maps and reports they would draw a clear distinction between the wilderness or country lands and plot, as if even before settlement the act of surveying and reporting transformed the land. This was then furthered with place names, allocation of resources and the construction of buildings.

There is limited evidence for maps before 1635, not to say that informal mapping was not done (as with Bradford in Plymouth) or that there were not maps produced which have failed to survive. The increase in population beginning in the 1630s moved people further into the 'wilderness' therefore increasing the demand for maps. Most maps which survive deal with large plots (several hundred to thousands of acres) and

generally relate to town grants.¹⁹⁷ The maps were approved by the courts, recorded in official reports, and it seems in some cases the plot was also noted on a separate document given to the owner of the land.¹⁹⁸ Once the town land was plotted and granted it could then be divided internally.¹⁹⁹ Maps were useful in cases of longstanding disputes or confusion. The second time (at least) that the boundaries of Watertown and Newtown were disputed the Court ordered that Mr Aspinwall was ‘to make a draught thereof, w[i]th an expression of the nature of the ground in both townes’.²⁰⁰ Similarly the boundaries of Boston were troublesome, and in 1636 and in 1637 after several disputes with neighbouring towns it was ordered that ‘a draught of that place in difference against the next Court in the springe, to demonstrate wheare the limits are.’²⁰¹ While the patterns of settlement were copied from English forms, it was becoming apparent that the lack of local history and the rapid expansion of these new towns meant that the customary supports for concepts such as property were lacking. Most importantly this included knowledge of boundary markers, natural features and local landscape.

Surveying was still a fairly new profession in England where the surveyor generally dealt with country estates, not with large tracts of wilderness. They were becoming an important part of the changing socio-economic system in this period, crucial for representing the land as property, removing it from traditional patterns and making it a commodity which could be kept, sold or used within the changing agrarian system.²⁰² Being a part of this changing system, surveyors and their work were a hotly debated topic in England, with many questions and doubts raised about this new method

¹⁹⁷ MSA, SC1-50, v. 1: 70.

¹⁹⁸ MSA, SC1: v. 2: 92&92a, 758 &75a.

¹⁹⁹ *Rec MBC*, i, p. 159.

²⁰⁰ *Rec MBC*, i, p. 180.

²⁰¹ *Rec MBC*, i, pp. 181, 189.

²⁰² Andrew McRae, ‘To Know One’s Own: Estate Surveying and the Representation of the Land in Early Modern England’, *Huntington Library Quarterly*, 56 (1993), p. 333.

of strict measurement and assigning values to land. Reflecting this, early texts on surveying served both as a guide to and a defence of the practice. Around twenty different texts on surveying were published between 1520 and 1650, focusing on the theory and practice and looking to convince the public of the merits of surveying.²⁰³ The methods of surveying were also undergoing a change, becoming increasingly complex and scientific. However, it was difficult to apply the new techniques and tools being used in Europe due to the dense forests and lack of landmarks (such as church towers).²⁰⁴ The challenges in bringing surveying techniques to this landscape are reflected in the 1688 publication of a text made specifically for America.²⁰⁵

The extent to which these advances were impacting surveying missions in New England is difficult to assess as there are a large variety in maps and styles due to the wide range of individuals who served as surveyors. Looking at the detail on the New England maps we can see that some technical skill was always present, as all maps used a compass or other navigational aide.²⁰⁶ Also most used some sort of measuring device, with references to 'rod' and 'chain' in several texts, and many (particularly those made after 1660) indicate the use of more sophisticated equipment and record the meridian line and latitude.²⁰⁷

Overall, the experience and knowledge of each surveyor is difficult to ascertain since most surveyor's credentials were not clearly stated as they might be on larger

²⁰³ McRae, 'Estate Surveying', pp. 335-6.

²⁰⁴ William E. Burns, *Science and Technology in Colonial America* (Westport CT, 2005), p. 101; Silvio A. Bedini, *With Compass and Chain: Early American Surveyors and their Instruments* (Fredrick MD, 2001), pp. 586-7. Surveyors in new world tried to follow European examples but encountered problems utilizing these due to dense woodlands in America (could not make long views) European methods also involved using landmarks - such as church spires or high point of village. Standard tool in Europe - theodolite used to take azimuth (position of celestial object in circle of the horizon) too bulky and instead surveyors used portable circumferentor or surveyor's compass.

²⁰⁵ John Love, *Geodasia, or the Art of Surveying and Measuring of Land Made Easy* (London, 1688).

²⁰⁶ MSA, SC1-50, v.1:69.

²⁰⁷ MSA, SC1-50, v. 1: 6, 48; v. 2: 75 & 75a 7, 20; Not common to find longitude mentioned, though it was known at this time measuring it was difficult until the invention of the marine chronometer in the eighteenth century, Jeremy Black, *Maps and History: Constructing Images of the Past* (New Haven CT, 1997), p. 14.

projects (as with Graves).²⁰⁸ In a few cases we can gather information about experience or resources from other sources such as wills or personal accounts. One of the individuals who did occasional surveying was the Reverend John Sherman originally from Dedham, England, who in addition to his ministerial role also had an interest in and studied mathematics. He settled in Watertown, where he served as an assistant to Reverend George Phillips, then removed to Wethersfield, Connecticut. Eventually Sherman returned to Watertown, and served as a mathematics lecturer at Harvard for thirty years. During the 1670s he wrote and published *An Almanack of Coelestial Motions*. Sherman's cousin, Captain John Sherman arrived in Massachusetts in 1636, and due to his training in England, was named surveyor of Watertown. The inventory at his death showed instruments for surveying worth £5 and several texts on the topic also valued at £5 which went to his son Joseph, also a surveyor.²⁰⁹

Military experience was another area drawn upon for surveying new settlements as with Graves for Massachusetts Bay Colony, Captain Miles Standish for Plymouth, and Lieut Lion Gardiner for Saybrook and other Connecticut River settlements.²¹⁰ This had as much to do with knowledge of surveying, or at least the selection of a defensible and safe location, as with the fear of attack on these missions into uncharted and unknown regions. Military experience was also drawn upon for a variety of smaller tasks in settlements, such as the construction of fortification. In September 1634 the General Court of Massachusetts Bay ordered fortifications to be built at a point near Robert Moultons' at Charlestown and one at the Deputy Governors or at Fox Point (near Dorchester) and ordered Capt Underhill, Capt Patricke, Capt Mason, Capt Traske,

²⁰⁸ MSA, SC1-45x, v. 3: 14.

²⁰⁹ Bedini, *Compass*, pp. 586-7.

²¹⁰ Elizabeth Mills Brown, 'John Brockett of New Haven: The Man and the Myth', *Journal of the New Haven Colony Historical Society*, 27 (1980), pp. 7, 21.

Capt Turner, Lieut Feakes, Lt Morris to locate a convenient location and to lay out works for fortification.²¹¹

Experience on the continent was another qualification often mentioned, generally this was in the Low Countries or Germany. Lieut Lion Gardiner, was one of the surveyors at Saybrook, and he had previous experience working for the Prince of Orange in the Netherlands as an ‘engineer and mast of works of fortification’ before being recruited by John Davenport and Hugh Peters to come work in the colonies at the price of £100 per annum for 4 years. Where he was tasked with ‘drawing, ordering and making of a city, towns or forts of defence’²¹² Jost Weillust was selected surveyor of the ‘ordinance & cannouneere’ by the Massachusetts Bay Court of Assistants in March 1631 for his experience in Germany.²¹³ Weillust remained in the position less than a year and returned to Europe early 1632. John Winthrop noted that ‘[h]e hath received of me twelve pounds, ten shillings, for a year and a quarter service and five pounds I procured him from the Court...His diet he hath had of me with his lodging and washing all the the time he hath been here. Yet if his passage be paid, he will not have above eight pounds left, which will not suffice to apparel him and carry him into Germany.’²¹⁴

In addition to those with military or surveying experience, freemen working in the local government were often chosen as surveyors or members of committees to determine boundaries and division of land. This could be individuals as high up as the Governor, or individuals who worked as town clerks, magistrates, or court recorders.²¹⁵ The use of these individuals for surveying had multiple reasons. First, they occupied positions of authority, had knowledge about what was required in these situations and

²¹¹ *Rec MBC*, i, p. 124; Brown, ‘John Brockett’, p. 7.

²¹² Lieut Lion Gardiner, ‘Relation of the Pequot Wars’ printed in, *1599-1890: Lion Gardiner and his Descendants with Illustrations*, ed. Curtis C. Gardiner, (St. Louis, 1890), p. 8.

²¹³ *Records of the Court of Assistants*, ii, p. 11.

²¹⁴ ‘John Winthrop to Rev. John White’ in *Letters*, p. 99.

²¹⁵ MSA, SC1-45x, v. 112: 22a.

understood the precedent set by other divisions. Second, these individuals were generally well off and able to afford the time to go on surveying missions (though later compensated for their work, surveyors were not generally paid at the time and often received payment in the form of land). While there were many restrictions on which people could settle where, the act of surveying and mapping the land was intended to render the landscape intelligible for both the government and citizens and, as we will see in the next section, this aided in the continuation of traditional patterns of usage and customary practices.

Marking the Land

Another important difference between surveying missions in New and ‘old’ England was their basic purpose. Maps and reports in New England were produced to translate the wilderness into familiar patterns, to establish boundaries and provide directions which allowed for the continuation of customary practices such as perambulation; but above all they were meant to allow for a wider network of property owners.²¹⁶ As such, there is no evidence for disputes with mapping and detailing the land from ‘outside’, as there was in England at this time. Indeed often these maps and surveying reports were designed for on-the-ground interpretation – providing a description of the landscape and offering symbols and keys which allowed them to be understood by ordinary people. The symbolic actions of mapping and creating invisible lines of ownership were important steps in the process of transformation from land to property and from wilderness to cultivated landscape. Often a surveyor did little to alter the land physically: they created boundaries, often by marking trees or making boundary

²¹⁶ McRae, ‘Estate Surveying’; Whyte, *Inhabiting the Landscape*.

markers, but largely this was a process of symbolic changes - translating the landscape or wilderness for others which was primarily accomplished with maps or detailed reports, a continuation of the work of early explorers.

Just as changing the name of a place transformed its identity, this process of dividing and surveying was not only about regulating settlement patterns but about transforming the landscape. Surveyors 'represent[ed] the land as property', transforming it into a commodity.²¹⁷ Looking at the actual land it is clear this was about more than just the re-creation of familiar features such as boundary markers. The first step was re-categorizing the land from wilderness to a cultivable landscape. Often new grants of land were specified as being 'in the wilderness' or 'up into the country', signifying that this was unclaimed and thus available land.²¹⁸ The bounding and description of the land had a transformative effect as if the invisible lines running through the landscape now served as barriers. One map even noted 'within these lines is contained Colonel Crown's farm', though the area described was still physically unchanged.²¹⁹ The act of marking boundaries was sometimes combined with the creation of a new English identity as with the town of Newberry, where in 1635 Mr Humfry, Mr Endicott, Captain Turner and Captain Traske were ordered by the General Court of Massachusetts to set the boundaries after which the 'name of the said plantac[i]on is changes, & hereafter to be called Neweberry.'²²⁰ Other maps and descriptions do not comment so much on what is inside the plot but that 'the wilderness [is] elsewhere surrounding'²²¹ or the plot is 'bounded by the wilderness land'.²²² The term 'country' seems to have had a similar implication, and several plots were recorded

²¹⁷ McRae, 'Estate Surveying', p. 333.

²¹⁸ *Rec MBC*, i, p. 106; MSA, SC1-50, v. 35: 56; v. 58: 57; CHS, MS Connecticut General Assembly Records, 1643-1842, Bx 1, f. 1, '1666-1678'.

²¹⁹ MSA, SC1-50, v. 1: 52.

²²⁰ *Rec MBC*, i, p. 146.

²²¹ MSA, SC1-50, v. 1: 31, 33, 34, 39.

²²² MSA, SC1-50, v. 1: 59.

as being ‘bounded on every side by the countrys land’²²³ or that the land is ‘country land’.²²⁴ Charlestowne boundaries were ordered by the General Court to run eight miles from their meeting house ‘into the country’ providing no other boundaries intercepted it.²²⁵ This change in terminology reflects the symbolic nature of this process similar to the categorisation of natural features, or the changing of a town’s name.

From the maps and descriptions of large plots of land we can establish certain patterns about how land was laid out and understand how it was intended to be used and interpreted. The boundary lines in these maps start out with ‘natural’ lines as boundaries, that is following natural features in the landscape. The most common of these being bodies of water (rivers, ponds, etc.) which were selected as they were an easily identifiable and unchanging feature and thus were often the starting point (or only reference) for new settlements. Away from water, boundaries were more varied. In some cases there were a variety of boundary lines or they weaved through the landscape between features.²²⁶ The map of Dorchester made in 1651 had a brook as one of the main boundary lines and from there a series of trees dotted in the landscape form an irregular boundary which curved around a hill. There are a series of notes indicating that this town had been mapped previously and apparently the issues with the boundaries continued as the 1651 map was used as a reference for later expansions of Dorchester, as evidenced by notes from 1654 and 59 indicating further adjustments to the landscape and boundaries.²²⁷ The plan of Marlborough in 1677 is similar, with a number of uneven lines following natural features mixed with sudden long straight lines.²²⁸ The 8000 acres granted and laid out to Billerica in 1655 and 1657 also feature

²²³ MSA, SC1-50, v. 2, 7.

²²⁴ MSA, SC1-50, v. 1:44; v. 33: 49; v. 3: 84.

²²⁵ *Rec MBC*, i, p. 166-8.

²²⁶ MSA, SC1-50, v.1: 20, 52, 69; v. 33: 63.

²²⁷ MSA, SC1-50, v. 1: 25.

²²⁸ MSA, SC1-50, v. 2: 71.

an irregular boundary line – though unlike Dorchester this was a new settlement so straight lines would have been possible. The first map for this town featured a series of small circles along the boundary line which seem to indicate that the land was being laid out to certain markers, though it was not until the later 1657 map that a description of these markers appeared (**figure 5**).²²⁹ The use of natural features was due not only to the familiarity of this practice to English settlers, but also as it created an easy boundary for individuals to navigate. Further this process of re-mapping and the heavy reliance on natural boundaries indicates that placing artificial divisions on an unfamiliar landscape was not always effective and the process of dividing the land was one of negotiation and re-affirmation.

To some extent this evolved towards the use of straight lines through the landscape, reflecting an increase in the skill of surveyors and increasing control over the landscape. Boundaries no longer had to match the natural features found, but could cut straight through to selected points.²³⁰ Maps, such as the one for the town of Mendon in 1667 had straight boundary lines with the exception of a small part of the Charles River (which was rendered nearly straight in composition).²³¹ Maps with straight lines were more often smaller grants to individuals, generally 200 acres or less.²³² Interestingly several of these maps also generally lacked any information about boundary markers, perhaps these were to be established by the owner, or the owner had been out with the surveyor and knew the marks already.²³³ While there were a growing number of maps and divisions which used straight boundary lines, the use of natural boundaries persisted. The lines on these maps could be a simplification of the physical boundary

²²⁹ MSA, SC1-50, v. 1: 28, 31.

²³⁰ MSA, SC1-50, v. 1: 40, 46, 48, 61 89.

²³¹ MSA, SC1-50, v. 1: 70.

²³² MSA, SC1-50, v. 1: 49; v. 33: 49; v. 2: 51.

²³³ MSA, SC1-50, v. 2, 7; v. 1: 42, 44, 55, 59, 68; v. 3: 84.

lines. Perhaps with increasingly detailed descriptions and with fewer settlements in the ‘wilderness’ it was not necessary to compose detailed sketches. The use of straight lines could also reflect the increased skills of individual surveyors, as seen in the map of Reading which is over 2,000 acres and yet composed entirely of straight lines with only measurements and degrees provided to orient the reader.²³⁵ Similarly the map of 150 acres granted to William Holloway (**figure 6.**), was clearly laid out using sophisticated tools, as evidenced by the scale, compass and directional lines on the map. Despite this though, the boundaries of this plot are clearly labelled.²³⁶ We should be careful in our interpretation of the meaning of this development in recording boundaries; while the lines on maps may be appearing straighter the descriptions and details on many of these maps demonstrate that this was not about detailing information for a few individuals but providing a translation of the landscape for many.

This information about boundaries was not only recorded in maps and court records but also inscribed on the physical landscape in the form of boundary markers. These marks were not only about dividing and controlling the landscape but rendering it into a useful, familiar and English one. They were important for the continuation of customary land use, it was necessary for individuals to be able to monitor their own boundaries in order to understand the limits of their property and the boundaries of the place which they inhabited. A variety of markers were used in setting out boundaries, these were generally naturally occurring landmarks, with trees the most common. Often surveyors were very specific when using trees as boundary markers, identifying the type of tree (oak and pine the most common) but also sometimes the appearance of the tree – was it a black oak, red oak, white oak, etc.²³⁷ These maps and reports not only

²³⁵ MSA, SC1-50, v. 1: 67.

²³⁶ MSA, SC1-50, v. 1: 16.

²³⁷ MSA, SC1-50, v. 35: 56-7, **11, 25**; v. 1: 20, 61; v. 2, 75-75a.

detailed the of type tree but sometimes provided further description (it was tall or ‘great’, or standing alone) and even provided basic sketches on maps.²³⁹ These trees were sometimes drawn onto the map, with clear variations in style to indicate different trees (**figures 6 and 7**) The plot of Holloway’s farm features a depiction of a ‘tall white oake’ at the top of the map and a ‘small black oake’ at the bottom, both of which are sketched out in some detail. Trees were popular as boundary markers for several reasons. First, they were important resources and the additional information about the type of tree used as a marker gave some indication about the value of the land. Certain trees were more valuable for timber than others, and the soil type underneath these trees varied in quality.²⁴⁰ Second, trees were very sturdy and visible landmarks and less likely to be tampered with. In some cases certain trees became important boundary markers for multiple locations, such as one at Roxbury which was ‘marked on foure sydes’.²⁴¹ This reflected the established custom in England of having communal boundaries between towns and shows the development of this type of common knowledge and history of the landscape.

Trees were not the only natural material used; colonists also used rocks to create boundary markers, or most commonly stakes or piles of stones.²⁴² Regardless of what they were created from, all boundary markers were physically marked either by surveyors or owners. One grant was recorded as being ‘well and suffieciently bounded and marked with C’.²⁴³ Some of these marks, those for private farms, seem to be a personal ‘branding’ of the landscape and clear demarcation of private property. This is suggested in some records where the name of the owner relates the letter used in marking the bounds, for example a grant to Richard Davenport which was marked with

²³⁹ MSA, SC1-50, v. 1: 25; v. 2: 86.

²⁴⁰ Cronon, pp. 109, 115.

²⁴¹ *Rec MBC*, 1, p. 144.

²⁴² MSA, SC1-50, v. 2: 75&75a; v. 1: 34, 36, 55; *The Great Migration Begins*, iii, p. 1515.

²⁴³ MSA, SC1-50, v. 1: 32.



Figure 7. Map 500 Acres of land between ‘Concord new grant’ and ‘Nashou’
(1668)²⁴⁴

²⁴⁴ MSA, SC1-50, v. 2:78

a 'D' or land granted to Phineas Pratt (as a reward for publication of *A Declaration of the Affairs of the English People that First Inhabited in New England*) which is marked out with a 'P'.²⁴⁵ This is clear in the 1657 bounding of a grant to Samuel Symonds, of Ipswich, where the report noted that the boundaries were marked with 'S.S' including one carved into a rock – possibly by Symonds himself who was present on this mission.²⁴⁶ However, the use of letters for boundary markers may not always be directly related to ownership, as many of the letters used seem to have no direct relationship to the town or individual being granted land.²⁴⁷ The general practice was to establish a single mark for a property and then inscribe it on all markers for that location. If this was for a large settlement such as a town the information was generally published or recorded and witnessed by freeman resident in that location. In 1646 the town of Cape Ann noted that the 'brand marks' were recorded at the town meeting and agreed to by freeman of that town and its neighbours from Ipswich and Jefferies Creek.²⁴⁸ The communication of boundary marks both to the court and the public were important in creating a shared vision of the landscape as Whyte notes this spread the 'news of the event and thus substantiating the validity of the new [marker]'.²⁴⁹

The boundary markers for Cape Ann comprise several different marks and no single mark was repeated on all boundaries. This could reflect the common boundaries held with Ipswich and Jefferies Creek – but it would have been possible to make multiple brands on every marker, one for each town. In fact some of the records seem to indicate that markers were not just about creating a common recognisable 'symbol' for a location but also about how these marks were to function. On a number of maps the boundary markers seem to be sequential, meant to be read through a journey around

²⁴⁵ MSA, SC1-50, v. 1: 39, 61.

²⁴⁶ MSA, SC1-45x, v. 45: 58.

²⁴⁷ MSA, SC1-50, v. 1: 39, 40, 41; v. 2: 88.

²⁴⁸ GTA, *Town Records*, p. 6.

²⁴⁹ Whyte, *Inhabiting the Landscape*, p. 73.

the property (**figures 6, 7 and 8**). Many maps included basic sketches of the boundary markers along with a description of them such as: ‘A tall white oak’, ‘B a marked stake’, ‘C a head of stones and a stake’ and ‘D a small black oak’.²⁵⁰ This highlights a secondary purpose of these marks and descriptions: they were intended not only to highlight the boundaries of property but also to provide a narration which followed customary practices such as perambulations.

These records were not only marking land and recording it for validation by a central authority but also translating it for oral use and perambulations. In addition to sketching sequential boundary marks, some maps also narrated the boundaries as a journey, providing directions for the reader.²⁵¹ Reports on boundaries often had similar language, such as the report regarding the boundary between Waterton and Newe Towne which extended ‘from Charles Ryver to the greate Freshe Pond, & from the tree marked by Waterton & Newe Towne on the south east syde of the pound, over the pond, to a white poplar tree on the northwest syde of the pond, & from that tree upp into the country norewest & by west.’²⁵²

The importance of boundaries as something more than just physical division in the landscape is seen by the Reverend Thomas Shepard’s argument: ‘Would you have rapines, thefts, injustice abound? Let no man know his own, by removing the landmark, and destroying property.’²⁵³ In 1632 George Herbert, a Puritan clergyman, noted the benefits of perambulations, one of the traditional practices continued during the Interregnum (though without the prayers normally accompanying event).²⁵⁴ This

²⁵⁰ MSA, SC1-50, v. 2: 89; v.1: 46.

²⁵¹ MSA, SC1-50, v. 1: 25; v. 2: 113.

²⁵² *Rec MBC*, i, p. 144.

²⁵³ Quoted in John R. Stilgoe, ‘Jack O’Lanterns to Surveyors: The Secularization of Landscape Boundaries’, *Environmental Review: ER*, 1. (1976), p. 23.

²⁵⁴ Stilgoe, ‘Jack O’Lanterns’, p. 19.



Figure 8. Map of 550 acres of land on the Ipswich River for Governor John Endicott (1659)²⁵⁵

²⁵⁵ MSA, SC1-50, v. 1: 31.

appreciation for the custom and usefulness of perambulations was not just an opinion held by a few individuals but became part of the legal code of New England. In 1641 Massachusetts Bay issued an order that boundaries had to be set out within twelve-months of a town's establishment. Further, every three years the town was responsible to appoint people from adjoining towns to go round and renew the boundary markers. The court noted that acceptable boundary markers included a heap of stones, and a trench six foot long and 2 foot wide. However, in practice trees continued to dominate as chosen boundary markers, possibly due to the difficulty in digging such a large trench and the potential for other types of markers to be moved. Further the court ordered that towns were required to give notice of perambulations, to ensure that all interested parties were able to attend. This law extended to individuals as well who were required to maintain their property boundaries and if land was held in common with others then shared boundaries were required to be jointly checked yearly.²⁵⁶ In 1645 Plymouth passed a law clarifying the punishment for the removal of boundary marks.²⁵⁷ This practice became strongly embedded in the cycle of life in New England (as it was in old England) and perambulations continued into the nineteenth century.²⁵⁸ Thus, in New England the process of surveying and mapping were supporting, not replacing traditional means of maintaining and recording boundaries.

Allocation of Resources

The process of creating boundaries was not just about mapping out land for division and recording but also about assessing the quality of land within those bounds and ensuring

²⁵⁶ *Colonial Laws of Massachusetts: Reprinted from the Edition of 1660, with the Supplements to 1672 Containing Also, The Bodies of Liberties 1641* (Boston MA, 1889), p. 125.

²⁵⁷ Quoted in Stilgoe, 'Secularization of Landscape Boundaries', p. 23.

²⁵⁸ *ibid.*, p. 24.

that it was sufficient for English-style agriculture. This carried on from the pre-arrival process of commodification – with the land being transformed into a familiar pattern of usage. However, with settlement this meant the transformation was not only about finding the familiar and creating the *idea* of an English landscape but, as Cronon notes, it was about creating a ‘new ecological mosaic’ one which would shape patterns of settlement and use.

Within these newly created parcels of land there was further division into familiar resources and types of agriculture. Specification of resources on maps was recommended by published surveying guides, with some suggesting the use of bright colours to help distinguish between natural features.²⁵⁹ The basic resources identified were: woodland, water, meadows, and arable land; and all grants, either to towns or individuals attempted to ensure that all of these elements were present or to indicate the best usage for the land. On a grant of land located upon the Charles River in 1672, the surveyor, Joshua Fisher, noted ‘very roky uneven land and yeld very little wood or timber or feed for catle accoding to my best observation’.²⁶⁰ Other descriptions of plots indicated that the land had meadows, waste lands, and rocky grounds.²⁶¹ Key features in maps, were often sketched and occasionally these were coloured in (**figure 8**) – with different shading matched to different types of land. In the map of Endicott’s farm light green indicated a meadow, dark green was uncleared land. In addition, on this map the surveyor also sketched a plaine, brooke, a swampy meadow and a river.²⁶² This process of categorising the landscape was not only about identifying points to use as property markers, but to transform and commodify the landscape. Turning the wilderness not only into something which could be owned, but something which was valuable.

²⁵⁹ McRae, ‘Estate Surveying’, p. 351.

²⁶⁰ MSA, SC1-50, v. 2: 71, 81, 92& 92a, **9**; v. 3: **9**; v. 1: 20; v. 2: 47.

²⁶¹ MSA, SC1-50, v. 1: 36.

²⁶² MSA, SC1-50, v. 1: 31.

While this process was about indicating order, property and use, intending to create a space for individuals to navigate and use it was being co-ordinated by a central authority. While this may not always have been the central court, as in 1635 towns were allowed to ‘dispose of their own lands, & woods’ so long as this was not done contrary to the laws of the general court. Primarily, it was still the central government which maintained control of the distribution of these different types of resources and the central courts remained the ones distributing or allowing for more resources to be claimed and specifying how everything was to be laid out.²⁶³ In 1643, due to problems and differences between towns about ‘the manner of planting sowing [and] seeding of common corne’, the General Court introduced regulations about land for farming and land for feed.²⁶⁴ This oversight and control extended to the commons as well.

As mentioned earlier, most New England towns established a traditional common land system. At the first settlements this was established within a couple years, as due to the focus on building and fortifying settlements common land was not required prior to this time. In 1632 the General Court ordered that a plot on the neck of land south of the town ‘shall belonge to Boston, to be enjoyed by the inhabitants thereof for ever’.²⁶⁵ Other towns, such as Charlestown established commons but required further regulations to ensure they were being correctly used.²⁶⁶ These common lands were not always granted to all inhabitants though, sometimes it was shared between a few individuals, either through private joint purchases or town residents being granted ‘shares’ in common land.²⁶⁷ In the majority of cases land being made common was available to all freeman or property owners in that town. Some land was even created common across the colony as ordered in 1633 that all swamps above 100 acres ‘either

²⁶³ *Rec MBC*, i, p. 172.

²⁶⁴ MSA, SC1-45x, v. 45: 8.

²⁶⁵ *Rec, MBC*, i, p. 101.

²⁶⁶ MSA, SC1-45x, v. 112: 389-90.

²⁶⁷ *The Great Migration Begins*, iii, pp. 719-22.

belonging to any towne or not, shall lye in com[m]on for any free inhabitant to fetch wood',²⁶⁸ The year 1641 saw the 'Great Pond Ordinance' which gave open access to water, granting the right to fish, fowl or hunt on public or private land.²⁶⁹ This open approach to common land was copied by some towns; in 1649 Cape Ann ordered that all land currently laying in common was to remain in common.²⁷⁰ This may have been anticipating the crowding of buildings upon common land, as occurred in places such as Ipswich where petitioners complained that the 'common lands of this towne are overburned by the multiplying inhabitants' building houses on the commons. The town officials ordered no more construction on common land and forbade anyone living on the commons to have right of pasture or timber.²⁷¹

Towns also monitored the condition and use of commons: in 1663 John Scott, John Riley, William Brooks and William Morgan were fined by Springfield Court for fences not being maintained 'according to the agreement among the Proprietors'.²⁷² John Lenorard of Springfield was fined for 'putting his cattle into the common corne field' and forced to pay for damages with Indian corn.²⁷³ As with the distribution of resources, the overseeing of the commons was generally the responsibility of the town or the individuals using the land. However, the central courts continued to oversee this process.²⁷⁴ In October 1643 the General Court of Massachusetts Bay issued an order for towns to make more uniform rules for the use of common lands, with the intention that the common fields would be improved.²⁷⁵ One particular concern regarded the danger to commons from tobacco smoking, and in May 1646, the court issued a law prohibiting

²⁶⁸ *Rec MBC*, i, p. 111.

²⁶⁹ Judd, *Common lands*, p. 7.

²⁷⁰ GTR, *Town Records*, p. 9.

²⁷¹ MSA, SC1-45x, v. 112: 127.

²⁷² SHLA, 'John Pynchon, Hampshire County Court Records, 1663-1677', p. 4; CSL, 'Proprietors' Records of the South Meadow 1659-1929', pp. 1-2.

²⁷³ SHLA, 'John Pynchon', p. 12.

²⁷⁴ MHS., N-2308, Naushon papers, 1641-1947, Box 1, f. 1 'Deeds, etc. 1641-1681'.

²⁷⁵ MSA, SC1-45x, v. 45:8.

the use of tobacco within five miles of common fields, with the penalty of a 2 shilling fine for anyone caught doing so.²⁷⁶ Other examples of regulations in this period are the formation of a committee in 1650 to attend to the improving of common lands by fencing and in 1654 an order that the General Court should attend to questions about cattle trespassing on common land and the improvement of common fields.²⁷⁷

Despite these legislative efforts in 1654 the General Court of Massachusetts needed to clarify laws relating to problems ‘arising amongst neigho[u]rs’ which are not ‘clearly resolved by any law already extent’. All of the issues arising at this time have to do with fences, commons and cattle. First among these is the issue of common land along a highway and gates being left open – with a clarification of who is responsible, either the owner of the gate, the owner of the cattle or the owner of the corn in the field. Another area clarified is the responsibility for all people who jointly owned or have interest in a common field – as with shared boundaries in this instance it was ordered that all must continue to improve the land and maintain the fences.²⁷⁸ The amount of legislation and debate surrounding the commons reflects the importance of this resource, but also the difficulty in transferring this customary system to a new landscape.

As with common meadows, forests were in danger due to fire. Part of the fear here again related to the use of tobacco, and in 1652 a law was passed by the General Court preventing smoking at certain time of the year near wood.²⁷⁹ Tobacco smoking or accidental fire were not the only concerns as one of the main ways settlers learned to deal with dense woodland was to burn it. This notion of burning woodland to clear it was one adopted from native people, who regularly fired forests to clear underbrush so

²⁷⁶ MSA, SC1-45x, v. 47: 6.

²⁷⁷ MSA, SC1-45x, v. 38B: 29; v. 47: 50; GTA, *Town Records*, p. 11.

²⁷⁸ MSA, SC1-45x, v. 47: 20; *Rec MBC*, iii, p. 178

²⁷⁹ *Rec MBC*, iii, p. 264.

they could plant around trees. This allowed the natives to produce a crop, while also maintaining the habitat for wildlife which they hunted. Another benefit was the retention of trees, which improved soil condition and helped reduce runoff. At first some English settlers copied the pattern of burning the undergrowth and farming around trees, but they soon moved to clearing the land which allowed for the establishment of familiar patterns of farming. The most popular method of quickly clearing land was to burn the forest, which allowed for immediate planting of maize and created by-products such as potash and charcoal which could be sold at market.²⁸⁰ However, this type of land clearance could get out of hand, leading to a 1631 law about fire in Massachusetts Bay, and one in 1633 in Plymouth. Winthrop recorded in his journal a number of fires in 1633 in Massachusetts which destroyed houses and haystacks, the continued threat of which led to another law in 1644 on firing the woods at ‘unseasonable times’.²⁸¹ This was not sufficient enough as in 1646 another law was passed about any man who ‘wittingly burn or otherwise destroy’ frame timber, heved heaps or stacks of wood to pay damages.²⁸²

Wood was one of the more complicated resources to deal with in New England. The dense woodland which covered 80-95% of the coastal region was a stark contrast to the English landscape which was in the midst of a wood shortage and the few forested areas left there were away from population centres. It was not only the amount of trees in New England, but also the size of them, with some over 100ft tall, which contrasted to the situation back home.²⁸³ Woodland was both an obstacle and a blessing for the colonists – it provided a barrier to the type of farming and land system they were used to in England, made laying out tracts of land difficult and it harboured potential dangers

²⁸⁰ William Cronon, *Changes in the Land: Colonists and the Ecology of New England* (New York NY, 1983), pp. 117-8.

²⁸¹ *Rec MBC*, iii, p. 7.

²⁸² *Rec MBC*, iii, p. 101

²⁸³ Kulifoff, *British Peasants*, p. 76.

(wolves, Indians, etc).²⁸⁴ However, wood was also a valuable resource – at first it allowed for quick construction of buildings and fences and served as a source of fuel. Quickly, English settlers began implementing laws to regulate and control this resource. Historians debate over why this was, Cronon argues that settlers began depleting wood resources quickly due to extensive use of wood in construction and as fuel in inefficient open fires, while Kulikoff notes that much of the depletion of the forests occurred much later and 80-90% of woodland still remained at the end of the seventeenth century. The situation was likely more complicated though, as Donahue notes in his study of Concord the regulations regarding timber seems to have more to do with the problem of maintaining the stock of certain *types* of trees, not a fear or problem of general depletion.²⁸⁵

As many of the regulations appear almost immediately following settlement, it was likely a mixture of the fear about shortages and cultural practice regarding resources which influenced attempts to control this resource. In 1630 the inhabitants of Roxbury were prohibited from taking above 12d a score for sawing oak board and 10d a score for pine boards if they are having wood felled and squared for them.²⁸⁶ In 1632 the court ordered that '[f]or the preservation of good timber for more necessary uses it is ordered that noe man shall fell any wood for palcing but such as shal be vewed & allowed'.²⁸⁷ It was not only feared that inhabitants would reduce supplies through use but also that wood reserves would be depleted through transportation and so the General Court created a law banning 'pipe staves and other wrought timber from being transported', though this was repealed in 1640.²⁸⁸ While timber was required in England the cost of transport was prohibitive and reliance remained on Baltic timber

²⁸⁴ Nash, *Wilderness and the American Mind*, pp. 2-3, 7.

²⁸⁵ Cronon, *Changes*, pp. 119-20; Kulikoff, *British Peasants*, p. 80; Donahue, *Great Meadow*, pp. 97-8.

²⁸⁶ *Rec MBC*, i, p. 79.

²⁸⁷ *Rec MBC*, i, p. 101.

²⁸⁸ *Rec MBC*, i, p. 292; *Conn Recs*, i, pp. 60, 243; iii, pp. 235; iv, pp. 316-7; v, pp. 434-5, 497-500.

which was less costly despite the heavy export taxes of north European states. If Europe was not interested in North American wood supplies the Caribbean plantations certainly were. In 1671 New Hampshire exported 20,000 tons of deal and pipe staves that year. Many of the islands were lacking even in firewood, and so required a diverse range of wood and wood products.²⁸⁹ The General Court began to receive complaints and petitions about the measuring of boards and cord wood in 1653, and it was decided that the matter was to be settled by town selectmen. But the situation remained unresolved, so in 1655 they gave more explicit instructions that selectmen were to appoint 1-2 men (or more if required) to oversee measuring and quality of boards and cord wood.²⁹⁰

This fear about shortages was much more acute in areas such as Cape Ann, which had a high proportion of local legislation relating to timber and wood. The settlement, located at the entrance of Massachusetts Bay and used for decades as a fishing site established a timber industry much sooner than the rest of New England. This was due to the geographic location of the settlement, which was the furthest north (so closer to Maine which had dense excellent forests full of valuable white pine) and the furthest east with a natural harbour. The shipping of timber began about 1645 (only a few years after settlement) and nearly 30 years before this industry took off in other parts of New England.²⁹¹ However, even before shipping began the town leaders started regulating use and access to this resource, in 1642 they declared a fine of 5 shillings for selling timber for 'plankes, clapbord, boulties, boards or the like' out of town and 10 shillings for cutting a timber tree without permission. Further they set limits on when

²⁸⁹ Nuala Zahedieh, *The Capital and the Colonies: London and the Atlantic Economy, 1600-1700* (Cambridge, 2010), p. 194; Cronon, *Changes*, p. 112.

²⁹⁰ *Rec MBC*, iii, pp. 300, 376.

²⁹¹ Kulikoff, *British Peasants*, p. 79.

timber could be cut and included a clause that if an individual cut timber but did not improve it within 2 months than the plantation could seize the timber for its own use.²⁹²

In 1649, the town allowed inhabitants to cut firewood from the common for their own use without permission but if this was sold or transported without permission the individual would be fined 2s per load.²⁹³ The town also began issuing timber grants which needed to be registered at a fee of 4 pence each and instated another fine of 15 shillings per tree for cutting unrecorded timber. This marking is not clearly explained early on, but there does seem to be some effort to assess this resource as later laws mention certain trees being marked with an 'x' which are to be left to 'bear akorns'. Other trees were set aside for certain purposes such as cordwood which was much in demand after 1667 but the freeman of the town voted to restrict this allowing the wood only to be cut within 660 feet from the coast and then in 1669 restricted to 20 cords of wood per family from the common and banned the selling of wood outside of the town.²⁹⁴ What we can see both in Cape Ann and New England as a whole was an attempt to regulate resources by central authority and also an attempt to maintain and conserve wood stock.

Conclusion

The process of documentation and division of the landscape continued the creation of an English place in the New World which was begun through the process of naming and commodification pre- and post-arrival. This chapter has highlighted how this process

²⁹² GTA, Town Records, pp. 2-3.

²⁹³ GTA, Town Records, pp. 7.

²⁹⁴ James Robert Pringle, *History of the Town and City of Gloucester, Cape Ann, Massachusetts* (Gloucester MA, 1892), p. 27; GTA, PETERSON FILE, Transportation 'Babson, Thomas E., 'Evolution of Cape Ann Roads and Transportations, 1623-1955: a Talk before the Cape Ann Historical Association April 11, 1955', *Essex Institute Historical Collections* (Oct 1955), p. 313.

helped embed English patterns of usage and customary practices into the landscape – forming a link between settlers and their environment and creating a new property regime in the process. However, while the intention was to simply re-create the system they already knew, settlers were challenged by the new landscape and forced to adapt their customs and practices to match this much denser and wilder environment. This was accomplished through a series of legislations which established boundary markers, formalised perambulations, re-created the commons and regulated resources. This property system would encounter problems as the colonies expanded and interacted with outside forces, in particular native peoples. As we will see in the next chapter, the traditional ideas of ownership and rights were challenged by the possibility of other groups having a claim to the land and necessitated further negotiation and an adaptation of property regimes and concepts of ownership to maintain their position in the colonies.

Chapter 3: The Trouble of Native Land Rights

This chapter is about the complications of establishing ownership and property rights with an indigenous population present in the territory and examines the period from 1620-1640. Prior to departure from England, the legal basis for settlement was the charter. This legal claim was supported by cultural concepts of waste and a God-given right to cultivate and civilise empty or unused land. These cultural ideas formed the basis of a narrative which helped justify the relocation from England overseas. Further, it provided a sense of entitlement and shaped early settlement patterns. However, early dismissive reports of native land use (or lack thereof) were challenged within a few years of settlement, and English settlers were not only forced to adapt and change how they acquired land, but to question where authority and rights to land originated. This resulted in a new system of documentation (the Indian Deed) and the use of narrative to create a new history of acquisition and settlement.

The English acquisition of land and Anglo-Indian relations are well covered topics, with many exceptional works over the past century, but with some extreme variations in interpretation. In the late 1960s-early 70s a new type of history emerged, one which tried to uncover the Indian's side of the story. Some, notably Francis Jennings, took a hostile stance towards English and European colonists, rebranding

them conquerors and invaders, and using terms such as genocide.²⁹⁵ Alden T. Vaughn painted the English in an overly sympathetic light depicting them as well-meaning settlers, ignorant of the cultural and physical destruction they caused. While these interpretations have generally fallen out of favour, some elements linger, particularly the notion of natives not possessing the land, of being uncivilized, and of the aggressive acquisition of land by English settlers.²⁹⁶ Attempting to bridge the gap between these interpretations are a number of works by legal historians and scholars, who have suggested that the differences between the two cultures and systems has been exaggerated.²⁹⁷ These works attempted to examine Anglo-Indian relations as a series of negotiations, or looked at both English and Indian actions in equal parts. Of particular importance is Springer's 1986 article which examined legal documentation and distinguished between the 'general policy statements by colonial leaders, on theological

²⁹⁵ Francis Jennings claims that English settlers did not recognize Indian land rights, see *The Founders of America; how Indians Discovered the Land, Pioneered in it, and Created Great Classical Civilizations, how they were Plunged into a Dark Age by Invasion and Conquest, and how they are Reviving* (New York NY, 1994) and *The Invasion of America*; John Peacock, 'Principles and Effects of Puritan Appropriation of Indian Land and Labor', *Ethnographic History*, 31 (1984), pp. 39-44.

²⁹⁶ Alden T. Vanghan, *New England Frontier: Puritans and Indians, 1620-1675*, 3rd edn (Norman OK, 1995). This appears in the new book by Bernard Bailyn, *The Barbarous Years: The Peopling of British North America: The Conflict of Civilizations, 1660-1675* (New York NY, 2012), which examines 'peopling' of North America and even uses the phrase 'marauding Indians' more than once, while this is balanced with an analysis of the negative impact of European colonization, the fact that such phrases and concepts remain are testament to their power. For more on importance of watching our language see James H. Merrell, 'Second Thoughts on Colonial Historians and American Indians', *WMQ*, 69 (2012), pp. 451-512.

²⁹⁷ See John Smolenski and Thomas J. Humphrey (eds.), *New World Orders: Violence, Sanction and Authority in the Colonial Americas* (Philadelphia PA, 2005); also Anderson, 'King Philip's Herds'; Paul Coccoran, 'John Locke on the Possession of Land: Native Title vs. the "Principle" of *Vacuum Domicilium*', APSA 2007: Australasian Political Studies Association Annual Conference (2007); Cronon, *Changes in the Land*; Chester E. Eisinger, 'The Puritan Justification for Taking the Land', *Essex Institute Historical Collections*, 84 (1948), pp. 131-43; Jeffery Glover, 'Wunnaumwayean: Roger Williams, English Credibility and the Colonial Land market', *Early American Literature*, 41 (2006), pp. 429-53; Muldoon, 'Discovery, Grant, Charter'; Philip H. Round, *By Nature and Custom Cursed: Transatlantic Civil Discourse and New England Cultural Production, 1620-1660* (Hanover NH, 1999); Salisbury, *Manitou and Providence*; Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (Cambridge, 1991). Karen Ordahl Kupperman, *Indians and English: Facing off in Early America* (Ithaca NY, 2000) and *Settling with the Indians*; Gary B. Nash, *Red White and Black: The Peoples of Early North America*, 6th edn (London, 2009); David K. Richer, *Facing East from Indian Country: A Native History of Early America* (Cambridge MA, 2001).

and moral justifications’ and the actual land policy enacted.²⁹⁸ Outside of legal documentation little attention has been paid to the cultural aspects of the property regime established between English and native people in this period. However, Cronon’s work on cultural pathways and perceptions of the land, along with Kupperman’s work on cultural exchange, go some way to addressing this gap.²⁹⁹ This chapter will build upon the work of Springer, Cronon and others, and through an examination of narrative will combine both legal and cultural approaches focusing on the intricacy and complications of building a colony in the middle of a foreign ‘nation’. Furthermore it will look at the development of ideas about Indians and how the challenge they posed both complicated and refined English ideas about land and ownership.

This chapter will look first at early ideas and relations between natives and settlers from 1620 to 1633, then the complications which arose in the mid-1630s and how the many challenges and changes in these few years led to a change in English policy. We will also look at the role of documentation and narrative in establishing property rights, starting with pre-departure literature and writings which built upon traditional ideas of waste and natural rights through the attempt to fit the Indians into this narrative upon arrival. Finally, the chapter will examine the re-writing of history through accounts, wars and Indian deeds which served to justify and cover up early English acquisition of land which could no longer be supported by a ‘natural’ right alone.

²⁹⁸ James Warner Springer, ‘American Indians and the Law of Real Property in Colonial New England’, *The American Journal of Legal History*, 30 (1986), pp. 25-6.

²⁹⁹ These works have gone some way to establishing native ideas of ownership and property. Also important on this topic are Stuart Banner, *How the Indians Lost their Land: Law and Power on the Frontier* (Boston, MA, 2005); Yasuhide Kawashima’s work on the Indian and English law in the eighteenth century: *Puritan Justice and the Indian: White Man’s Law in Massachusetts, 1630-1763* (Boston MA, 1986); and ‘Legal Origins of the Indian Reservation in Colonial Massachusetts’, *The American Journal of Legal History*, 13 (1969), pp. 42-56; Katherine Hermes, “‘Justice Will Be Done Us’: Algonquian Demands for Reciprocity in the Courts of European Settlers’, in ed. Christopher L. Tomlins and Bruce H. Mann, *The Many Legalities of Early America* (Chapel Hill NC, 2001), pp. 123-49.

Narratives of Waste and Salvation

As touched upon in previous chapters, settlers were shaping the land of New England in accordance with traditional English patterns of usage. These ideas about land and how it was to be labelled, used and divided were based upon shared cultural notions of waste and production. Preoccupation with waste was common across Europe, but in places with limited resources this was particularly acute, England being an island nation which was straining to feed its population and reliant on trade for other resources was fixated on this topic.³⁰⁰ By drawing on traditional ‘tropes’ or concepts - such as wastes, commons, labour, and improvement - writers about colonization and New England were able to construct a new narrative of English land rights and usage. In *Of Plantations*, Francis Bacon noted that ‘[c]olonies and foreign plantations [are] very necessary as outlets to a populous nation’³⁰¹ One of the early recruitment tactics for colonization was to focus upon the ‘overcrowding’ in England thus starting the story with a known setting and problem and then introducing New England as a natural solution which fitted within traditional expectations and desires. England was not only portrayed as ‘greatly burdened with [an] abundance of people’, but the people there were portrayed as lazy and restless for lack of land and labour.³⁰² In *The Planters Plea* (1630), John White described England as a place ‘where a few men flourish that are best grounded in their estates...and the rest waxe weake and languish, as wanting roome and meanes to

³⁰⁰ *Famine, Disease and the Social Order in Early Modern Society*, ed. John Walter and Roger Schofield (Cambridge, 1989); On narrative of waste and improvement in wider Atlantic see: Ken MacMillan, *Sovererignty and Possession in the English New World* (Cambridge, 2006); Jess Edwards, ‘Between “Plain Wilderness” and “Goodly Cornfield”: Representing Land Use in Early Virginia’, in ed. Robert Applebaum and John Wood Sweet, *Envisioning a English Empire: Jamestown and the Making of the North Atlantic World* (Philadelphia, 2005), pp. 222-35.

³⁰¹ Quoted in Arneil, *John Locke and America*, p. 72.

³⁰² *Mourt’s Relation*, p. 88.

nourish them.’³⁰³ However, these problems facing England could be solved through work and land. ‘The husbanding of unmanured grounds, and shifting into empty Lands, enforceth men to frugalities, and quickeneth invention’, continued White, ‘...and the taking of large Countreys presents a naturall remedy against covetousnesse, fraud and violence’.³⁰⁴ With no options at home to revitalise the labour force, the best option, it was said, was to move abroad in search of land. New England was presented as an open, unoccupied land suffering for lack of labour and improvement, a perfect fit for the restless English poor. In 1629 Francis Higginson wrote what ‘[g]reat pity it is to see so much good ground for corn and for grass as any is under the heavens, to lie altogether unoccupied, when so many honest men and their families in old England through the populousness thereof do make very hard shift to live one by the other.’³⁰⁵ By drawing upon these common ideas about labour and land early promoters were able to weave New England into an existing narrative about the decline of England and twist it to show them ‘rescuing’ the land by bringing it into proper usage.

The connection between problems in England and the ‘solution’ offered by the new world was complicated by the presence of a native population. Even before departure potential migrants and investors were questioning whether the land was ‘unoccupied’ and ‘available.’ These objections were addressed by John Winthrop in his *General Considerations*, which was distributed and copied by many potential and future migrants even before its publication in 1629. The tract lists a number of ‘objections’ and then responses or rebuttals. The lengthiest section relates to English settler’s right to the land ‘which is and hath been of long time possessed’, to which Winthrop responded ‘that which is common to all is proper to none. This savage people ruleth

³⁰³ John White, *The Planters Plea or Grounds of Plantations Examined and the Usual Objections Answered* (London, 1630).

³⁰⁴ White, p. 3. See also *Winthrop Papers*, ed. Samuel Eliot Morison, vols. (New York NY, 1968), ii, pp. 91-2 and *Mourt’s Relation*, pp. 91-2; John Cotton, *God’s Promise to His Plantation* (1630), p. 5.

³⁰⁵ ‘Francis Higginson to His Friends in England’, *Letters*, pp. 36-7.

over many lands without title or property; for they enclose no ground, neither have they cattle to maintain it'. Winthrop introduced a new but equally familiar concept here, titles and documentation. Not only was the land wasted (that is not used according to English standards) but it was also not claimed.

He further drew on the debate or discussion about enclosures, referring to the native land as 'common' and open. This argument not only undermined native land rights, but also connected it to problems and debates in England, furthering the link between the old and new world. He concluded that the English should 'have liberty to go and dwell amongst them in their waste lands and woods (leaving them such places as they have manured for their corn)'.³⁰⁶ This notion of the Indians not 'using' the land was common in tracts written prior to 1630 (and even into the middle part of the decade). Higginson reported his findings in 1629 noting that 'the Indians are not able to make use of the one-forth part of the land, neither have they any settled places, as towns to dwell in, nor any ground as they challenge for their own possession but change their habitation from place to place.'³⁰⁷ In *Mourt's Relation* a report on the state of New England stated that 'their land is spacious and void, and there are few and [they] do but run over the grass, as do the foxes and wild beasts. They are not industrious, neither have [they] art, science, skill or faculty to use either the land or the commodities of it, but all spoils, rots, and is marred for want of manuring, gathering, ordering, etc.' and 'as the ancient patriarchs therefore removed from straiter places into more roomy, where the land lay idle, and none used it, though there dwelt inhabitants by them...so it is

³⁰⁶ 'General Considerations for the Plantation in New England; with an Answer to Several Objections', in *Chronicles of the Pilgrim Fathers of the Colony of Plymouth from 1602 to 1625: Now First Collected from Original Records and Contemporaneous Printed Documents and Illustrated with Notes*, ed. Alexander Young (1841: Kissingen, 2007), pp. 275-6.

³⁰⁷ 'Francis Higginson to his Friends in England, *Letters*, p. 37

lawful now to take a land which none useth, and make use of it.’³⁰⁸ What is interesting about these tracts, which unlike earlier reports of explorations were intended to reach a wider audience which now included potential migrants as well as investors, is that the evidence drawn upon to justify taking over occupied land, this notion of the land being used but not ‘owned’.

This notion of land being unused, or empty, is best summed up by the phrase *vacuum domicilium*, a phrase very popular with historians, but applied less accurately or consistently in reality.³⁰⁹ In historical writing this concept is often referred to as proof of the English disregard for ownership or presence of natives. However, despite the sentiment in these early tracts we don’t see the phrase appearing in any text for several years (as we will see shortly). And the phrase does not appear in any text not originating from New England – again despite historians assuming it was an older concept, fooled by the legalese employed in creating the phrase. Also misleading is the fact that *vacuum domicilium* is always referred to in contemporary documents as if it is a known concept. However, in reality it appears to be a short hand for a number of concepts of rights and possession which were around in this period and expressed in other texts such as Hugo Grotius, *De Jure Praedae (Law of Prize)* which noted that ‘if within a territory of people there is any deserted and unproductive soil. . . it is the right for foreigners even to take possession of such ground for the reason that uncultivated land ought not to be considered occupied.’³¹⁰ Corocran notes the contradictory usage of the phrase which was sometimes employed in support of the charter and rights and

³⁰⁸ *Mourt’s Relation*, p. 91; Wilcomb E. Washburn, ‘The Moral and Legal Justification for Dispossessing the Indians’, in *Seventeenth-Century America*, ed. James Morton Smith (Chapel Hill NC, 1959).

³⁰⁹ This phrase is interpreted by Jennings and other historians as evidence that Winthrop (and the handful of others who used the phrase in this century) were ignoring native rights. Jennings, *Invasion*, chp. ‘Deed Game’. See also Cronon, *Changes in the Land*, p. 57. Several historians have been fooled by the legal phrasing and assumed this was an ‘international doctrine’ and a claim to right of possession, Glover, ‘Wunnaumwayean’, p. 444, or that the phrase had legal weight in the colony, Muldoon, ‘Discovery, Grant, Charter’, p. 43. On general misuse of the term, including for teaching purposes see Corocran, ‘Locke on the Possession of Land’ pp. 8-9.

³¹⁰ Quoted in Arneil, *John Locke and America*, p. 51.

sometimes against royal claims to land.³¹¹ This further undermines the interpretation that this was an existing legal concept, or an attempt to dispossess alternate claimants to the land (either Royal, foreign or native). The phrase is thus more illustrative of the importance of establishing a credible claim to the land and the flexibility of the concepts and narratives employed by settlers to achieve this.

Winthrop made further dismissal of native rights when discussing ‘natural and civil rights’ noting ‘[t]he first right was natural when men held the earth in common, every man sowing and feeding where he pleased. Then, as men and cattell increased, they appropriated some parcells of ground by enclosing and peculiar [particular] manurance; and this in tyme got them a civil right.’ He further drew upon Biblical ideas to justify argument such as the story of Ephron and Abraham (Gen 23:9) Jacob and sons in Canaan (Gen 27:1, 17), and Jacob and Laban (Gen 30).³¹² Other common Biblical references from these tracts including: Genesis 1:28- ‘Be fruitful, and multiply, and replenish the earth and subdue it’; and Psalms 115:16- ‘the earth he hath given to the children of men’. In *Mourt’s Relation*, the author drew a clear link between religion and right to ownership stating that ‘neither is there any land or possession now, like unto the possession which the Jews had in Canaan, being legally holy and appropriated unto a holy people’.³¹³

These ideas were not unique to the New England migrants, yet reflective of wider ideas about natural and civil rights. Alberico Gentili, Oxford’s Regis Professor of Civil Law in the late sixteenth century, supported these Biblical argument, stating that ‘God did not create the world to be empty’.³¹⁴ This mixture of religious, cultural, and

³¹¹ Corocran, ‘Locke on the Possession on Land’, p. 10.

³¹² Winthrop, ‘General Considerations’, pp. 275-6.

³¹³ *Mourt’s Relation*, p. 89.

³¹⁴ Alberico Gentili, *De Iure Belli Libir Tres*, John C. Rolfe, trans. (Oxford, 1933), p. 80; for a general discussion of the topic and the wider legal debate at the time see Christopher Tomlins, *Freedom Bound*:

legal vocabulary legal added strength and weight to expedition and laid the foundation for the English 'right' to the land in New England. By invalidating or marginalising native claims or rights it strengthened the king's (and through him the company's) right to the land, first in a legal sense but once settled they could then comfortably establish a natural and civil right to the land. This also introduced a new element into the narrative developing here - the idea of salvation. Not only is the relocation to New England about cultivating the land (saving it from waste) but this is also a divine mission - God has provided the land and it is both a duty and a gift.

These ideas and arguments all meshed together and provided the settlers with conviction, focus and a clear sense of entitlement. However, their right to the land was still not completely assured: prior to departure the fleet were ordered by the Court of Assistants of the Massachusetts Bay Company to 'make reasonable compensation' to those who 'pretend ownership' to be free of 'scruple of intrusion'.³¹⁵ This statement demonstrates both insecurity and superiority, there is no question of negotiating where they will settle or even of their right to do so, but instead are ordered to 'placate' those with dubious or fictional rights. This suggests that this pre-departure narrative and the question of English 'right' to the land were still in question. However, lingering doubts did not immediately emerge, as the English initially seemed to find an empty land and established their ownership through the courts (looking inwards for order and legitimization of ownership and property rights). Within a few years though, trouble emerged and the colonists found themselves having to alter their ideas about property and ownership and establish new narratives and documents to maintain their rights to the land.

Law, Labor and Civic Identity in Colonizing English America, 1580-1865 (Cambridge, 2010), particularly chp. 3 and 4.

³¹⁵ *Rec MBC*, i, pp. 394-400.

Upon arrival the first migrants of the Plymouth and Massachusetts Bay colonies found a land which greatly resembled the one had read about: a low native population, plenty of food and game, and cleared land ready for settlement. The reality of the New England coast post 1619 was a sharp contrast to that of Jamestown, Spanish America and the Caribbean, all which reported large populations of strong and hostile native tribes. This further supported their idea that the land was wasting away and that the settlers had an opportunity and a duty to save it. The underlying religious motives of migration, a strong factor in these northern settlements, led migrants to the conclusion that the land had been 'cleared' or prepared for their arrival. Thus confirming their own religious narrative of being God's 'chosen' people. This belief was further supported by interactions with native tribes which, eager for trade and protection, allowed the English to take over large areas of land easily.

In fact, the settlers were entering a land devastated by disease. Reports prior to 1616 described a land full of people and even noted that some were hostile to passing ships, possibly due to French and English merchants attacking and kidnapping natives. This included Patuxet, which was reported to have 2,000 inhabitants, yet by the time the *Mayflower* arrived in 1620 the only survivor was Squanto (who had been in Europe at the time of the epidemic). Sometime between 1616-8 the natives of northern-costal region of New England were hit by an epidemic (or series of epidemics), which Europeans recorded as 'the plague'. Francis Dermer reported Pokanoket on Narragansett Bay had only fifty men. While in the Cape Cod region only three villages with a total population of a hundred men remained in 1621 a sharp decline from the 650-800 reported by Samuel de Champlain in 1606.³¹⁶ It seems likely that these diseases were introduced by French traders as those tribes which Smith described as

³¹⁶ Salsbury, *Manitou and Providence*, pp. 101-6.

having contact with Europeans were the ones devastated. Tribes further inland or trading with the Dutch further south were not hit (at least not at this early date). The area decimated was confined to the area surrounding the bays of Massachusetts and Cape Cod.³¹⁷ The result of this rapid depopulation is reflected in early accounts. Morton reported finding the ‘bones and skulls’ of the dead laying on the ground which ‘made such a spectacle...it seemed to me a new found Golgotha.’ Similarly, William Bradford reported seeing remains of unburied bodies in Plymouth for years to come.³¹⁸ Writing a few years later William Wood reported the underbrush had overtaken the fields (indicating previous cultivation) and in his history of New England, Edward Johnson reported in this period that the plague had swept ‘away whole Families, but chiefly yong Men and Children, the very seeds of increase.’ and that ‘their Wigwams lie full of dead Corpes, and ...oftimes left their dead unburied’.³¹⁹

These reports reached England and encouraged the later Massachusetts Bay expedition, Winthrop noted in *General Considerations* that ‘God hath consumed the natives with a miraculous plague, whereby the greater part of the country is left void of inhabitants.’³²⁰ The epidemic not only cleared the land, but also provided materials and food for early settlers at Plymouth, who found food lying about on and in the ground (either graves or winter storage).³²¹ Bradford was ‘sure that was God’s good providence that we found [some of their] corn’ and belongings as it ‘pleased God to vanquish their enemies and give them deliverance’.³²² We can easily see here how the initial narrative carried with them was enhanced and developed through the first

³¹⁷ Sailsbury, pp. 102-3.

³¹⁸ Thomas Morton, *New English Canaan or New Canaan* (1637), ed. Charles Francis Adams (Fairfield WA, 2001), p. 23.

³¹⁹ Johnson, *Wonder-Working*, p. 41; 1620 New England patent mentions ‘wonderful plague’ visited upon ‘the sauages and brutish People there, heretofore inhabiting, in a Manner to the utter Destruction, Deuastacion, and Depopulation of that whole Territorye’.

³²⁰ Winthrop, ‘General Considerations’, p. 277.

³²¹ *Mourt’s Relation*, pp. 26, 39.

³²² Bradford, *Plymouth*, pp. 74-5, 77-8

experiences with the new landscape and people in it. This further developed with contact and life alongside native populations.

The settlers at Plymouth colony established a relationship with the natives after their first winter in New England. What really happened at this first meeting is difficult to untangle due to conflicting reports.³²³ In 1621 the Plymouth settlers meet with Massasoit who they believed to be the king of his tribe. Edward Winslow was sent to 'parley' and to serve as hostage to good behaviour while the rest of the Plymouth group formed a treaty with Massasoit. In all three accounts this agreement is described as a peace treaty or alliance and primarily focuses upon the threat of attack and the appropriate response to violence. There is a mention of property, stating that if either side took any items they should be returned. Where the three accounts differ are over the detail of Massasoit's relationship to the English and the subject of land. Winslow's account notes that this agreement also stated that 'King James would esteeme of him as his friend and alie' while Bradford's account makes no mention of this detail.³²⁴ Winslow's version, being written and published closest to the event would seem the most accurate, but he was not actually present at the treaty and perhaps is confusing his earlier greeting to the sachem with the terms of the agreement.

Bradford, who was present, paints the situation as being friendly and amiable, but omits any mention of Massasoit's relationship to the English. Since his account was written many years later, perhaps this phrase was simply overlooked. Nathaniel Morton's account differs again as he describes the sachem as an agent for Plymouth in dealings with other Indians and recorded the 1621 treaty as Massasoit acknowledging his subjection (not friendship or alliance) to King James: he 'acknowledged himself

³²³ The three accounts are Edward Winslow, *Good Newes from New England: a True Relation of Things Very Remarkable at the Plantation of Plimoth in New England* (1624, Bedford MA, 1996); William Bradford, *Plymouth Plantation* which was written between 1630-50 and first published in 1856; and Nathaniel Morton, *New England's Memorial* (1669), 6th edn (Boston MA, 1855).

³²⁴ Morton, *New England's Memorial*, pp. 40; Bradford, *Plymouth*, p. 88; Winslow; *Good Newes*, p. 14.

content to become the subject of our sovereign lord the King aforesaid, His Heirs and Successors; and gave unto them all the Lands adjacent, to them and their Heirs forever.’³²⁵ Morton’s account turns this from an exchange between equals to one which established English superiority. He also inserts Massasoit’s surrendering of all his land to the Plymouth colony, something only found in this version of the treaty. Morton was the only one of the three not present at this meeting; he did not even arrive in Plymouth until 1623, and was only a child then. The agreement would still have been a topic of discussion by settlers as Massasoit and Plymouth remained in continual contact and trade so Morton probably had heard several accounts of the events and likely read Winslow and possibly Bradford’s accounts. It is interesting that Morton presented a different report of this event, raising the question if this is an error on his part or a deliberate adjustment to the narrative of early settlement. This illustrates that the narrative was a collective effort, part of the community’s identity and vision of the landscape and their mission. We can further see that while it may be possible to extract a single narrative, these shared experiences were to some extent open to individual interpretation.

While the Bradford/Winslow version of this first peace treaty seems the more likely to be accurate, and that the agreement was not ceding property rights or accepting the subjugation of the natives, it seems that a shift occurs following this event as future dealings with Masasoit and other natives show the English settlers taking a more dominant position, which better match Morton’s account. Following an incident in late summer 1621 where Narragansett Indians attacked Massasoit and kidnapped Squanto the English decided to strengthen relationship with neighbouring tribes and clarify terms.³²⁶ In September 1621 a new treaty was signed now saying the Indians were ‘to be the

³²⁵ Morton, *New England’s Memorial*, p. 40.

³²⁶ Bradford, *Plymouth*, pp. 96-9.

Loyal Subjects of King James'. There is a long list of names who signed, including rival Wamapanog such as Corbitant and signatories from other tribes including Epenow of Martha's Vineyard.³²⁷ It could be that Morton applied the terms of this treaty to the earlier meeting, but he also made further edits to this account as well including Chickataubut (a Massachusetts sachem near Shawmut - later Boston) as one of the signatories. Unlike the earlier agreement, we only have one copy of the terms of this treaty, which is in Morton's account, published fifty years later. Winslow and Bradford's accounts confirm a treaty occurred but do not record what is said, and reveal some discrepancies with Morton's version. Bradford records that the expedition to Massachusetts happened nearly a week after Morton's date for the treaty and Winslow notes that they met with 'Obbatinewat', the name Chickataubut was not used by this sachem for another two years.³²⁸ If the Winslow and Bradford accounts of the first meeting with Massasoit offer a more reliable account than Morton's, it is possible that Morton's version of this later treaty may also have undergone rewriting. The insertion of Massasoit and other natives' 'submission' to King James and the English and the inclusion of the surrendering of land reflect a change in concerns and policy between 1620 and 1669, which could have influenced Morton's accounts of these early meetings. But what changed in this period to necessitate this change? Largely, the issues arose with the formation and rapid growth of Massachusetts Bay.

Unlike Plymouth, the settlers to Massachusetts Bay had a clear title to the land before departure (in the form of a patent which they brought with them) and, thanks to the Plymouth settlers, had a group of natives already used to dealing with English settlers. This region was similarly depopulated to Plymouth: in 1631 Thomas Dudley reported that Chickataubut had only 50-60 subjects left; the brothers John and James

³²⁷ Morton, *New England Memorial*, p. 45-6.

³²⁸ Chickataubut was previously Obtakiest, Salisbury, *Manitou and Providence*, p. 133; Morton, *Memorial*, p. 44; Bradford, *Plymouth*, p. 96, 98-9; Winslow, *Good Newes*.

had 30-40 men; Mascononomo 2-3 families.³²⁹ Not only had these tribes been hit by disease, but in 1619 the Micmac Indians (who were not affected by the illness) attacked and further reduced the population of the coastal tribes. Thus, the Bay colonists encountered a number of sachems and tribes willing to deal with them and received a number of 'gifts' or tributes early on, which the English seem to have interpreted as permission to take the land. The tribes that were turning to the English for alliance were very vulnerable at this time. During one raid on a Pawtucket village north of Massachusetts Bay a sachem was killed.³³⁰ Mascononomo of Agawam (renamed Ipswich by English settlers) was attacked in August 1631 by the Micmac tribe who killed seven and injured or kidnapped several more. The attack ended when the tribe escaped to the English settlement nearby. This was the last attack by Micmac in this region, who were likely deterred by the growing number of English along the coast.³³¹ John Eliot, who arrived in Massachusetts in 1631 to serve as minister at Roxbury, wrote to Sir Simonds D'Ewes, and antiquarian and supporter of colonization back in England, in 1633 that the natives 'do gladly entertain us and give us possession, for we are as walls to them from their bloody enemies'.³³² At this time, Massaoit and other sachems found the English preferable to the Narragansett or Micmac who demanded higher tributes and ritual humiliation. The English offered better goods for trade and access to land formerly controlled by these groups.³³³ The tribes near Massachusetts Bay knew of precedent set by Massaoit in forming an alliance with the English, and also of the violence of the English so found them a better ally and thus offered or allowed the English to settle nearby their villages. A consequence of this decision, was that the

³²⁹ 'Thomas Dudley to the Lady Bridget, Countess of Lincoln', *Letters*, pp. 68-9

³³⁰ Sailsbury, *Manitou and Providence*, p.105.

³³¹ *Winthrop Journal*, p. 57; Sailsbury, p. 184.

³³² 'John Eliot to Sir Simonds D'Ewes', *Letters*, p. 106.

³³³ Sailsbury, *Manitou*, p. 116.

English interpreted this action as proof that the Indians were unable to use, maintain or defend the land and that they did not have clear concepts of ownership or property.

The consequence of this decision was that the English found limited resistance to their movements and establishment of new settlements, which fits into the narrative constructed in England. While this is true for both colonies, in Massachusetts Bay the scale and speed of colonization is such that a system for dividing and establishing property was quickly set up without questioning the existence or possibility of native rights. It is not until 1633 that we find evidence of any purchase or formal acquisition of land, which was quickly followed by many other such agreements. This occurred for a number of reasons, increasing immigration and expansion into more populated regions, another epidemic in 1633, and trouble stirred up by Roger Williams and others who began to question the basis for the English claim and debate native land rights.

Doubts and Questions

This section will cover the period of rapid growth and expansion in New England, from 1633 to 1640, focusing on the impact of the creation of new settlements, which moved further and further away from Boston and Plymouth in this period. This led to further interaction by a greater number of Englishmen with native populations, and in turn created new ideas about rights and ownership which challenged the existing system and narrative. In 1633 another epidemic hit the native population, this time reported to be smallpox. Originating at Massachusetts Bay, the disease quickly spread to tribes spared by the earlier 1616-18 epidemic and moved north towards the Abenaki, south to the Narragansett and west up past the Connecticut River to the St Lawrence River. Many of the sachems around Massachusetts Bay, such as Chickataubut and the brothers John

and James, died.³³⁴ Winthrop recorded in his journal that the epidemic killed ‘most’ Indians around Massachusetts Bay and that ‘the small poxe was gone as farr as any Indian plantation was knowne to the west’ and reported that 700 Narragansetts died.³³⁵ Again this was interpreted as a sign of God’s favour, clearing room for his chosen people; Winthrop wrote to Sir Simonds D’Ewes in 1634 that ‘God hath hereby cleared our title to this place.’ The Charlestown records indicate that this depopulation helped, as most English ‘would with much more difficulty have found room, and at far greater charge have obtained and purchased land.’³³⁶ Edward Johnson reported that at this time that the Indians had begun to ‘quarrell with them about their bound of Land, notwithstanding they purchased all they had of them, but the Lord put an end to this quarrel...by smiting the Indians’ via an epidemic.³³⁷ As with Morton, Johnson was writing much later, and thus able to write these events into a clear narrative of divine intervention which allowed for English expansion. While the sentiment is similar to that expressed in 1620s with God’s favour and providence providing an empty land - what is interesting is the explicit mention of land, titles, and boundaries. This demonstrated a shift in the way the English had to think about the land, and also how they interpreted or remembered events. Clearly the issue of native land rights and ownership was coming to the fore at this point in time.

The growing concern about the occupation of and potential right to land by natives was partly caused by the growing population in New England and the demand for more land. Unlike Plymouth, which had a low growth rate and remained clustered around the original settlement, Massachusetts Bay had a large booming population which began spreading outwards from the central town of Boston. Initially this

³³⁴ Sailsbury, *Manitou*, p. 191; *First Planters*, pp. 386-7.

³³⁵ *Winthrop, Journal*, pp. 106-5, 108-10; Johnson, *Wonder-Working Providence*, pp. 79-80.

³³⁶ ‘John Winthrop to Sir Simonds D’Ewes’, *Letters*, p. 119; *First Planters*, p. 387.

³³⁷ Johnson, *Wonder-Working*, p. 79.

movement went along the coast or rivers, so within the jurisdiction of the diminished Massachusetts tribe who were allied to the English. Soon even these settlements became too crowded and people began moving further into the interior of the colony. This movement of people increased contact with Indians, and brought the English closer to more hostile (and stronger) tribes, such as the Mimaq, Narragansett and Pequots. It also led to individual contact and negotiations for land and trading rights, which immediately caused problems within the colony. William Pynchon purchased some land from Chickataubut (the date is not given, but this must have been during or before 1633 when the sachem died), however the land purchased was either not recorded or was unclear because in 1635 the Court of Assistants ordered that Ensigne Jennison and Mr Woolridge 'shall require the Indians that were present with Chickataubut when hee solde certaine Land aboute Massachusetts to Mr Pinchon' to set out the bounds of the purchase.³³⁸ We can see here the growing problem with individuals acting outside of the courts, which not only left open the possibility of conflicting claims, but also began to question the notion that natives did not have a right to the land – otherwise it could not be purchased. There was also confusion over who had rights to a neck of land near Boston which had been 'sold' by 'Black William' or 'Duke William' to at least two different Englishmen. The settlers in question eventually sold the land to the town of Boston, which resolved matters.³³⁹ These incidents were troubling to leadership of New England - a sign they were losing control over the land market. But further these purchases created doubts about the legitimacy of English claims. Previously colonial leaders did not acknowledge native ownership, even the 'gifts' of land were only written down later, in contrast to the rigorous documentation of English settlements and land transactions. Initially the English just settled where they liked and formed

³³⁸ *Rec MBC*, i, p. 55.

³³⁹ Sailsbury, *Manitou and Providence*, pp. 192-3.

alliances or trading links with tribes. However, once individual settlers begin purchasing land from the natives it not only diverted power from the colonial government (who no longer held a monopoly on land) but also implied that the natives did have a right or claim to the land, and further suggested that this may be a civil or legal right to the land.

Indeed, as the English increased contact with the natives it seems they began to have a better understanding not only of their society, religion and networks but also of their ideas about property, ownership and land. Thomas Morton (no relation to Nathaniel) noted and admired the natives for using only what was available to them and not having extraneous belongings, and while they had some concept of individual ownership 'yet all things (so long as they will last), are used in common amongst them.'³⁴⁰ Other men noticed that the Indians 'owned' the area immediately surrounding their wigwam, but that this was only a temporary form of ownership, once they relocated to another region the land was open for people to move in. With regard to land, Edward Winslow recorded that 'Every sachim knoweth how far the bounds and limits of his own Country extendeth; and that is his own proper inheritance. Out of that, if any of his men desire land to set their corn, he giveth them as much as they can use, and sets them their bounds.'³⁴¹ Roger Williams wrote that, 'the *Natives* are very exact and punctuall in the bounds of their Lands, belonging to this or that Prince or People, (even to a River, Brooke, &c.) And I have knowne them make bargaine and sale amongst themselves for a small piece, or quantity of Ground: notwithstanding a sinful opinion amongst many that Christians have right to *Heathens* Lands',³⁴² These accounts suggest that the natives were used to a system of transferring land and also that in

³⁴⁰ Morton, *New English Canaan*, p. 177; see also Cronon, *Changes in the Land*, pp. 61-3.

³⁴¹ Winslow, *Good Newes from New England*, p. 62.

³⁴² Roger Williams, *A Key into the Language of America* (1643) ed., John J. Tenunissen and Evelyn J. Hinz (Detroit MI, 1973), p.167.

having knowledge of their land they were familiar with the concept of property (i.e.- I have the right to this much). These accounts, thus show native people drawing upon two main rituals or acts of property recognised by the English: negotiation and boundaries.

This presented the leadership of Massachusetts Bay with a serious problem: not only was authority becoming decentralised but it also challenged the legal and cultural foundations of the colony (embodied in the narrative of waste and salvation). The largest problem for the Bay leaders at this time was Roger Williams who had extensive contact with natives early on, and began creating problems for the Massachusetts Bay government early in the decade. A separatist, he arrived in 1631 and at first caused problems with his religious ideas and preaching, prompting a move from Boston to the more hospitable Salem. In 1633 he composed a treatise on property, the church and native rights - the latter point drawing upon his experiences and observations at his trading post at Cocumscussoc in Narragansett territory. No copies of Williams' tract survives, but it can be pieced together from other accounts. John Cotton's reaction details the main points: 'This Patent, Mr. *Williams* publickly, and vehemently preached against, as containing matter of falsehood, and injustice: Falsehood in making the King the first Christian Prince who had discovered these parts: and injustice, in giving the Countrey to his *English* Subjects, which belonged to the Native *Indians*'.³⁴³ Winthrop recorded in his journal on 27 December 1633 that Williams 'disputes [the magistrates'] right to the landes they possessed here: & concluded that claiminge by the kinges grant they could have no title: nor otherwise except they compounded with the naties'.³⁴⁴ The three main passages which 'much offended' were: 1) he charged King James with lying because he was not the first Christian Prince to discover the land (this challenge

³⁴³ *Complete Writings*, ii, p. 46.

³⁴⁴ *Winthrop Journal*, p. 107.

may be due to James' claim to be a 'Christian' Prince since he was head of Anglican church); 2) calling the King blasphemous for calling Europe Christendom or the Christian World; 3) for applying to King Charles for remedy, an optimistic attempt considering the charges laid against his father.³⁴⁵ Williams further argued that a royal patent did not entitle settlers to land which was already owned, attacking both the narrative of salvation and waste, and the patent (thus undermining both natural and civil claims to land). This left New England settlements legally vulnerable, as Cotton notes '[t]o this Authority established by this Patent, *English-men* doe readily submit themselves: and foraine Plantations (the *French*, the *Dutch*, and *Swedish*) doe willingly transact their Negotiations with us'. This left the colony without the legitimate ability to trade or negotiate with other European powers, and left the land open to being claimed by other countries³⁴⁶ It is interesting to note that Winthrop's recording of this tract is in the same journal entry which notes the elimination of the natives by the small pox, this is not the only time these two issues match up in the diary. This shows that contemporaries drew a link between the two topics; both in colonial leaders' minds, and also that such issues come to the fore during moments of tension or change.

We can see that Williams touched a nerve as the issue was not only addressed publically but also pushed colonial leaders to re-assert their position privately as evidenced by a letter from Winthrop to John Endicott in which he stated the three supports for an English title to New England: 1) patent, 2) *vacuum domicilium*, 3) 'good liking of the natives'. Winthrop's agitation over the issue is obvious from his private questioning of the topic: 'If God were not pleased with our inheriting these parts, why did he drive out the natives before us? And why dothe he still make room for us, by deminishinge them as we increase?...if we had not right to this lande yet out God hathe

³⁴⁵ *Winthrop Journal*, p. 107.

³⁴⁶ *Complete Writings*, ii, p. 46; see also 'John Cotton to ?', *Letters*, pp. 158-60.

right to it, and if he be pleased to give it to use (taking it from a people who had so long usurped upon him, and abused his creatures) who shall control him on his termes?',³⁴⁷ It is important that Winthrop not only felt compelled to publically defend the colonies property rights, but that it was a topic which also drove him to private contemplation and debate. This also appears to be the first time that the phrase 'vacuum domicilium' appears in print, it could have been created by Winthrop to help support his attack on Williams and defend the colonies right to its possessions.

While Williams had not published these ideas, the leaders of Massachusetts Bay Colony were alerted to his writings and intention to write to King Charles, provoking the General Court into summoning him to Boston. In his defence Williams claimed the treatise was meant for the Governor of Plymouth only. It is unclear if the court believe him, but Williams was let go once he burned all copies of the treatise and 'gave satisfaction of his intention [--] his loyalty'.³⁴⁸ The court responded by banning purchasing land 'without lease' from natives, began to assure ownership of land, and ordered a survey of all land and an oath of allegiance.³⁴⁹ Throughout this crisis, Winthrop continued to fixate and write about the question of land rights and how native people fit into the English possession of New England.

In July the following year Winthrop took up the notion of *vacuum domicilium* again writing that 'besides the Kings grant, they had taken vp that place as vacuum domicilium, & so had continued without interruption or claim of any of the natiues for diverse years'.³⁵⁰ This phrase continues to appear in Winthrop's writings throughout the decade, and in 1639 he recorded the occupation of a new town noting 'we claimed Winicowett as within our patent, or as vacuum domicilium, and had taken possession

³⁴⁷ Letter from Winthrop to John Endicott, *Winthrop Papers*, iii, p. 149.

³⁴⁸ *Winthrop Journal*, pp. 108-9.

³⁴⁹ *Rec MBC*, i, pp. 40, 43-5.

³⁵⁰ *Winthrop Journal*, p. 122.

thereof by building an house there above two years since'.³⁵¹ While Winthrop was still using this phrase to argue about natural rights and patents, the term was becoming flexible as it was being utilised not only to uphold natural rights, but also documentation and the patent. Winthrop recorded in his journal in November 1634 that Williams 'has broken his promise to us in teaching publicly against the kings Patente'.³⁵² This incident raises the question if the problem here was Williams suggesting the validity of native rights, or merely the questioning of authority and control in the region. It may not be possible to disentangle the two, particularly as the colonial courts became more and more invested in controlling the land market – which due to Williams's suggestions now involved natives.

In addition to causing internal agitation among the colonial leaders, Williams's treaties led to policy changes which provided another pillar of support for property rights and further centralized control with the Bay leaders. In 1634 the General Court ordered the administering of an oath 'to all howsekeepers & sojourners being 20: years of age, & not freemen.' This was to be done by the deputies in each town. Winthrop noted in his journal that this was done as people began to talk of breaking from Boston.³⁵³ This oath was not only a consolidation of power and control, but a response to pressure and changes in belief. The idea of native land rights was spreading, though acknowledgement of rights did not necessarily equate to respect for those rights, as we will see later.

Williams did not stop his dealing with the natives, nor did he stop discussing or acting on his ideas about native land rights. The following year he acquired a large tract

³⁵¹ *ibid.*, pp. 283.-4; Tomlins, *Freedom Bound*, p. 149.

³⁵² *Winthrop, Journal*, p. 137; again the same entry mentions MBC treaty with the Pequot Indians which opened Conn to expansion.

³⁵³ *Winthrop Journal*, p. 112.

of land in Narragansett territory to the south of Massachusetts Bay. Williams obtained the land by acting within native customs, writing of his acquisition of Providence

I was the procurer of the purchase, not by monies nor payment,
the natives being so shy and jealous, that monies could not doe
it; but by that language, acquaintance, and favour with the
natives and other advantages which it pleased God to give me,
and also bore the charges and venture of all the gratuetyes
which I gave to the great sachems, and other sachems and
natives round and about us³⁵⁴

Not only was Williams acting without a patent in his purchase, and planned to establish his own settlement, but he was also acting outside traditional English customs relevant to securing and defining property.

Towards the end of 1635 rumours spread that Williams was gathering people around him and that he planned to ‘erecte a plantation about the Narragansett Baye, from whence the infection would easily spread’ and this finally pushed Bay leaders to act and they sent a warrant to summon him to Boston where he was to be shipped to England. Williams refused, claiming he feared injury, so Captain Underhill was sent ‘to apprehende him & carrye him aborde the ship’ but when Underhill arrived he found Williams had slipped away 3 days before.³⁵⁵ It is difficult to know if Winthrop was really keen to capture Williams: over 30years later Williams wrote ‘[t]hat ever honord Govr Mr Wintrop privately wrote to me to steer my Course to the Nahigonset Bay and Indians, for many high and heavenly and public Ends, incowraging me from the Freenes of the place from any English Claims or Pattents’.³⁵⁶ As with Morton, this account was

³⁵⁴ *RCRI*, i, p. 22-3.

³⁵⁵ *Winthrop Journal*, pp. 163-4.

³⁵⁶ *Correspondence*. ed. Glen W. La Fantasia, 2 vols. (Hanover NH, 1988), ii, pp. 10, 610; see also Williams letters to Winthrop from this period, *Winthrop Papers*, pp. 3:296-8, 314-8, 455-6.

written much later so it is questionable how much we can trust it. Williams could have been warned about the government's actions, but it is possible that Winthrop realised the danger of Williams set free in England where he could preach against the patent unsupervised. In addition, Williams was a useful agent and correspondent: after leaving the Bay colony he continued to serve as a negotiator and bought land and cattle for Winthrop and other colonial leaders.³⁵⁷ This further shows the continuing shift in policy, and also reinforced the colonists' focus on property and absolute ownership. This demand led to further changes in documentation with regards to natives, which as we will see next was most clearly revealed during the period of migration west to the Connecticut River Valley.

Narrative and Authority

This section is about the flexibility of narrative and the concepts of use, natural and civil rights. We can see that contrary to some historical interpretation, the question of Indian land rights and English expansion was not a clear case of dispossession, instead the English continued adjusting their narrative and documentation to try and reconcile their ambitions and cultural assumptions with their growing knowledge of the native population and landscape. The problems encountered by the Massachusetts Bay Company regarding native land rights increased with migration west to the Connecticut River Valley and north to Maine from 1634 onwards. In addition to a large, well-established and potentially hostile native population, the English had to deal with Dutch

³⁵⁷ Williams, *Correspondence*, ii, p. 165; He also advised Winthrop and others: John Winthrop thought Williams had bought two islands from Miantonomo for grazing hogs - but Williams explained 'Be pleased to understand' he cautioned 'your great mistake: neither of them were sold properly, for a thousand fathom would not have bought either, by strangers. The truth is, not a penny was demanded for either, and what was paid was only gratuity, though I choose, for better assurance and form, to call it sale.' Williams, *The Letters of Roger Williams, 1632-1682: Now First Collected*, ed., John Russell Bartlett, *Publications of the Narragansett Club* (Providence RI, 1874), 4, p. 104.

traders and settlers who wanted to claim the land for themselves. In Connecticut we find the first consistent policy of purchasing and recording land transactions between the English and native populations, and the introduction of conquest as a method to obtaining land rights. These changes reflected the continued uncertainty of where the authority to allocate ownership lay.

The Dutch who had established trading posts along the Connecticut River and the coastline were the main European competition in the region. They had established New Netherlands in 1614 when Adrian Block first explored this region, and in the 1620s made an alliance with the Pequots, the dominant native tribe in the region at that time, to secure a trade network. The Pequots were attempting to consolidate power themselves and in 1626 the Pequot chief arranged for his daughter to marry Uncas, son of a Mohegan sachem. Uncas later reported this was done to ‘keep their Lands entire from any violatio[n] either from neighboring or forreign Indians.’³⁵⁸ Thus Connecticut was seen as a difficult location for settlement, and despite the fertile land and excellent river network, initially it was not considered an option for the English settlers along the coast. The strong claim by the Dutch and Pequots meant that it was actually an Indian who first suggested English migration to the region. In April 1631 the sachem Wahginnicut invited both Massachusetts Bay and Plymouth to send settlers and traders to his territory on the Connecticut River and offered eighty beaver skins annually as tribute. He had dinner with the Governor of the Bay Colony but the offer was not accepted by either colony. Afterwards, Winthrop noted that the Bay leaders learned that Wahginnicut was ‘a verye treacherous man & at warre with the Pekoath’ and desired English help so he could return home. Bradford added that Wahginnicut was ‘banished’ from the territory he was offering to the English.³⁵⁹ What we can see here is that the

³⁵⁸ Bradford, *Plymouth*, p. 203; Salisbury, *Manitou and Providence*, p. 150.

³⁵⁹ *Winthrop Journal*, pp. 49; Bradford, *Plymouth*, p. 287.

natives realized the benefit of having an English alliance, and the understanding that land and trade were both items in which the English were interested. However, the English were at this time unwilling to risk war with the Pequots for someone with a slender claim to the land, though the fact they did not question his right (or former right) to the land is important. Further, at this point neither Plymouth nor the Bay Colony were strong enough in numbers to attempt a war, nor were they in need of land for expansion.

In the absence of an English presence, the Dutch continued to expand in this region, and in 1632 the Dutch West India Company purchased some land at the mouth of the Connecticut River and in 1633 purchased another tract of land near modern Hartford.³⁶⁰ These purchases indicate that the Dutch recognised some form of native land ownership, or were at least engaging in treaties and gifting as Roger Williams did. Finally, in 1633 Plymouth Colony, which had poor expansion prospects at home, took Wahginnicut up on his previous offer (now through his son Natawanute). Edward Winslow, now Governor of Plymouth, travelled to Massachusetts Bay to meet with colonial leaders and persuade them to join in the venture. Winthrop was hesitant and noted that ‘the place was not fit for plantation, there beinge 3 or 4000 warlicke Indians, & the river not to be gone into but by small pinaces.’ Despite the obstacles, the Plymouth leaders framed this move as ‘restoring’ the proper owner to his home country. Williams, who had composed his treatise to support Plymouth’s mission advised that ‘all civil polities enjoyed sovereignty regardless of religious difference’.³⁶¹ This made the Dutch purchases of land from the Pequots invalid, since they were purchasing land from invaders – not the rightful owners. If we examine Williams’s treatise and claim of

³⁶⁰ Sailsbury, *Manitou*, p. 207.

³⁶¹ Glover, ‘Wunnaumwayean’, p. 434; *Winthrop Journal*, p. 92; Bradford, *Plymouth*, pp. 287-9; CHS, MS Winthrop, John; ‘Letter from Governor Edward Winslow to Governor John Winthrop in 1644 in Relation to Early matters in Connecticut’, *New England History and Genealogical Register*, 29 (1875), pp. 237-40.

native rights in this context of expansionist ambition can see that the ideas expressed by Williams were not rejected by all English settlers. Indeed, with this argument Williams and Plymouth were appropriating the English ideas of natural and civil right and creating a narrative of restoration and justice, which was meant to help their claim in a contested region. In doing so they recognised that Indians *did* have right to land and that they possessed a sort of ownership or tie to the land.

Shortly after refusing to join Plymouth in their venture to Connecticut the Massachusetts Bay leaders changed their minds and made their own treaty and migration. A crucial factor in this decision was once again disease; by 1633 illness had not only hit Massachusetts tribes but spread through the Narragansett and into Connecticut regions, hitting the Pequot tribe.³⁶² In November 1634 the Pequots, who were now weakened and defensive (Winthrop notes that the Narragansetts ‘whom till this yeare, they had kept under’ and the Dutch were fighting with them) offered Massachusetts Bay leaders the title to their territory on the Connecticut River, 400 fathom of wampum, 40 beaver and 30 otter skins in exchange to send settlers, traders and to help obtain peace with the Narragansetts.³⁶³ This treaty was not popular with everyone. John Eliot of Roxbury preached against the deal later that month, blaming the magistrates for not getting the consent of the people, Winthrop also recorded that ‘the people beganne to take occasion to murmure against us for it.’³⁶⁴

Despite the objections and potential danger, many in Massachusetts and Plymouth were eager to migrate to this new settlement and in the summer of 1635 established new settlements, one near Plymouth named Windsor, and a few months later one along the Connecticut River named Hartford.³⁶⁵ William Pynchon, as part of

³⁶² *Winthrop Journal*, pp. 108-10; Bradford, *Plymouth*, pp. 290.

³⁶³ *Winthrop Journal*, pp. 133-4.

³⁶⁴ The next line in the journal is William’s breaking his oath. *Winthrop Journal*, pp. 136-7.

³⁶⁵ *Winthrop Journal*, pp. 157-8; Salisbury, *Manitou*, p. 216.

Massachusetts Bay, purchased land along the north of the river in 1635-6. This is the first recorded 'Indian Deed', previously sales were only noted in court records and the full terms were not provided. The Pynchon deed mentioned that the Indians were surrendering usufruct rights, the rights to use an area for planting, hunting or gathering, so the deed is acknowledging their natural rights to the land.³⁶⁶ The movement of the Bay settlers into this region upset the Plymouth settlers who believed they had right to the land which 'they not only purchased of the Indians, but where they had built'. Jonathan Brewster wrote to Bradford complaining 'Massachusetts men are coming almost daily' which they objected to as the Plymouth settlers 'were here first and entered with much difficulty and danger both in regard of the Dutch and Indians, and bought the land'.³⁶⁷ Not only were the Plymouth settlers drawing on purchasing from natives as justification for ownership, but also building on traditional narratives of improvement. The actions of the Bay colonists in ignoring both the Dutch and Plymouth's claims to the land demonstrate a pattern which highlights general ambition and ignoring other's claims – not just those of native populations.

Despite the growing acceptance of the purchase of native land the settlers remained reliant upon traditional European methods of validating ownership. In 1635 John Winthrop Jr purchased a deed from Lord Saye and Sele and Lord Brook, which was used in the establishment of the town of Saybrook. This deed, sometimes referred to as the 'Warwick Patent' was used to justify the occupation of Connecticut, though as we will see in the next chapter the settlers also pursued alternate methods to support their claim.³⁶⁸ In October 1633 an English expedition landed at the Dutch Plantation 'upon Hudsons river (called new Netherlandes)' where the English showed the

³⁶⁶ SHLA ES v.4: Bx. 1.1, f. 1.; On usufruct rights and natives see Cronon, *Changes in the Land*, pp. 66-8, 75.

³⁶⁷ Bradford, *Plymouth*, p. 314.

³⁶⁸ *Winthrop Journal*, p. 157; Bradford, p. 317. Salisbury *Manitou*, p. 217.

Governor there (Wouter van Twiller) ‘their Comission, which was to signifie to them, that the kinge of E: had granted the River & Contrye of Conectecott to his own subiectes’. The Dutch Governor replied that their government had granted the same land to the West India Company and asked that the matter should be settled between the respective heads of government back in Europe.³⁶⁹ That same month Winthrop learned that Plymouth settlers had tried to establish a trading post near the Dutch settlement but were forbidden.³⁷⁰ It is unclear why the English colonies did not send the matter back to London to be decided; perhaps they had become too used to self-governance in matters of expansion and settlement.

Whatever the reason, this tangle of relationships and claims led to conflict in 1636. The English accused the Pequots of murdering two men, while the tribe claimed the murders were actually committed by neighbouring tribes (who held alliances with the English). Then in September 1636 Cutshamekin, a Massachusetts Indian killed a Pequot while on an expedition with the English which Lieut. Lion Gardiner noted was the start of hostilities.³⁷¹ The actions taken by the English were once again drawing on common ideas and narratives from Europe. Similarly in *De Iure Belli* (1588) Gentili stated that those who violated canons of human society could be justly taken to war, their lands seized and their people enslaved. Later in, *De Jure Belli ac Pacis* (1625), Hugo Grotius explained that ‘those who kill Strangers that come to dwell amongst them’ could be justly taken to war. He further noted that a just war could be undertaken in defence, punishment or to recover property.³⁷² After the war the English accounts are the only to be written and published, which allowed them to shape the narrative and

³⁶⁹ Winthrop Journal, pp. 98-9.

³⁷⁰ Winthrop Journal, p. 99.

³⁷¹ Gardiner, ‘Relation of the Pequot War’, p. 11; Sailsbury identifies the indian as Cutshamekin, *Manitou and Providence*, p. 218.

³⁷² Gentili, *De Iure Belli*, p. 122; Hugo Grotius, *De Jure Belli ac Pacis Libri Tres* (1625 edition) quoted in Tomlins, *Freedom Bound*, p. 24.

memory of the war. What emerged is a streamlined account of a warlike tribe bullying other Indians and finally attacking English men on their property, which clearly draws upon the ideas and principles laid out by Gentili and Grotius about just war. There is no mention of the previous treaty with the Pequots, nor of the Dutch presence in the region, instead the English portrayed themselves as conquerors defending other tribes and their land from a hostile force.

The English make some use of this conquest in the distribution of land. Immediately following the Pequot War the General Court of Connecticut ordered that thirty men be sent to ‘the Pequott Countrey and River in place convenient to maynteine o[ur] right [tha]t God by Conquest hath given to us’.³⁷³ Some of former Pequot land was given to war veterans by both Connecticut and Massachusetts Bay.³⁷⁴ Overall though, despite the narrative of conquest and restoration and these few references to ‘right by conquest’, the English continued to purchase land from natives, even in the Connecticut region. Further, they did not reference right by conquest when dealing with the Dutch who continued to dispute ownership rights over the next decade. In 1643 John Winthrop wrote to Willam Kieft, Governor of New Netherlands, regarding the disputed land, as part of an on-going correspondence. Winthrop wrote that the Dutch had no right to the land as when the English first ‘discovered it’ they had found the Dutch ‘had neither trading house nor any pretence to a foot of land there’ and that in fact the English had returned the ‘true proprietors of the Land in question, who had been oppressed by the Pequots, but still continued in their right and propriety’. Winthrop noted that the Dutch had failed to produce any title which proved their right to the land but would consider any such evidence.³⁷⁵ In 1647 the Governor of New Haven wrote to the Dutch regarding continued land disputes and stated the English had right to the land

³⁷³ Quoted in Springer, ‘Law of Real Property’, p. 49.

³⁷⁴ Springer, p. 50; *Rec MBC*, i, p. 216.

³⁷⁵ CHS, MS Winthrop, John 1643; *Connecticut Historical Society Bulletin*, v. 17 n. 3 (Hartford, 1952).

by virtue of their patent from the King ‘& upon due purchase from the Indians, who were the true proprietours of the land (*for we found it not a vacuum*)’ and from continued improvement.³⁷⁶ What is clear here is that English right to the land may in part have been achieved through conquest, but that was only adding to the concept of native rights. This notion of conquered land only extended to areas previously owned by the Pequots, but they were still purchasing and even *defending* native land rights. Further, the right by conquest was in no way the main claim to property rights. Instead it was through purchase from those with ‘natural’ rights which remained the standard in securing a firm title to land.

Both before and after the war, colonists did not move into land formerly owned by Pequots, but into the lands of tribes who had relied upon the Pequots for protection. And like coastal tribes, they now relied upon the English for protection.³⁷⁷ The English built upon the tradition begun in Connecticut, and the ‘Indian Deed’ became common practice. However, this act of obtaining consent and documentation from native people was not only to become a policy for new grants and purchases, but the settlers attempted to cover gaps in documentation through the establishment of a new narrative of acquisition and settlement. This time, instead of publications, this was done through the courts, with the recording of previous ‘purchases’. That these documents were public, but not published means they were intended to mainly be accessible to a local population, demonstrating that this narrative was about self-justification and reflective of a change in thought about the origins of property rights. In the period 1637-40 there were a number of retroactive payments and deeds recorded which served the dual purpose of establishing the transfer of natural property rights from the natives to the settlers and making these civil rights by recording the transfer in the colonial records.

³⁷⁶ *RCNH*, ed. Charles J. Hoadly (Hartford, 1857), p. 508; Springer, ‘Law of Real Property’, p. 56.

³⁷⁷ Salisbury, *Manitou and Providence*, p. 225.

This not only symbolised a shift from relying solely on the charter for legal support and the narrative of waste and salvation for cultural support but also a further consolidation of authority by the Bay leadership - shifting control away from England and consolidating it in local court records.

Even though the English had access to a narrative of conflict and conquest they did not attempt to ignore or cover up notions of natural and civil rights. In Massachusetts Bay, the leaders still felt the need to secure rights, but followed the example of Williams and began documenting gifts and sales of land. The focus was now on relationships and documentation. In 1637 the Squaw Sachem received payment for the land now forming the town of Concord and between 1637-9 she received several payments for the town of Charlestown, the last one consisting of 21 coats, 19 fathom of wampum and 3 bushels of corn.³⁷⁸ In 1638 John Winthrop Jr paid £20 to Mascononomo for land now occupied by Ipswich. Further Mascononomo signed a document recording his surrender of the land: 'I doe fully resigne up all my right of the whole towne of Ipswich as farre as the bounds thereof shall goe all the woods, meadowes, pastures and broken up grounds unto the said John Winthrop in the name of the rest of the English there planted.'³⁷⁹ The following June Mascononomo was asked to sign another document reaffirming he had surrendered the land:

all the Right, property and Cleame, I have or ought to have, unto all the land lying and being in the Bay of Agawam, alls Ipswich being soe called now by the English, as well alsuch land I formerly referued unto my own at Chibocco as alsoe all other land belonging unto me in those parts Mr Bummers farme excepted only. And I herby relinquish all the Rhight and Interest I have unto all the Havens Rivers Creekes

³⁷⁸ Salisbury, *Manitou and Providence*, p. 200.

³⁷⁹ *The Indian Land Titles of Essex County, Massachusetts*, ed. Sidney Perley (Salem MA, 1912), p. 26.

Ilands, huntings and fishings with all the woodes Swampes Timber
and whosoever ells, is or may be in or upon said ground to me
Belonging.³⁸⁰

There seems to be some confusion over the boundaries or the legality, for the following year, the General Court had him appear before them to reconfirm the sale. That November the town of Ipswich was ordered to reimburse Winthrop the £20 for the sale.³⁸¹ This repeated calling upon of the natives to affirm sale was common. Sometimes the land was bought in small pieces, other times Indians were called to witness that a sale had occurred, or to affirm that they would uphold a sale by their relatives.

The statue of 1634 ordering that all purchase of land must be approved by the central authority was further clarified in 1639 when the court ordered that all purchases from Indians must be entered into the court records.³⁸² Further laws in Connecticut, Plymouth, Rhode Island and New Haven ordered that purchases could not be made without permission.³⁸³ This remained in effect throughout the century and was even affirmed in Massachusetts in 1701, when it was ordered that all Indian deeds made after 1634 without consent of the General Court were invalid:

Whereas the government of the late colonys of the Massachusetts Bay
and New Plymouth, to the intent the native Indians might not be
injured or defeated of their just rights and possessions, or be imposed
on and abused in selling and disposing of their lands, and thereby

³⁸⁰ *ibid.*, pp. 27-8.

³⁸¹ *Rec MBC*, i, pp. 252, 279.

³⁸² *ibid.*, i, p. 112.

³⁸³ Springer, 'Law of Real Property', p. 36; *RCNH*, p. 27; *Conn Rec*, i, p. 298.

deprive themselves of such places as were suitable for their settlement and improvement.³⁸⁴

This restriction and control served several purposes. First, it allowed the government to control the process and direction of colonial growth. It was also a practical order, ensuring that land was not being bought or sold multiple times, and went some way to ensuring that Indians were not being exploited or manipulated. Though potentially this law was passed more out of a concern of reprisals or to avoid having to untangle complicated sales rather reflecting an ethical dilemma.

However, English settlers and the courts did express some concern about the possibility of natives being coerced or tricked into selling their land. In particular they worried about the use of alcohol, which native people had no experience with prior to European settlement and thus a very low tolerance. In 1679 witnesses to a 1661 sale of land by Alexander (Massasoit's eldest son) were brought to the General Court of Massachusetts and testified that he 'was in a very sober condition and not in any waies overcome by drink' when he made the sale.³⁸⁵ Perhaps wishing to avoid these sort of accusations some sales of land even had witnesses who documented that the sale was not coerced.³⁸⁶ Even Williams encountered problems and accusations of coercing natives when he was charged by John Eason of making his purchase 'of Druncken Sachims', a charge which Williams refuted. He interestingly argued that it should not make a difference if 'the Natives had [l]iquors and were distempered before or after, what is that to invalidating. . .[b]usiness', and pointed out that if the English were held to such standards 'what purchases amoung merchants or others in this country, or any

³⁸⁴ Acts of 13 William III, chapter II' Province Laws (Massachusetts), i, p. 471 quoted in Perley, *Indian Land Titles*.

³⁸⁵ MSA SC1-45x, v.30: 102a.

³⁸⁶ MSA SC1-45x v.30: 15.

country shall stand and be effectual?’³⁸⁷ This demonstrates that, when it came to business at least, Williams was holding Indians to the same standard as Englishmen.

These changes to the legal system and ideas about the origins of rights were not only used to support the settlers obtaining natural rights via the natives, but was reciprocal and extended English civil rights to native populations. The English also continued to clarify their position with regards to native civil land rights. In 1652 the Bay court ordered that ‘what landes any of the Indians, within this jurisdiction, have by possession or improvement, by subdueing of the same, they have just right thereunton, according to that Gen: 1:28, chapt:9:2, Psa. 115, 16.’ The court also stated that if any Indian came to live among the English they could ‘have an allotment[] amongst the English, according to the custom of the English in the like case.’³⁸⁸ This promise was followed through in 1659 when, via John Eliot, converted Indians applied for a grant of land and permission to establish a town. The grant and surveying report were very similar to those for English towns with the additional condition that none of the ‘Indians or their successors shall have power to sell, alienate, give, or dispose of any of the said lands’ without the consent of the General Court.³⁸⁹ This might have been to provide the English additional control over the natives, but it might also be an attempt to prevent these Indians from exploitation by other Englishmen. When this new town of Natick became embroiled in a boundary dispute with its English neighbour, Dedham, the General Court eventually decided in favour of the Indian settlement based upon their legal arguments, improvement of the land, and their ‘native right, which cannot, in strict justice, [be] utterly extinct’.³⁹⁰

³⁸⁷ *Correspondence*, ii, pp. 488-9.

³⁸⁸ *Rec MBC*, i, p. 281.

³⁸⁹ MSA SC1-45x v.30: 79, 81; *Rec MBC*, i, p. 409; one example is attempted defrauding of Wompatucke Josius by Richard Thayer, though in this case the inhabitants of Braintree came to the defence of Wompatucke, BPL, MS Am. 1508, v.1 n. 55.

³⁹⁰ *Rec MBC*, iii, p. 246; Springer, ‘Law of Real Property’, p. 54; MSA, SC1-50, v.1: 65.

Interestingly, one of the arguments made by Eliot in defence of the Natick Indians was an attack on *vacuum domicilium*:

Touching the Indians right. Our right we hold (said the Court) by o[u]r le[tt]ers Patent fro[m] the Kings Ma[jes]ty. & by our coming into vacuum domicilium *where we so find it*, but where the Indians have a rig[h]t, we doe religiously take care, that it be lawfully alienated, w[hi]ch we doe not see evident touching these lands in question.³⁹¹

This shows that the concept of *vacuum domicilium* continued to be a subject of debate and use, but that it was no longer a strong enough argument for dispossession or claiming land. That the court accepted Eliot's argument for native rights 'in this case' demonstrates that the concept of wilderness and empty land continued to be a powerful narrative tool, but that it was no longer the sole basis for ownership. This could also be an attempt to bring native practices in line with English ones, to try and establish a more uniform system and notion of ownership across the two populations. This also demonstrated an increased desire to regulate and control the location of native people, in addition to the control already exerted over English settlers.

This desire for regulation and control is further evidenced in the deeds for several new settlements and colonies in the post-war years. For example, in 1638 in New Haven, settlers formed an agreement with Momaquin sachem of Quinopiocke, and 'other of his counsell' living on Quinnipiac River basin, who affirmed that he was the only with claim the land and served as representative for his tribe. His sister Shampishh (also a sachem) 'either had or pretended some interest in some part of the land' - the two stated that they had been troubled by 'the heavy taxes and eminent dangers which they lately felt and feared from the Pequots, Mohawcks, and other Indians' and 'jointly

³⁹¹ Quoted in Springer, 'Law of Real Property', p.58

and freely gave and yeiled up all their right, title, and interest' to the land at the mouth of the river and the harbour. Interestingly, part of the agreement was that the Indians should remove and confine themselves to an area determined by the English, and henceforth they could not move or plant without permission and could not hunt or fish near the English.³⁹² Two week later New Haven representatives signed a treaty with Mantowese (son of the sachem living at Mattabezeck and nephew to another) for land north of the previous purchase. Mantowese stated that the land was his via inheritance from his mother. This treaty had similar terms to the first New Haven treaty and limited Mantowese and his tribe to a set area and also regulated their movement.³⁹³ Salisbury highlights the odd nature of this treaty – which Mantowese signed with only one other Indian present. Further, his father and uncle were sachems further up river near Hartford so this meant the family was divided as both treaties stipulated kinship ties came second to colonial allies.³⁹⁴ Perhaps because of the very strict conditions and odd nature of this treaty it was recorded there was an interpreter, John Clarke, present.³⁹⁵ Here, as in Massachusetts and Plymouth, the numbers were with English again, in 1642 there were 2,500 English at New Haven, but only 47 with Quinnipac and 10 with Mantowese.

However, Indian deeds and narrative were not enough, and there remained strong ties to England and the legal methods and system there. These new settlements: Providence, Rhode Island, Connecticut, New Haven, and Martha's Vineyard not only sought documentation confirming their rights from the Indians, but also via other avenues. In 1639 the Connecticut River towns (Hartford, Windsor, Wethersfield) which only had a deed of sale from Lord Saye and Sele and Lord Brook, but not a formal

³⁹² *RCNH*, p. 1.

³⁹³ *ibid.*, p. 5.

³⁹⁴ Salisbury, *Manitou and Providence*, pp. 226-8.

³⁹⁵ *RCNH*, p. 5.

charter or confirmation of rights from other colonial governments formed their own government and sought a charter from the English government. Even Roger Williams eventually sought English legal confirmation of purchase in addition to his purchased native rights.³⁹⁶ Despite adopting native practices and pushing for acknowledgement of their land rights in 1640, he sailed to England in search of a charter to further legitimise his ownership.

On his way to England, Williams completed his *Key into the Language of America*, demonstrating the advancement in understanding of Indian land use and rights (though this does not mean that this was followed by all settlers). This new understanding had meant developing new ways of interacting with native populations in order to justify the expansion of the colonies and confirm their rights to the land. Williams's path of establishing a colony before obtaining a patent or charter was not new (as seen with Plymouth), but the number of colonies popping up in New England who were not immediately searching for a new charter shows that authority was not solely the privilege of the English crown (a notion which would be questioned even further with the changes occurring in England at this time). This was further illustrated by the development of new laws and methods of controlling land distribution within the colony itself. These issues will be further explored in the following chapter.

Conclusion

In summary, we can see how narrative (found both in published works and legal documents) worked with documentation to help build a solid foundation for English property rights in the face of challenges and changes. Throughout the period in question the vision and essential character of English property did not alter; but the

³⁹⁶ La Fantasie, *Correspondence*, ii, pp. 507-8.

methods and sources to support and define this concept did shift in order to maintain the basic desire for clear, individual ownership of land. This situation reveals that the basic concepts surrounding property and ownership (including: natural and civil rights, common land, cultivation and improvement, and enclosure) were fundamental but had fluid boundaries. The English were able to alter their perceptions to include natives into existing framework of ideas, but not able to introduce new notions of ownership. Instead they attempted to squeeze the native population into their own vision of the world. The use of narrative to cover gaps or issues with conceptions of property, which emerged during the troubles in New England, were also used by John Locke when trying to explain how modern conceptions of property emerged - showing that this situation was not unique to New England but part of a wider interest in defining and explaining property. In addition to these changes, we also see a movement of control towards colonial governments (as seen in previous chapters as well). These two elements - a concept and system of property which changed in the colonial situation - and the consolidation of power within colonial systems led to problems when English authorities and structures of power and rights to land were re-introduced under the rule of the Dominion of New England.

Chapter 4: Property in the Atlantic World

This chapter will first look at the period of isolation following the English Civil Wars and then examine the conflict, confusion and complexity of sorting out ownership and land policy in the Atlantic world of Restoration England. Of all the events examined in this thesis, this period is the least covered in of those examined, particularly when looking at property and land.³⁹⁷ However, it is critical not only consider the ideas of early explorers or relations with Indians but changes and challenges to the system – most clearly appearing in the form of the Dominion of New England. This final chapter will tie together the different themes and structures examined thus far particularly legitimization and methods of acquiring land and authority.

It will further examine how early writings and disputes over legitimacy and authority helped modify the existing English system of land distribution to suit the needs and desires of newly formed colonies. These led not only to a belief that land was held in common for all men (granted by a Biblical or natural right) but also in the rights of Indians and the settlers' need to negotiate with them and to have an orderly system of acquisition and distribution in order to secure their civil rights to land. However the early negotiations and compromises required in devising a suitable and

³⁹⁷ The Best study remains Viola Florence Barnes, *The Dominion of New England: a Study in British Colonial Policy* (New York NY, 1923reprinted 1960); see also Richard A. Morris, *Studies in the History of American Law*, 2nd edn (Philadelphia PA, 1959), pp. 69-1255; Beverley Bond, *The Quit-Rent System in the American Colonies* (New Haven CT, 1919).

sustainable land system also meant that some basic English systems were abandoned, forgotten, or compromised. This produced variations between the English and New England systems, furthered by the English Civil Wars which led to a period of isolation and a consolidation in New England land policy. At the Restoration in 1660 the New England colonies re-entered the Atlantic world seeking to re-affirm their claims. This required complicated negotiations as political power and favour continued to shift over the next 30 years. Some like Thomas Mayhew, leader, governor, and owner of Martha's Vineyard, were able to negotiate this new world and ensure their claim and power remained intact, while other groups such as the Massachusetts Bay Company came under intense scrutiny and lost their right to self-government. The brief period of the Dominion of New England (1686-88) highlights just how much the system of land distribution in New England had strayed from its English origins, and the extent of changes in the meaning of property and ownership. The main problems uncovered were all rooted in documentation and authority. Which was a difference in methods of dividing land: who could do it, how was it recorded, what payment was given for the land. But in attempting to correct or change these patterns the Dominion of New England revealed the link between identity and property which had developed through the process of settlement had established new ideas about both. By questioning the system which became established over 50 years the leaders of the Dominion were not only attempting to change the system but to change the relationship people had with the land, undermining and challenging their identities. While the Dominion of New England showed that there was some dissatisfaction with the system in place (mainly expressed by those on the fringe or outside of Puritan society) overall it worked for the colonies. It is possible that had the Dominion of New England continued, there may have been some changes to the land systems of the New England colonies, most notably

in quit rents and documentation; however, the basic patterns of settlement and the question of *who* owned the land and *who* had right to it had become too entrenched to be reversed.

Atlantic Division and Inward Rule

This section establishes the complicated web of property and ownership via authority on both sides of the Atlantic examining, first, ties to England and second, the move to establish internal networks once England entered into civil war. Though Roger Williams had established ownership for his colony in New England via improvements and the acquisition of Indian Deeds - or at least agreements with native populations - he still travelled to London in 1643 looking for incorporation of Providence, Portsmouth and Newport into a single colony. However, this was a time of turmoil in England, and the authority for issuing patents (along with many other things) was in transition. That November following the convention of the Long Parliament charter requests had to be submitted to the newly created Committee for Foreign Plantations, led by the Earl of Warwick and Sir Henry Vane.³⁹⁸ Williams not only had to contend with shifting bases of power in England but also with opposition from the Massachusetts Bay Company, who sent Thomas Weld with the 'Narraganset Patent' to claim ownership for part of the territory in question and extend the boundaries of the Bay Colony patent.³⁹⁹ Despite the Bay colony's attempt to defraud Williams of his patent, interestingly through the forgery of an Indian deed, Williams succeeded in his mission and in March 1644 was

³⁹⁸ Robert Brenner, *Merchants and Revolution: Commercial Change, Political Conflict, and London's Overseas Traders, 1550-1653* (1993, London, 2003), pp. 521-2.

³⁹⁹ Fraudulent charter published in *New England Historical Genealogical Register*, 11 (1857), pp. 41-3; Cogley, *John Eliot's Mission*, p. 25.

awarded a 'free and absolute charter' for Rhode Island and returned to New England in August the following year.⁴⁰⁰

Williams was not the only applicant for a new charter from London. Samuel Gorton had obtained land through purchase or negotiation with a local tribe in New England and then settled and improved the land before looking for a formal title via the English legal system. The problems encountered by Gorton resulted from Williams's absence. In 1643 William Arnold altered the Providence records omitting mention of the sale of Pawtuxet and then convinced Pomham and Sacononoco to sever ties with the sachems allied to Williams and to sell land to the Massachusetts Bay Colony. This new deed placed the inhabitants of Shawomet, mainly Gorton and his followers (known as Gortonists), under the jurisdiction of Massachusetts Bay. In September that year Gorton and his followers were tried, convicted of blasphemy and sentenced to manual labour. Though, like Williams, the Bay leaders soon decided that banishment was preferable to risking Gorton spreading blasphemous ideas. Gorton and his followers then decided the best course of action was to travel to London to seek a new title for their land. In June 1644 he gathered a list of complaints by Shawomet residents and along with two followers, Randall Holden and John Greene, travelled via New Amsterdam to London. Of course, by this time Williams already had a charter for Rhode Island, which invalidated the purchase arranged by Arnold. It is not clear if Gorton was aware of this, as Williams did not return to New England until that September.⁴⁰¹

The Committee for Foreign Plantations could not proceed with a hearing to finally decide the matter, as Massachusetts Bay had not provided anyone to defend

⁴⁰⁰ *RCRI*, i, pp. 143-6; *Winthrop Journal*, pp. 54-4; Muldoon, 'Discovery, Grant, Charter', p. 122; Cogley, *Mission*, pp. 25-6.

⁴⁰¹ Cogley, *Mission*, pp. 27-9; Glover, 'Wunnaumwayean', p. 439. No copy of the Shawomet petition against Massachusetts Bay remains.

themselves to the committee. Instead, Gorton and his followers were granted a charter of incorporation and given permission to remain living in Narraganset Bay. A letter was sent to the Governor of Massachusetts which explained the situation, granted Gorton and his followers' passage through Massachusetts territory and allowed for a rebuttal from the Bay Colony.⁴⁰² Gorton sent one of his followers back with the new charter and letter for the Bay Colony, but remained in London.

Back in New England Massachusetts officials, upset after two rival colonists slipped away to seek charters from London, were searching people bound for England 'by the authority of the govenour and council' and uncovered falsified petitions and queries for the Committee for Foreign Plantations. This not only reveals some of the dissatisfaction among those opposed to Massachusetts Bay but also the extent of control the colonial courts could exert.⁴⁰³ It is also important to note the amount of forgery and questionable documentation in this period – not only highlighting the crucial role of written evidence but also the difficulty in regulating it. Massachusetts did not stop at searching people leaving the colony, but again tried to interfere in petitions put forth in England as well, which thankfully due to Gorton's decision to remain in London he was able to defend against. The leaders of Massachusetts Bay decided to take up the offer of reply to the committee's decision and compiled a long response and objection with Gorton's settlement.⁴⁰⁴

In 1647 Edward Winslow, of Plymouth, acting as agent for the Bay Colony, arrived in London to challenge Gorton's claim. The plea put forth on behalf of Massachusetts was overly solicitous

⁴⁰² 'Letter from the Lord Admiral and Commissioners for Foreign Plantations to the Governor, Deputy Governor, and Assistants of the Massachusetts Plantation, 15 May 1646', in *Correspondence*, ii, pp. 454-7.

⁴⁰³ *Rec MBC*, i, pp. 512-5.

⁴⁰⁴ *Rec MBC*, iii, pp. 93-4.

Whereas by virtue of his majesty's charter, granted to the patentees...we were incorporated into a body politick, with diverse liberties and privileges...We do acknowledge, (as we have always done, and as in duty we are bound,) that although we are removed out of our native country, yet we still have dependence upon that state, and owe allegiance and subjection thereunto, according to our charter.

Winslow noted that Gorton's company threatened the Indians 'who (to avoid their tyranny) had submitted themselves and their lands, under our protection and government'. This argument echoed the ones made during and immediately after the Pequot War – of English settlers protecting natives and thus gaining rights to land. It is interesting to see it applied in documents presented to England, where the concept of native land rights had not become accepted or even much discussed. Warwick and commissioners met and examined evidence from both sides. They decided Shawomet was outside the jurisdiction of Massachusetts Bay, but its boundaries were unclear and they could not determine whether it lay within Providence or Plymouth so asked for a survey of the land before making a final decision.⁴⁰⁵ This episode not only highlights the lengths to which the Bay Colony was willing to go to secure and expand their land holdings, but also some important concepts surrounding property. This meant not just the use of native land rights as justification for ownership, but also the right of incorporation, which formed a body politic and granted liberties and privileges to settlers.

Connecticut, who up till now were relying on their constitution (the Fundamental Orders) and the Saybrook Patent, also attempted to obtain a charter. In

⁴⁰⁵ Williams Hubbard, *A General History of New England from the Discovery to MDCLXXX*, reprinted in *Collections of the Massachusetts Historical Society* (Cambridge MA, 1815), vi, pp. 501-10; La Fantasie, *Correspondence*, ii, p. 457; *Rec MBC*, iii, pp. 93-4. Williams viewed Groton as possessing a true claim to the land based on his 'solemn covenant' with the natives, *Correspondence*, iii, p. 453.

1645 they drew up a petition; however the ship with the emissary and letter capsized on the way to England.⁴⁰⁶ Connecticut did not get another opportunity to try for a charter as the divide in the English government grew deeper as the civil wars intensified and there would be no more colonial patents issued until after the Restoration in 1660. However this did not mean that colonies quit expansion or division of land, but for next fifteen years they looked for alternate methods to legitimize their authority and ownership. This is a process which had begun several years earlier - partly through the use of 'Indian Deeds' and the Pequot War, but also through more direct means such as the 1641 Massachusetts 'Body of Liberties', one section of which mentions property 'All of our lands, and heritages shall be free from all fines and licenses upon Alienations and from all harrlots, wardships, liveries, primersisins, yeare day and wast, Escheates, and foreitures, upon the death of parents or ancestors, be they natural, casual, or juditial'.⁴⁰⁷

It was not only laws but also legal bodies, such as the United Colonies of New England (also known as the New England Confederation), which formed to protect property and political rights. The group was comprised of Massachusetts Bay, Connecticut, New Haven and Plymouth. The United Colonies formed in 1643 with a primary objective of defence, but it also made treaties with other groups - such as in 1645 with the Narragansetts – so were adopting some powers reserved for the crown. The actions of this group echo the early treaties and compacts made by Plymouth, which was then a group without a charter. Outside of Massachusetts Bay, other colonies continued expanding, though here through negotiation and purchase not conquest. The meetings for the group were held in Boston and as in most situations in

⁴⁰⁶ *Conn Recs*, i, pp. 126-8; Jones, *Congregational Commonwealth*, p. 161.

⁴⁰⁷ *Collections of Massachusetts Historical Society*, 3rd ser., (Cambridge MA, 1815), viii, pp. 216-9.

New England, Massachusetts dominated the United Colonies.⁴⁰⁸ In 1650 the United Colonies formed a truce with the Dutch, which established boundaries on Long Island, and granted rights to land already occupied by the Dutch at Hartford. However, showing that despite the name, this was not a fully united group in June 1653 Capt Underhill, with approval from Connecticut and Providence, attacked the Dutch and seized Fort Good Hope.⁴⁰⁹ So not only were the colonies entering into treaties and wars with native populations (whose political rights were not recognised in Europe) but also with other European powers, thus overstepping the rights granted to them by their charters (or in Connecticut's case acting without any sort of legal backing since they had not obtained a confirmed charter).

This period also saw the Massachusetts Bay Company in particular taking actions in pursuit of land and property against other English settlements. The main method through which this was achieved was through surveying colonial boundaries, attempting to expand the territory of Massachusetts. This was outside the abilities granted to the corporation by its charter, which had clearly set the boundaries. In 1642 Massachusetts commissioned a survey of boundary shared with Connecticut. The report of the southern boundary line of Massachusetts was surveyed and mapped by Woodward and Saffrey in June 1642. Orientation of the map reflects that this is being ordered on behalf Massachusetts, as the land is laid out to orient people coming southwest from Boston.⁴¹⁰ Perhaps not surprisingly, Connecticut, who had no representatives on this mission, did not accept these boundaries and were still debating

⁴⁰⁸ Robert Bliss, *Revolution and Empire: English Politics and the American Colonies in the Seventeenth Century* (Manchester, 1990), p. 135

⁴⁰⁹ Jones, *Congregational Commonwealth*, p. 147.

⁴¹⁰ 'A description of the extent of the bounds of Massachusetts Bay Patent southward lying in 41 deg. 55 minuts Latt.; crossing Connecitcott river at Windsor ferry place, the house of John Bissell being on the west side and the Widow Gibb hir house on the east side of the river. Also a description of the most remarkable rivers, brooks, ponds, hills, playns, swamps, situation of Indians discovered by the waye with Latt of Springfield, 42deg 6 minutt and the trading house of Oronoco. The 14th of ye 4th moth 1642. The miles are as 60 is to 69 1/2 in proportion ot the ordenary cnayne miles contaning 320 rods or 8 furlongs' SHLA, EM Ser 4 Bx 4; MSA SC1-50, v.34: 15, 17.

the boundary line at a commissioners meeting in 1649. However, the matter was not finally decided until Connecticut received a charter in 1662 after the Restoration.⁴¹¹

Massachusetts was not just trying to move into territory in Rhode Island and Connecticut, but also looked northwards for expansion. In 1654, with both Gorges and the king gone, Massachusetts took advantage of the confusion and lack of leadership in Maine and decided to take part of that colony. Perhaps in anticipation of this in October 1653 Samuel Andrews and Jonas Clarke were commissioned by the General Court to survey the northern line of Massachusetts and again the following October. The survey produced redrew the boundaries of the Merrimac River and annexed the Maine settlements.⁴¹² The actions taken here, more aggressive than with Connecticut were closer in line to the behaviour of the Bay leaders to the Pequot Indians in 1636. This was not just a question of boundaries, but conquest of another group.

It was not only the colonies who began acting to secure power and property through their own means. In 1641, looking to establish his own settlement (and possibly his own colony), Thomas Mayhew negotiated the purchase of several islands, including Martha's Vineyard, Nantucket and Elizabeth Isle. Like the river colonies, Mayhew chiefly achieved this claim by purchasing the land from someone holding the patent. Mayhew's case is interesting as it offers a glimpse into the complicated and entangled sinews of power stretching across the Atlantic and throughout the colonies during this period of self-governance and into the Restoration-era Atlantic World.⁴¹³

Mayhew had been one of the original migrants to Massachusetts Bay in 1630. Matthew Cradock, one of the early members of the Bay Company and the first governor of the colony, employed Mayhew to travel to New England and run his plantation at Medford, located on the Mystic River which had been established a couple years prior

⁴¹¹ Clarence Winthrop Bowen, *The Boundary Disputes of Connecticut* (Boston MA, 1882).

⁴¹² *Rec MBC*, iii, p. 361; *MSA*, v.3: 13, 13a, 14.

⁴¹³ MHS, Ms. N-2308, 'Naushon Papers, 1641-1947', Bx I, f.1 'Deeds, ect. 1641-1681'.

to the main fleet's arrival.⁴¹⁴ Mayhew worked for Cradock for several years before returning to England in 1636 at which time he married. Later he returned to New England and left his position to settle at Watertown, Massachusetts. The acquisition of the islands in 1641 was not as straight-forward as purchasing the rights, as there were multiple claims to the land. The first purchase was done via an agent, James Forrett a gentleman who had been sent by Lord Sterling to America dispose of some land. It is not clear how Mayhew was introduced or learns about this, but he acquired the rights to the land but with the stipulation that the he pay a yearly tithe to Sterling, the amount of which was to be determined by John Winthrop or two other magistrates of the Bay Company.⁴¹⁵ This is yet another example of the expanding power of the Bay Colony in this period. Mayhew, then obtained permission from the Council of New England to colonize the island. Finally Mayhew not only had to negotiate this chain of ownership which stretched from his islands through Boston and back to Sterling via his London agent but also had to establish a second chain of ownership via Gorges who had a competing interest and claim to the land in question.

The payments due by Mayhew to individuals in England were unusual in New England. Massachusetts Bay had never found precious metals and thus the clause stating they needed to pay a fifth to the king was not fulfilled. Outside of this portion of the charter there were very few attempts to regulate and profit from colonial trade or growth prior to the Restoration. The first instance of this was the introduction of Navigation Acts by Oliver Cromwell in 1651, but the intent here was to profit from trade not landholding.⁴¹⁶ Instead of paying to the crown the New England colonies established their own revenue stream to support local services - certain parcels of land

⁴¹⁴ Brenner, *Merchants and Revolution*, pp. 150, 137.

⁴¹⁵ MHS, Ms. N-2308, 'Naushon Papers, 1641-1947', Box I, f.1 'Deeds, ect. 1641-1681'.

⁴¹⁶ The land was 'to be holden of his said Majestie in the County of Kent in free and common Soccage and not in capite or by Knights Service' but 1/5 of all gold and silver ore was to be sent to the king, *Rec MBC*, pp. 3-20.

would be set aside or marked for letting, the revenue generated would go to support schools or ministers. In 1633 Noddles Island was granted to Samuel Maverick on the condition he pay yearly 'att the General Court . . . either a fatt weather or a fatt hogg or eleven shillings' also the southern part of the island was to be used by Boston and Charlestown for wood. In 1634 Long Island, Deer Island, and Hog Island were granted to Boston for £2 yearly, the following year this grant was changed to include Spectacle Island and the lands were given to Boston forever at a yearly rate of three shillings. Governors Garden (or Island) was rented at a fifth of all fruit until this was changed to a rental payment of a hogshead of wine (per request of John Winthrop).⁴¹⁷ These were exceptions however and there are few examples of New Englanders renting, not owning their own land.⁴¹⁸ Overall though, the yearly payment for use or ownership land was not standard in New England colonies, instead land was granted in fee simple, or freehold. The practice of requiring rent, or tithes was common back in England though, a remnant of the feudal and manorial system.⁴¹⁹

Part of this exclusion may be due to fact that individuals continued to need to purchase land from Indians as well. Mayhew's situation appears unique in that he was paying quit-rent back to a patent holder in England while stilling having to confirm his ownership through multiple Indian deeds. In 1641 his son (also Thomas) led a group of approximately fifty people from Watertown and settled on Martha's Vineyard that year. At the time, and unlike most other colonial settlements, the English population was far outnumbered by the indigenous populations of Martha's Vineyard and Nantucket which

⁴¹⁷ 'The Revolution in New-England Justified', in *The Andros Tracts: Being a Collection of Pamphlets and Official Papers Issued During the Period Between the Overthrow of the Andros Government and the Establishment of the Second Charter of Massachusetts*, ed. W.H. Whitmore (New York NY, 1868), i, p. 99.

⁴¹⁸ Barnes, *Dominion of New England*, p. 206.

⁴¹⁹ David Thomas Konig, 'Regionalism in Early American Law', in *The Cambridge History of Law in America. vol.1: Early America (1580-1815)*, ed. Michael Grossberg and Christopher Tomlins (Cambridge, 2008), p.158. For a more detailed account of the founding and settlement of Martha's Vineyard see: David J. Silverman, *Faith and Boundaries: Colonists, Christianity, and Community among the Wampanoag Indians of Martha's Vineyard, 1600-1871* (New York NY, 2005).

historians estimate at 3,500 and 2,500 respectively pre-settlement.⁴²⁰ This made co-operation with native people crucial, particularly given the missionary leanings of both Mayhews which led them to explore avenues of co-operation rather than domination. There are no formal records from this period but several Indian deeds two by 'Seayke Sachem on Monument' in 1654 and 1657, indicated a continual negotiation of rights and ownership. In 1657 we also have a deed by 'Quaquaquinigt' who sold the Islands for 2 coats and confirmed ownership of land and that of several nearby islands.⁴²¹ For the nearby island of Chappaquidick, Mayhew negotiated for rights in 1653 – it is not clear if this is a sale or if Mayhew is negotiating rent. In exchange for the land Mayhew paid 20 bushels of corn a year for three years to Pahkepunnassoo and the sachems son was given two lots of land. In 1663 Mayhew was involved in another deal with the sachem, offering to pay him 'one good goat ram yearly' or the equivalent price.⁴²² Mayhew's continued efforts to re-negotiated and navigate multiple layers of native ownership and claims ensured he had good relations with local tribes. In addition, the missionary work carried out by him and his son meant there was a lack of involvement by any of the natives allied with Mayhew during King Philip's War.⁴²³

This lack of hostilities is impressive considering the past relations between English settlers and the local tribes. Part of Gorges' claim to this was based upon an expedition he funded landing there in 1602. The resulting missions so upset the local tribes that it led to a cessation of trade and suspicion over theft. In 1611 three Indians were captured from Martha's Vineyard, including Epenow, a sachem there. This was done on behalf of Gorges who kept Epenow for three years trying to train him and gain his loyalty. Epenow managed to escape in 1614 on return voyage when he leapt from

⁴²⁰ Salisbury, *Manitou and Providence*, p. 29.

⁴²¹ MHS, Ms. N-2308, 'Naushon Papers, 1641-1947', Box I, f.1 'Deeds, ect. 1641-1681'; MHS, NS.1495.

⁴²² *The History of Martha's Vineyard, Dukes County, Massachusetts in Three Volumes: Vol. 2: Town Annals*, ed. Charles Edward Banks, (Boston MA, 1911), ii, p. 149.

⁴²³ On Mayhews missionary work see Cogley, *Mission*, pp. 172-81.

ship and swam to shore aided by Indians who fired arrows at the English to ward them off. The Indians on these islands were also involved in several early treaties organised by the Plymouth settlers and were signatories on the 1621 document which placed them (by English standards) under King James rule.⁴²⁴ Further, the settlers on Martha's Vineyard and nearby island were outnumbered by Indians by until 1720. This made the necessity of negation and good relations not only a priority but also an achievement.⁴²⁵ However, Mayhew's good relationship with his native neighbours did not extend to his English ones and upon the Restoration in 1660 and the resulting upheaval and uncertainty in New England he faced rebellion and problems from within his own settlement.

Restoration and Investigation

This section focuses upon the clash and tension over changes to the system, which led to instability and uncertainty in New England – and those who coped and adapted (Mayhew, Rhode Island) and those who resisted (MBC, Connecticut). The problems of this period are not only to do with questions of where authority lay, but also with increased interest by the crown in the revenue possibilities of the colonies and the desire to more closely monitor their actions. Though he had previously secured his right to land via Indian deeds, purchase of charters and negotiations with local colonies, in the 1660s Mayhew encountered problems with his right to Martha's Vineyard and Nantucket from England. Following the Restoration, Gorges' 1635 claim was pushed forward by his heir and in 1665 James, Duke of York, was granted a patent for New York (formerly New Netherlands) which included land owned by Mayhew. Both of

⁴²⁴ Salisbury, *Manitou and Providence*, pp. 95-6, 119.

⁴²⁵ James P. Ronda, 'Generations of Faith: The Christian Indians of Martha's Vineyard', *WMQ*, 38 (1981), p. 370; *History of Martha's Vineyard*, 2, pp. 15-6.

these patents were supported by the crown.⁴²⁶ The territory which comprised New York was partly the former Dutch colony, New Amsterdam, but also included land originally granted to the Earl of Stirling which was purchased by the Duke of York. This land was then formally granted by Charles II in 1664/5 as part of the new colony of New York. Perhaps it was anticipation of these problems that prompted Mayhew to require all settlers to sign a document in 1661 acknowledging his rule: 'These whose names are hereunder written do submit to the Government of the Pattent and do own it, that is, that it doth consist in the major part of the freeholders and a single person...Thomas Mayhew'.⁴²⁷ Despite this attempt to justify his ownership via internal methods, and the earlier purchases made Mayhew was unable to secure a continuation of ownership based on prior actions. The land network in the region became very muddled in this period. Land transactions from 1666 for part of Elizabeth Island, list it as being part of the Providence of Maine (which was taken from Massachusetts and restored by Charles II).⁴²⁸ This means Mayhew had to negotiate his land rights via even more avenues than previously.

It is not clear what arrangements Mayhew made during the 1660s, but he retained his position on the islands and it is not until 1671 that his rights were contested again. In 1671 he travelled to New York following a summons by Governor Francis Lovelace; there an agreement was reached that Mayhew would continue to the govern islands but under York's rule: 'Whereas Jnr. Thomas Mayhew of Martin or Martha's Vineyard hath been an ancient Inhabitant there where by God's blessing hee hath been an Instrumt of doing a great Deale of Good both in settling several! Plantaeons there as also in reclayming and civilizing the Indians. . .[i]t is ordered and agreed upon that the said Mr. Thomas Mayhew shall dureing his naturall life bee Governor of the Island

⁴²⁶ *History of Martha's Vineyard*, i, pp. 139-46.

⁴²⁷ Edgartown Records, i, p. 144.

⁴²⁸ MHS, Ms. N-2308, 'Naushon Papers, 1641-1947', Bx I, f.1 'Deeds, ect. 1641-1681'.

called Martin's or Martha's Vineyard, both over the English Inhabitants and Indians.'⁴²⁹ Mayhew was 80 years old at this point, so the decision to make him governor for life was likely a calculated risk. This agreement is interesting as it used same language as patents 'according to the custome of the manner of East Greenwich in the County of Kent in England', thus allowing him to hold land as a freehold. This agreement also mentioned land 'purchased of the Indian Proprietors', which reflecting a growing acceptance of native land rights, referring to them in English terms (proprietors) which infers their right to land. Finally, Mayhew agreed to pay two barrels of 'merchantable Cod Fish' each year.⁴³⁰ Lovelace also asked that the sachems allied with Mayhew were sent to New York 'soe they may pay their Homage to his Ma'tie and acknowledge his Royall Highness to bee their own Lord Proprietor' and to 'see he collection of his Majesties Customes and all fines',⁴³¹ These negotiations demonstrate the increased control that the new government were attempting to impose. Most important is the interest in assessing potential revenue schemes and the bringing all inhabitants of New England (even native ones) under control of the crown.

In 1673 the Dutch re-took New York, which Mayhew discovered when his grandson tried to deliver the yearly rent of cod. Mayhew was now forced to contend with a rival claim by the Dutch for his islands. However, those on the island unhappy with Mayhew's governance took this loss of local authority as an opportunity to rebel. The issues they looked for redress related to distribution of land and local government policy – namely that Mayhew was appropriating too much power for himself. The rebels appealed to Mayhew to change the local government, but upon receiving no response instead appealed to Massachusetts, who declined to be involved. The rebellion was a very bourgeois Puritan one; it involved the holding of alternate town

⁴²⁹ *History of Martha's Vineyard*, i, p. 148.

⁴³⁰ MHS, Ms. N-2308, 'Naushon Papers, 1641-1947', Bx I, f.1 'Deeds, ect. 1641-1681'.

⁴³¹ Quoted in *History of Martha's Vineyard*, i, pp. 150-1.

meetings in opposition leaders' houses and occasional visits to Mayhew's home to seek an audience. Upon being refused, the rebels would simply go home. This rebellious government operated for a year until the situation with Dutch was resolved in October 1674 and, with support from Governor Sir Edmund Andros of New York, Mayhew was able to fully regain control of the islands. While the rebellion during this time was not violent or even very exciting, the fact that individuals felt the ability to so openly contest the leader and owner of the island reveals just how tenuous Mayhew's hold on the island was – despite having received rights and support from multiple avenues, the acquisition and maintenance of land in this new world was tricky at times, as the other colonies would soon learn.

Part of the reason for the sudden reshuffling and increased focus after 1660 was an interest by the government in governing and profiting from the colonies - something not fully exploited in the pre-war years. This new ambition was reflected in charters for new colonies from this period which, like the deal Mayhew made with Lovelace, made the expectation for payment in return for land much clearer. For example, the Carolina charter of 1663 required a rent of 20 marks and the New York charter required a payment of 40 beaver skins.⁴³² While this system was being instituted for new colonies in New England it was not only Mayhew's claim now in danger with the Restoration. Other colonies, who had ruled themselves for decades without interference or input from England now began to seek royal charters, or for a confirmation of existing charters. Plymouth was the first New England colonial government to acknowledge the return of the monarchy and in June 1661 sent a letter and petition to that effect and requested the continuation of their religious and civil liberties. They did not receive a

⁴³² Barnes, *Dominion of New England*, pp.174-5.

response to this request, and the colony (possibly due to financial constraints) did not send a representative to England to pursue the matter.⁴³³

Connecticut, who up till now only had the deed of sale for Saybrook and the Fundamental Orders, decided to pursue a formal acknowledgement of their right to govern. This is particularly interesting as Connecticut had deliberately excluded any mention of the crown, or higher civil authority from their constitution – the only colony to do this. However, the threat of Massachusetts Bay was too great to attempt to continue rule without formal consent and clear boundary lines. This is seen in the decision recorded in 1661, the court of Connecticut justified obtaining a patent as they wanted ‘to secure our standing to confirm our privileges’. John Winthrop Jr travelled to England with a grant of £500 for expenses. He managed to obtain a very generous patent, perhaps because of the support by prominent members of government in England such as Lord Saye & Sele (who had the original title to the land purchased by Connecticut) and Lord Manchester. The charter was sent back to Connecticut with Simon Bradstreet and Rev. John Norton, as Winthrop stayed behind in England to conclude business (perhaps afraid Massachusetts would attempt to challenge it as they had with Williams and Gorton).⁴³⁴

Unsure of the legality of the patent issued by the Committee for Foreign Plantations, Williams raised £600 and sent John Clark to London to secure a new royal patent. Williams wanted a new charter to: secure peace between colonies and between the English and Indians; to secure personal liberty for inhabitants; to secure liberty for ‘estates, houses, cattle, land good’ and freedom from taxation without consent; liberty of society and liberty ‘to wit of attending to the laws of England. . .respection of our

⁴³³ King, *Cape Cod and Plymouth*, p. 256.

⁴³⁴ *Conn Recs*, i, pp. 361-2, 584; Jones, *Congregational Commonwealth*, pp. 162, 165.

wilderness estate and condicion'.⁴³⁵ Clarke secured a new royal patent in 1663 for Rhode Island. Several unique factors about this charter: it provided recourse for boundary disputes (to be mediated by the king); it allowed for the establishment of towns and a city – which was only implied in other charters; and it granted religious freedom.⁴³⁶ When new charter arrived in Rhode Island, with a sense of ceremony the General Court, ordered that the 'box which the Kings gracious letters were enclosed be opened, and the letters with the broad seal therto affixed, be taken forth and read. . .in audience and full view of all the people.'⁴³⁷ These concerns were not unfounded as in 1664 New Haven colony (which had a patent previously) was dissolved and made part of Connecticut as punishment for harbouring regicides.⁴³⁸

There was little action taken against Massachusetts immediately following the restoration, and like other colonies they went to England to obtain confirmation of their charter and holdings. In June 1662 John Norton and Simon Bradstreet, serving as delegates from the colony, met with the king and in exchange for confirmation of the charter were asked to ensure all freemen took an oath of allegiance, that writs be issued in the kings name, and to allow for liberty of conscience. Massachusetts followed most of the king's wishes, but ignored toleration of religion and continued to have disputes over boundaries with neighbouring colonies. In November 1662, Governor Endicott wrote a letter to the king to try and cover up the lack of change within the colony. This appears to have failed as in April 1663 Charles announced the intent 'to preserve the Charter of that Plantation and to send some commissioners thither speedily to see how the charter is maintained on their part.' The visit by agents of the crown was not

⁴³⁵ *Correspondence*, ii, p. 534.

⁴³⁶ Sydney V. James, *John Clarke and his Legacies: Religion and Law in Colonial Rhode Island, 1638-1750* (University Park PA, 1999), p. 81. The charter granted to Rhode Island remained in use until the adoption of a state constitution in 1843; *ibid.*, p. xiii.

⁴³⁷ *RCRI*, i, pp.509-11.

⁴³⁸ It did not help that it took until August 1661 to finally acknowledge Charles II as king. Bliss, *Revolution and Empire*, pp. 135-6.

entirely unexpected, the colonies had already been informed that they could come to investigate boundary disputes. However, the language of this announcement, suggested an investigation into the workings of the colonies as well.⁴³⁹

Reflecting a growing interest from the crown in colonial holdings, and possibly due to the number of complaints and problems relating to Massachusetts Bay, in 1664 Charles sent commissioners to New England to provide a report on conditions there. Plymouth, who still had not received any confirmation of its charter, decided to petition the commissioners when they visited. The colony seems to have made a good impression, with the only problem noted in the commissioners report a minor dispute over native land. However, this was not enough to get them the confirmation they desired. Instead, given the impoverished state of the colony, the crown offered a compromise – to secure a charter without charge, if the King could have input on the choice of governor. Plymouth declined this offer, and continued without the security of a confirmed patent.⁴⁴⁰ Rhode Island and Connecticut, who already had new charters, were given good reports. The history of ownership of the land was noted by the commissioners, with Rhode Island's claim based on land 'surrendered' by sachems and a deed which was in the possession of Gorton. Connecticut's claim was based upon the purchase of land and title from Lords Saye and Brooke and others. Based on the comments regarding the dispute in Plymouth and the claim to Rhode Island, it appears that the concept of native land rights was accepted by these commissioners – or at least they accepted it as practice in New England. Both Rhode Island and Connecticut were still involved in boundary disputes with neighbours, Rhode Island with Massachusetts and Connecticut with New York.⁴⁴¹

⁴³⁹ *ibid.*, pp. 148-9, 152.

⁴⁴⁰ BL Egerton 2395 f.428; King, *Cape Cod and Plymouth*, pp. 256-7.

⁴⁴¹ BL Egerton 2395 f.f 429, 432.

The visit to Massachusetts was fraught with problems. Despite the commissioners landing in Boston, due to the hostile reception there they decided to visit the other colonies first. On their return the general court of Massachusetts tried to convince the commissioners of their territorial claims, drawing up a map to that effect. However, this was ‘made in a Chamber by direction’ and the resulting map showed the colony encroached upon other colonies including Plymouth, Rhode Island, Connecticut, New Hampshire, Maine and into New York. The commissioners concluded, that this colony ‘hath engrossed the whole of New England’ and that it was ‘not one regularly built within its just limitts’. In addition to the problems of boundaries and overreaching their grant, the commissioners reported that ‘their houses are generally wooden, their streets crooked, with. . . no uniformity’.⁴⁴² This sentiment was also seen in the report on Connecticut which noted ‘scattering Twones not worthy of their names’.⁴⁴³ This dismissal of towns would be an issued raised again under the Dominion of New England.

Following the visit, Massachusetts was first reprimanded for seizing Maine in 1664, and ordered to make restitution to Gorges or his heirs. The colony responded by commissioning two ‘credible persons’ and two artists to chart the northern boundary of Massachusetts to prove that the land in dispute was in fact part of the original patent.⁴⁴⁴ The two reports were sent back to England to await decision by the crown.⁴⁴⁵ While, the intention of the Commissioners seems to have been that Maine would be have its own government again, Massachusetts re-annexed Maine in 1665 and sent 24 masts valued at £1,600 to the crown as a payment, or possibly apology for their actions.⁴⁴⁶ This retroactive payment for land already acquired (via questionable means) is very

⁴⁴² BL Egerton 2395 ff. 433b-34.

⁴⁴³ BL Egerton 2395 f.432.

⁴⁴⁴ BL Egerton 2395 f.437.

⁴⁴⁵ BL Egerton 2395 ff. 440-1.

⁴⁴⁶ Bliss, *Revolution and Empire*, p. 159.

similar to the behaviour of the Bay colonist towards local tribes from whom they received ‘gifts’ of land when first arrived and later asked that sachems verified these gifts in legal records. This is further evidence that much of Massachusetts policy was about expansion at any cost, and less a cultural war against the native. Following the purchase of Maine, the court at Massachusetts began demanding quit rents from inhabitants of that area (following the system established by Gorges). At the same time the original patent given to Mason for New Hampshire was deemed invalid as there was no royal seal and the territory was made into a royal province.⁴⁴⁷ They also sent further ‘gifts’ or payment to the Royal Navy in 1664, supplies valued at £1,200.⁴⁴⁸ This period is one of confusion regarding land holdings at the colonial level. With the chaos surrounding the Civil Wars (and period of self-governance by the colonies) and Interregnum there was not a consistent policy or committee overseeing colonial affairs.

Aside from the problems with Maine, there was little action taken against the Massachusetts Bay in this period. However, the crown continued to increase their observation of the colony, and in 1676 Edward Randolph issued a report regarding the state of the colonies which once again brought this region to the crown’s attention. The report of 1676 was particularly critical of the Bay government charging it with abuse of neighbours and the powers granted by the charter.⁴⁴⁹ Randolph’s work was rewarded with a new post in 1679: collector of customs in New England.⁴⁵⁰ Randolph returned to New England that year and was greeted warmly by Plymouth at least, though this colony was still in search of confirmation of its charter.⁴⁵¹ Throughout his visits in this period, Randolph continued to advise strong action against the Bay Colony, including: a

⁴⁴⁷ *MBC Rec.* v, 326-7, 399; ‘Declaration of the Inhabitants of Boston’, in *The Andros Tracts*, ed. Whitmore, i, 16; MSA SC1-45x v. 126: 201.

⁴⁴⁸ Bliss, *Revolution and Empire*, p. 159.

⁴⁴⁹ ‘Declaration’, *Andros Tracts*, i, p. 21.

⁴⁵⁰ *ODNB*, ‘Edward Randolph’.

⁴⁵¹ Plymouth did finally send a representative to try and obtain a charter in 1681, but their choice of James Cudworth (who was over 70 and ill) was misguided, as Cudworth died on arrival in England and never presented their case. King, *Cape Cod and Plymouth*, pp. 25-8.

naval blockade, a *quo warranto* and the appointing of a Governor-General. None of these suggestions were carried out, and members of the Board of Trade worried that he 'had made himself obnoxious to the colonists'. Further the Attorney General Sir Robert Sawyer and customs commissioners warned Randolph that his proposals went beyond the law and English practice.⁴⁵² The patience of the crown would not last much longer though.

In June 1683 a *quo warranto* ordered Massachusetts to send delegates to London within three months to defend their charter. This did not have the desired effect, and Massachusetts remained unwilling to negotiate their charter, fearing that this would result in the issuing of a new charter which would have more restrictions.⁴⁵³ In 1683 he issued a declaration, 'That *no Man Here shall receive any Prejudice in his Freehold or Estate*' which guaranteed the property rights of inhabitants, likely trying to smooth the way for a new government which was being formed for the colonies.⁴⁵⁴ Finally, in June 1684 the Court of Chancery revoked their charter, the news of which seems to have first reached the colony that September.⁴⁵⁵ What Charles intended next can only be speculated as he died in February 1685 and his brother James, formerly Duke of York ascended to the throne.

In May 1686, Randolph returned to New England and claimed the land for James due to the Cabot discovery. On 25 May he announced the formation of a new government, the Dominion of New England, which joined Massachusetts, Maine, New Hampshire, Plymouth and part of Rhode Island into a single colony, led by a royal governor – Sir Edmund Andros who arrived in Boston at the end of 1686.⁴⁵⁶ Andros was granted the power to suspend councillors, to appoint new ones if required and along

⁴⁵² Bliss, *Revolution and Empire*, p. 228.

⁴⁵³ Bliss, *Revolution and Empire*, p. 231.

⁴⁵⁴ 'Declaration', *Andros Tracts*, i, pp. 15-6.

⁴⁵⁵ Bliss, *Revolution and Empire*, p. 231.

⁴⁵⁶ *ODNB*, 'Edmund Andros'; Bliss, *Revolution and Empire*, p. 231.

with this group of councillors to make laws for the colony. Andros was greeted with hostility in Boston, but as Samuel Sewall noted in his diary, other colonies were less adverse to this new government as only ten days after Andros's arrival 'gentlemen from Plimouth and Rhode-Iland [came] here and take their oaths without any ceremony'.⁴⁵⁷

The intention of the Dominion was to create a single government and to regulate taxation and land. During the process of investigation and attempted legislation of the land system of these colonies the variations between England and New England system began to crystallise. The primary problem regarding land which the officials of the Dominion encountered was a different attitude towards ownership: Puritans have notion of absolute ownership of land without thought to higher authority (beyond God). Barnes notes that same problem was uncovered in Bermuda, where in 1685 Governor Coney suggested that remedy was for land holders to pay quit-rent which 'if every Freeholder (as they term themselves) both in Town and Country doe pay a small quit-rent, according to the proportion they hold, it may bee one means to reduce them to obedience.'⁴⁵⁸ Andros's plan for New England was similar, he wanted to normalise the system, ensure all titles to land originated with the king (as was originally intended and was standard in England) and to implement quitrents.

In 1688 Andros was given permission to expand the boundaries of the Dominion to include Connecticut, New York and New Jersey. With Connecticut the commissioners encountered trouble trying to remove the charter. Andros stated at the time that Connecticut did surrender their charter, however the Dominion was overthrown the government there claimed not to have any knowledge of this. Later testimony by Connecticut Governor explained that they had been issued a writ of *quo warranto*, against which they tried to appeal. This failed and they were sent a second

⁴⁵⁷ Sewall, *Diary*, p. 127.

⁴⁵⁸ Lefory, *Memorials of the Bermudas*, II, pp. 549, 588 quoted in Barnes, *Dominion of New England*, p. 177.

one and informed that the king demanded surrender of their charter. The officials from Connecticut sent a petition asking to continue enjoying their ‘Liberties and Properties, Civil and Sacred’, this too was ignored. In October 1687 Andros went to Hartford with upwards of sixty men and declared the government of Connecticut to be dissolved. This was later described as a rape committed on the whole colony and that they felt to have been invaded.⁴⁵⁹ This account given after the fall of the Dominion is similar to the property narratives which appeared when settlers encountered troubles or resistance in the form of native land rights. However, even at the time this was viewed, at least by some, as an invasion or theft. Sewall recorded in his diary that on the 16 November ‘[t]he Governor comes to town returning from taking the Government of Connecticut’.⁴⁶⁰ The account presents a strong narrative of Connecticut being vulnerable and also weak or passive – they are not offering any force but pleading with attackers before being violated. This is a very curious persona to adopt, but given the possible backlash against the overthrow of Andros, it is perhaps a narrative which they designed to provide protection. However, the fact that Connecticut risked being censured for resisting a royal decree in order to claim that they defended their ‘liberties and properties, civil and sacred’ highlight just how important these concepts were.

Additionally this incident is shortly thereafter re-narrated again in the form of a folktale. The story which appears tells of Andros’s men arriving at Hartford and piling into a room where they look at the charter laying on a table. Suddenly, the candles went out and when they need re-lit the charter vanished, supposedly hidden in a nearby tree. The legend of the Connecticut charter oak first appears in print in the eighteenth century, but could have been circulating in the colony for many years before this. However, nothing in the testimony directly after the fall of the Dominion refers to the

⁴⁵⁹ ‘Revolution in *New-England* Justified’, *Andros Tracts*, i, pp. 126-8.

⁴⁶⁰ Sewall, *Diary*, p. 158.

oak. Though the account given after Andros was out of power leaves open the possibility that the charter was somehow hidden away since the removal of the document is never included in the testimony. The introduction of it being hidden in an oak links to several other popular stories of the period, the oak often being an emblem or symbol of resistance such as Jack Cade's Rebellion in 1450, or the 'Oak of Reformation' adopted by Kett's Rebellion in 1549. More recently, Charles II was supposed to have hidden in a hollow tree to escape parliamentary forces.⁴⁶¹ The publication of this story in the eighteenth century likely relates to growing anti-British sentiment, but the basis of it does fit with the events recounted in the 1680s. It highlights the power of such stories to carry shared messages between members of a community and fits within practice in England of the attachment of folk stories and important events to natural features.⁴⁶²

Ownership and Rights

This final section is about property and ownership and examines the threat Andros and the Dominion posed to the property regime and local identity established in New England. In particular Andros attacked land rights and ownership, the use of native rights as justification for expansion, and the establishment of towns and commons. While this was intended by the new government to be a legal dispute over documentation and quit-rent, it revealed just how entwined local identity was with property and the landscape, echoing similar disputes and problems in England at this time over the threat of commons and ancient rights.

⁴⁶¹ David Hackett Fischer, *Liberty and Freedom: A Visual History of America's Founding Ideas* (Oxford, 2005), p. 25.

⁴⁶² Keith Thomas, 'The Perception of the Past in Early Modern England', The Creighton Trust Lecture (1983); Simpson Jacqueline, 'The Local Legend: A Product of Popular Culture', *Rural History*, 2 (1991), pp. 25-35.

The first problem identified by the Dominion of New England and Andros regarded documentation. This came to their attention as one of the primary intentions was to raise revenue, primarily through quit-rents. However, the property regime established in the colonies was not structured according to the Dominion's expectations and variations in method and documentation caused confusion for the new government. One of the primary problems arose from the system of distribution, with the central courts distributing land to towns who then divided land internally. This often meant individual titles and deeds were never made. Instead, land transactions were mainly recorded in local and colonial town or court records. In addition, most colonies neglected to use a seal when distributing lands, or to even have official signatures on documents. This was mainly a problem in Massachusetts, but also in Plymouth and Rhode Island. The problems of documentation extended to those areas 'acquired' by Massachusetts such as Maine and New Hampshire which had a mixture of land grants, pre-Massachusetts with quit-rents and an acceptable system while post-Massachusetts grants adopted the pattern of the new government and land was thereafter distributed via the General Court and division of land by un-incorporated townships. Connecticut avoided this problem as prior to the Dominion of New England's arrival its court ordered all towns and individuals with land to take out a patent and have it sealed and signed by company (however this tells us that they were not constantly following this system prior to 1680s).⁴⁶³ Massachusetts tried to do something similar and in 1685 the General Court passed a law declaring all grants by them or towns 'were and are intended...to be an estate in fee simple, and are hereby confirmed to said persons and townships...forever'.⁴⁶⁴ However their charter had already been revoked by this point so this order had no legal standing.

⁴⁶³ *Conn Col Recs*, iii, p. 177.

⁴⁶⁴ *MBC Rec.*, v, p. 470-1.

Andros attempted to rectify this variance in titles by centralizing and standardizing all land records. He requested land records from all colonies be sent to Boston, and there to be held by the court in a central location. Governor Hinkley of Plymouth protested this request, stating that records should be kept where they were needed.⁴⁶⁵ Andros also attempted to order the issuing of new patents or land grants via the new government, which would ensure a continuity of practice not only throughout the colonies but also with England. Andros and the Dominion of New England had mixed success with this attempt to regulate the land records there were about 200 patent applications during his rule and over 100 orders for surveyors to lay out land petitioned for. But only 20 of these were ever given seals. 50 of petitions were from Massachusetts, 10 Plymouth, 7 Narragansett Country, 12 Rhode Island, 4 Conn and others from Maine and New Hampshire.⁴⁶⁶ Those interested in dealing with Dominion of New England and commission were mostly outside of core Puritan factions in these colonies, and were likely those who had been exiled or excluded from towns or who had lost land due to unfavourable rulings.⁴⁶⁷

It was not only the origins of ownership, or the necessity of patents which caused problems but the lack of quit rents imposed on lands given out by colonies. There are several possible reasons for this. There had been no established quit-rent system in the colonies; the speed of initial colonization, the surplus of land available, along with the desire to attract new settlers meant there was no impetus to develop a quit-rent system. Further, the implementation and use of native purchase and natural rights to the land, as explored in chapter three, meant the development of ideas about possession based on purchase. This was also furthered by the fixation upon

⁴⁶⁵ King, *Cape Code and Plymouth*, p. 264.

⁴⁶⁶ Barnes, *Dominion of New England*, p. 189; 'Palmer's Impartial Account', in *Andros Tracts*, ed. Whitmore, i, p.48.

⁴⁶⁷ Barnes, *Dominion of New England*, p. 190.

improvement and occupation as the way to assure ownership. This created a change in the basic concept of the origins of ownership and property – instead of coming from the king or being encumbered with ancient rights or duties this was *new* land, which the settlers were purchasing and transforming themselves and the labour and cost involved in doing this along with the lack of any system of quit-rents in the colonies began to create the notion of absolute ownership. It was only with the threat of losing their charter in which led to the development of any sort of payment system and in 1682 the General Court of Massachusetts imposed a rent of 2 shillings per hundred acres for land not yet developed.⁴⁶⁸ This followed with earlier colonial legislation (as seen in chapter 2), which encouraged the cultivation and use of land. What was proposed by Andros was much more sweeping: he intended to set a standard quit rent of 2 shillings 6 pence for every 100 acres on all new titles.⁴⁶⁹ In practice, only those loyal to him followed this system.⁴⁷⁰ For Plymouth, the notion of quit-rent (along with a proposed poll tax) was unbearable, as this colony had not had any form of taxation. The colony argued that the taxes and rents were unfair as they were based on Massachusetts values and further that any taxation without representation was not valid. Cape Cod and Barnstable residents requested freedom from quit-rents and that they be allowed to retain land without having to pay any fees to confirm the title. Thomas Tupper of Sandwich, went so far as to claim that Andro's control over land violated the original settler's wishes by attempting to change the established property scheme.⁴⁷¹

Trying to force the issue, in July 1688 the government of the Dominion served several wealthy landowners, including Sewall, with a writ of intrusion to have their

⁴⁶⁸ Barnes, *Dominion of New England*, p. 19.

⁴⁶⁹ *ibid.*, p. 188; *Collections of the Massachusetts Historical Society*, v, pp. 177-8; 'Revolution in New-England', *Andros Tracts*, i pp. 73, 87; King, *Cape Cod and Plymouth*, p. 263.

⁴⁷⁰ 'Charges against Andros and others from the MSS in the Massachusetts Archives', in *Andros Tracts*, ed. Whitmore, i, p. 160.

⁴⁷¹ King, *Cape Code and Plymouth*, pp. 262-4.

claims tested against English law. Sewall petitioned for confirmation of his land, asking to be excused from any purchase fee for the land but allowed for 'such moderat Quit-Rent as your Excellency shall please to order'.⁴⁷² He also wrote to Increase Mather (who had just arrived in England) to find out 'if persons are thus compelled to take patents' and expressed the general upset that the situation was causing: 'The generality of people' he wrote to Mather, 'are very averse from complying with anything that may alter the Tenure of their Lands'. He also wrote to Richard Wharton and Eliakim Hutchinson who were also in England, asking for help (offering £50 towards costs if they could assist him).⁴⁷³ At the heart of this issue was a fundamental misunderstanding about land rights and ownership which began to become clear now. Many colonists in the 1680s would have been second or third generation - that is born in New England of migrant parents. Particularly those with extensive holdings, which lacked secure documentation outside of the General Court records. They may or may not have been familiar with English land systems (or even may never have been there). As such the only system of land distribution and control they knew was the one formed in New England, which evolved mainly (as seen in previous chapters) over time as a response to the unique situation in the colony. While Andros was trying to normalise practice, in fact this was the start of challenging the whole system and story of ownership and property established which was tied to communal identity.

This difference in ideas about the origins of property rights is seen in testimony given by the Rev Mr Higginson of Salem in 1689 to Andros. When asked by Andros if the lands in New England were not the Kings? Higginson responded: 'I did not understand that the Lands of *N. E.* were the Kings, but the Kings Subjects, who had for

⁴⁷² Sewall, *Diary*, pp. 172-3.

⁴⁷³ 'Letter to Mather, 24 July 1688', *Massachusetts Historical Society Collections*, viii, p. 517. Increase Mather was in England after encountering trouble with Andros and his agents. In a scene reminiscent of Williams sneaking away from Boston 50 years earlier, Mather was forced to use a disguise to board a ship to England. See Sewall, *Diary*, p. 164.

more than Sixty years had the possession and use of them by a twofold right warranted by the Word of God. 1. By a right of just Occupation from the Grand Charter in *Genesis* 1st and 9th Chapters. . 2, By a right of purchase from the Indians, who were native Inhabitants, and had possession of the Land before the English came hither'. Higginson was clearly drawing upon a common narrative here, and demonstrating the passage of rights from the natural inhabitant to the English. He then noted that having lived there sixty years himself, he knew that from 'the beginning of these Plantations our Fathers entered upon the Land, partly as a Wilderness and *Vacuum Domicilium*, and partly by the consent of the Indians'. He concluded therefore that 'I did believe that the Lands of the *New-England* were the Subjects Properties and not the Kings Lands'.⁴⁷⁴ Therefore we can clearly see from this response the various pillars used to support English claims to the land – via purchase from those granted natural rights, from the permission granted by the king, and from improvement.

Andros and the Attorney-General tried to convince Higginson that the land was the king's by right of the charter, and since they were English any land they possessed was automatically the king's as '[w]here-ever an Englishman sets his foot, all that he hath is the Kings', but he was not persuaded stating that as he understood the charter only related to 'the right and power of Government' but 'the right of the Land and Soil we had received from God'. Furthermore, since land did not belong to the King but the natives before the English arrived, there was no way he could claim the land – this was an argument 'from a Popish Principle, that Christians have a right to the Land of [the] Heathen'.⁴⁷⁵ It is interesting just how strongly Higginson (along with other objectors) defend native land rights against those who want to undermine them. While English settlers had spent forty years in this system, and had not only established a new method

⁴⁷⁴ 'The Revolution in *New-England* Justified', *Andros Tracts*, i, pp. 88-90.

⁴⁷⁵ 'Revolution in *New-England*', *Andros Tracts*, i, p. 90.

of justifying occupation and ownership but also created a shared identity and narrative based upon the acquisition and distribution of rights, this had not been communicated or shared by people back in England. By the time Andros arrived the ideas of native rights were a fact, not a subject still in debate, and Higginson's beliefs can clearly be seen to originate from the debates between Winthrop and Williams fifty years earlier.

The multiple layers of authority and documentation which evolved during the first fifty years and the complexity of untangling these threads of ownership are seen in the account of Joseph Lynde, aged 53, of Charlestown, who gave testimony to Andros regarding his land. Upon being asked what title he held to his land Lynde produced 'many deeds', which Andros noted were 'worded well, and recorded according to *N.E.* custom'. Lynde told him the land had been purchased from his father-in-law Nicholas Davidson, who had been issued the land by Charlestown and the town had the land from a grant by the General Court of Massachusetts who had possession of the land by right of purchase from the natives. Upon hearing this Andros declared that the title was 'nothing worth if that were all'. Not only did Andros challenge the English system of ownership but also the notion of native purchases and natural rights as another document which was an Indian Deed was dismissed as 'their hand was no more worth than a scratch with a Bears paw'. Lynde saw this as 'undervaluing all my Titles' which he noted, were 'every way legal' under the former government. Since the new government declared his property rights invalid based on unrecognised documentation, Lynde decided to ask for a new patent for his estate but was informed that he must have a different patent for every county (and possibly towns) he had land in, which he found too expensive so delayed and was eventually served a Writ of Intrusion for one of his plots (49 acres) in the summer of 1688. Which he had to pay £3 court fee and £10 for

the land in question as he risked losing the land as ‘a Quaker had the promise of it’⁴⁷⁶ Again, the strong reaction against those denying the rights granted by these Indian deeds is noteworthy. Bay Colonists argued that they had right to the land based on the charter, and ‘honestly’ purchasing the land from the natives; and after this land was distributed by an incorporated Body Politic and initially did this in ‘public spirit’ and without any payment.⁴⁷⁷ The colonists were not denying that authority and power to grant land originated from the king – as evidenced by attachment and quest for individual charters, but there were multiple structures upholding ideas of property which were not necessary in England. And the inability to recognise and deal with these new structures was a continual point of friction between the New England settlers and the dominion officials.

Another point of confusion was not only over the origins of ownership, but also who owned land until it was distributed. In particular this related to the commons in New England. As seen in chapter two, these were sometimes formally established and often very regulated. However, in practice it seems the boundaries of commons were not always clearly stated in town’s records as there are several reports of Dominion officials trying to sell common land.⁴⁷⁸ This was a significant problem in Plymouth and Rhode Island and also in the Massachusetts towns of Lynn and Cambridge.⁴⁷⁹ In Charlestown, 150 acres which had been used in common by 113 inhabitants since 1637 and upon which ‘there were diverse bound-markes’ was deemed to not be an official common and the land was granted to Mr Lidget by the Dominion Government. After

⁴⁷⁶ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 91-3; ‘Charges Against Andros’, *Andros Tracts*, i, pp. 152-3; this is possibly some the land retroactively purchased from natives in 1636-8 so can see again how important these Indian Deeds became.

⁴⁷⁷ ‘Narrative of the Andros Proceedings, by some of the Council’, in *Andros Tracts*, ed. Whitmore, i, p. 142.

⁴⁷⁸ ‘Declaration of the Inhabitants’, *Andros Tracts*, i, p. 16; ‘Palmer’s Impartial Account’, *Andros Tracts*, i, pp. 49-50, 51; ‘Charges against Andros’, *Andros Tracts*, i, p. 153; Barnes, *Dominion of New England*, p. 195.

⁴⁷⁹ ‘Declaration’, *Andros Tracts*, i, p. 16.

which residents complained that ‘not only did [he] cut down Wood thereon with the right owners consent, but arrested some for cutting down their own Wood’. This was a situation repeated in other areas in the town, a pasture land and some meadow, which had also been improved and had boundary marks, were granted to Lidget. Further, the government encountered problems with residents pulling up stakes and landmarks placed by the Surveyor-General on land distributed out of common or waste land.⁴⁸⁰ The threat was not just to land held in common by the town, but also to shared common plots. Several island were taken by the Dominion government, one, which was 650 acres, was granted to Lidget unless the original owner paid 3d. per acre for a new Patent.⁴⁸¹ Another island taken was Deer Island, which in 1642 had been set aside by the General Court of Massachusetts for to the maintenance of a free school, and was currently possessed by John Pittome. On 28 January 1688 Pittome and his family were evicted by the Sheriffs acting on orders from the Dominion government and set ‘afloat on the water when it was a snowy day’⁴⁸² This act was recalled by Pittome as was as a ‘Sacrilegious Oppression’, the language of which mirrored later accounts of the seizure of the Connecticut Charter. The response given by government officials was that this land was ‘vacate and unapropriated’ and ‘corruptly call[ed] Commons’.⁴⁸³

The case of Lynn is particularly important to consider as it not only deals with attacks on the commons but on the basic units of New England communities: the towns and meetings. It appears that Edward Randolph tried to take Lynn’s common land, particularly a large tract known as Nahants, which inhabitants claimed was ‘the only secure place for the Grazing of some thousands of our Sheep, and without which our Inhabitants could neither provide for their own Famileis’ nor pay taxes’. The land

⁴⁸⁰ ‘Palmer’s’, *Andros Tracts*, i, p. 51.

⁴⁸¹ ‘Revolution’, *Andros Tracts*, i, pp. 97-8; Barnes, *Dominion of New England*, p. 197.

⁴⁸² ‘Revolution in New-England’, *Andros Tracts*, i, p. 94.

⁴⁸³ ‘Palmer’s’, *Andros Tracts*, i, p. 51.

was owned based on purchase from ‘the Original Proprietors the natives’ and ‘near fifty years or peacable and quiet possession and improvement, and also inclosure of the said Land by a Stone Wall’ and they pleaded for the land by ‘*Pleas of Purchase, ancient Possession, Improvement, Inclosure, Grant of the General Court and our necessitious condition*’ but were told that only ‘true title’ was a patent from the King. Further, Randolph attacked the local assemblies, which the residents contested were held ‘according to ancient custom’ and claimed that Randolph attempted to tax and attack ‘our honest and just and true Titles to our land’ which ‘were also invaded’. What is most telling is the attack on the unit of the town, which Randolph claimed there ‘was not such thing as a *Town* in the Country’ and that they had no liberty to meet, and that the ‘Ancient Town Records’ which showed land distribution were not ‘worth a Rush’. Further complaints mention suffering under an ‘unreasonable heavy yoke’.⁴⁸⁴ By denying communities their status as a town, Andros was upsetting a number of practices and social customs, including town meetings, and poor relief. This action was interpreted by the colonists as an intent to ‘destroy the Fundamentals of the English. . .Government’.⁴⁸⁵

In another case Daniel Turel and Edward Willis testified that they were told by James Graham, one of Andros’ men, that ‘there was no Town of *Boston*, nor was there any Town in the Countrey’.⁴⁸⁶ Andros was defining a town as a ‘Body Corporate and Publick’ but insisted in New England these were only as town ‘in *Name* only, not in Fact’ as there was no power in New England to create towns as ‘one corporation cannot make another’.⁴⁸⁷ While this was the case in English law at this time, the unique situation of colonization meant the need to improvise new methods of establishing order

⁴⁸⁴ ‘Revolution in *New-England*’, *Andros Tracts*, i, pp. 95-6.

⁴⁸⁵ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 80.

⁴⁸⁶ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 99.

⁴⁸⁷ ‘Palmer’s Impartial Account’, *Andros Tracts*, i, p. 48.

and control – in the case of New England this was via the creation of towns which could oversee local affairs. In the absence of parishes (most towns only had only one church anyway), it was the town which people identified with and the attack on this basic unit of community and social order was as much as threat as the loss of common land to enclosures back in England.

The response to this attack on property and established structures echoed what was occurring in England surrounding disputes over customary practices and the threat of enclosure. The problem was not the idea of quit-rents (either colonial or individual) but with the rejection of their ‘ancient rights’ and liberties and the denial that ‘they had any Property in their lands without Patents from him.’⁴⁸⁸ Andros passed acts which the colonists claimed ‘doth infringe [our] Liberty, as free born English Subjects of his Majesty’ and ‘interfer[ed] with the Statute Laws of the Land’.⁴⁸⁹ In addition to complaints over the seizure of common land and the denial of the status of towns, one major issue was forbidding colonists to lift their hand when swearing which was stated to be a part of ‘the ancient Custom of the Colony’ and part of ‘the Common Law amongst us (as well as in some other places under the *English Crown*).’⁴⁹⁰ What is interesting about these claims is the connection between property and liberty – an invasion of property was seen as trespassing upon a subjects individual liberty. This demonstrates not only the clear link between personal or communal identity and the landscape, but the also the evolution of the concept of property. Here colonists are claiming both customary and absolute rights of property – showing that this period and colonial situation are a crucial point of transition between property regimes.

We can see other concepts which have been discussed in previous chapters appearing in this defence of property and rights against Andros and the Dominion. One

⁴⁸⁸ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 73.

⁴⁸⁹ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 84.

⁴⁹⁰ ‘Declaration of the Inhabitants’, *Andros Tracts*, i, p. 15.

key aspect is the notion of improvement and the transformation of the land which occurred, the colonists argued that ‘at *Vast Charges of their own conquered a Wilderness*’ which some had held for sixty years but now ‘a parcel of Strangers’ came and tried to take them away.⁴⁹¹ This statement is not only relying on a sense of narrative to justify ownership, but is also utilizing the idea of ownership by right of conquest and cultivation. Another claim made by the colonist was that the charter was ‘the only Hedge which kept them from the wild Beasts of the Field’.⁴⁹² Again, this is drawing on the notion of transformation that occurred – the charter is not a physical boundary but supports the ideas and concepts (such as naming and boundary lines) which helped define the edges of places in New England and offered security to the settlers. The colonists also defend native land rights and use them to justify their occupation of the land, claiming that at least the First Planters had more respect for the native as ‘they were not willing to *wrong the Indians in their Properties*’ and had purchased ‘their right to the Soil’ from those which held a natural right to the land, this despite having rights granted to them by the charter from the king. They claim that to take land by conquest and discovery is not only wrong but ‘an unchristian Principle’ and that since the Indians are *Sons of Adam* they have a natural right to the earth.⁴⁹³

This defence of rights was not only about the systems which had been created over the past sixty years of settlement, but also about defending their *English* rights. On being told that ‘*their Charter was gone, all their Lands were the Kings*’ and that they must take out new patents colonists asked ‘What people that had the Spirits of Englishmen, could endure this?’⁴⁹⁴ Andros also accused of denying them their basic rights, as the colonists plead ‘*the privilege of Englishmen* not to be taxed without their

⁴⁹¹ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 87.

⁴⁹² ‘Palmer’s Impartial Account’, *Andros Tracts*, i, p. 28.

⁴⁹³ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 123.

⁴⁹⁴ ‘Revolution in *New-England*’, *Andros Tracts*, i, p. 87.

own consent, [but were] told that *the Laws of England would not follow them to the end of the Earth*'. They then referenced 'the *Magna Charta of England*, and the Statute Laws that secure the Subjects Properties and Estates' but were again told that the laws of England would not follow them to the end of the earth.⁴⁹⁵ This led to the Massachusetts Bay colonists stating that the people of New England were treated as slaves 'the only difference between them and *Slaves* is their not being bought and sold',⁴⁹⁶ Further evidence of their marginalized feeling was the debate whether the New England colonies were more like Ireland and Wales – a conquered land not part of England anymore.⁴⁹⁷ While the Dominion did not last long enough for these questions and problems to develop into a long term debate, can see in this situation the issues and problems which would re-emerge in the eighteenth century.

Conclusion

There was not enough time to truly test the land system as once news of the Glorious Revolution reached New England the residents of Boston arrested Andros and his men and ended the Dominion of New England. While the colonies desired the return of their old charter, this was not to be for all colonies and in 1691 new charters were issued: Connecticut and Rhode Island were returned to their previous status; New Hampshire was again established as an independent royal colony; while Maine, Plymouth and some other smaller provinces lost their independent status and were absorbed into the new royal colony of Massachusetts. This new charter and status meant that Massachusetts now had a Royal Governor, and the General Court was balanced by a house of representatives. Possibly learning from the mistakes of the Dominion, the new charters

⁴⁹⁵ 'Revolution in *New-England*', *Andros Tracts*, i, pp. 82, 85.

⁴⁹⁶ 'Declaration of the Inhabitants', *Andros Tracts*, i, p. 14.

⁴⁹⁷ 'Revolution in *New-England*', *Andros Tracts*, i, p. 124.

allowed for the establish system of land division to remain in place. All previous grants even those with 'defect of form' were confirmed and there was no condition that new patents required the King's name. There was also no mention of quit-rents on new grants - and the General Court regained the power to grant land. One of the areas absorbed into the new larger Massachusetts Bay Colony was Martha's Vineyard, which lost its independent status after the death of Mayhew in 1682, aged 90. Mayhew's is only one of the many examples which illustrate the complexity of obtaining, documenting and maintaining ownership of land in the English-Atlantic world. The lengths to which he was willing to go into order to ensure that his claim was acknowledged and upheld, including appeasing the power and dominate Massachusetts Bay, negotiating with the English crown, dealing with other European powers, and the obtaining of Indian Deeds, reveal the multiple systems and layers which worked together in New England to create a coherent property regime. Just as important as the effort individuals and colonies were willing to go to in order to obtain security of claims of ownership, is the outrage and reaction to the threat to these systems. The agents of the Dominion of New England may just have been trying to bring New England practices into line with those in old England, but in the process they threatened the basic foundations of the society and the communal identity which settlers had formed with their landscape.

Conclusion

This thesis has used the alteration of the landscape and the establishment of property regimes to examine identity and place in seventeenth-century New England. This has provided a clearer view of the relationship between early modern people and the landscape, and of the first century of the English settlement of New England. The approach has allowed us to view the layering of meaning and identity into the landscape, affording a new perspective on a popular topic in English history. This study has filled a gap in our historical knowledge by linking together a number of topics which until now have tended to be studied in isolation from one another. This includes ideas about discovery and conquest, the relationship between native populations and English settlers, the formation of towns, and the problems encountered under the government of the Dominion of New England. Further, this thesis has drawn on both English and American historiographies to demonstrate the transmission *and* continuity of ideas about the landscape and property throughout the English Atlantic world.

The first layer of meaning and identity applied to the New World landscape was through commodification and naming, as explored in Chapter One. It was explorers and promoters who began the process of classifying and organising the landscape even before settlers arrived in New England. This was accomplished through the publication of promotional tracts, descriptions and maps which pre-disposed settlers to imagine the landscape in a certain way. It is this initial period which has attracted the most research

by historians, who have focused on discovery and conquest and how this fed ideas of ownership and possession. However, this chapter built upon this body of work by examining the continuation and evolution of this process after the arrival of permanent settlers from 1620 onwards, primarily through the process of place-naming. It further considered the importance of naming practices and how the names selected both pre- and post-settlement helped shape and define this as a *new* England.

The name and idea of a place is the first layer in creating and constructing landscapes, which, as Michael Ryan notes, was an ‘intellectual and psychological’ process that formed the basis of ownership in the New World.⁴⁹⁸ However, despite acknowledgement of the transformative nature of discovery and colonization, there has been limited historical inquiry into unpicking the methods and meanings of this process. The focus of this thesis has been understanding this process and the developing relationship between people and their location. The name selected for a location was crucial, what Keith Basso describes as ‘place making’, which is ‘a way of constructing social traditions, and in the process, personal and social identities. We *are*, in a sense, the place-worlds we imagine.’⁴⁹⁹

It is not only the name chosen which is important to consider, but also the timing and location of the place being named. Not all places were named at the same time, and there were multiple reasons for selecting a name. By examining this pattern we can create a clearer picture of the interaction between people and their environment and study the process of place-making. Those names selected pre-colonization were either chosen based upon immediate experience – generally the physical appearance of a location or chosen later in honour of individuals. This pre-naming was important though as it provided the basic structure for settlement, as some names continued in

⁴⁹⁸ Ryan, ‘Assimilating New Worlds’, p. 536.

⁴⁹⁹ Basso, *Wisdom Sits in Places*, p. 7.

usage post-settlement. These include Plymouth, the Charles River and most importantly, New England.

After colonization began, those locations which did not select a name from promotional accounts either chose names deliberately or the name of a place evolved through usage. A large number of names chosen, either came after repeated contact and usage of the landscape, such as Hay Place, Bird Island, Stone Meadow, or Cedar Swamp. These names provided a guide and visual description of the landscape which helped render it into something familiar and useful. Some of these places were not given English names or had dual names, such as Wecohaunet also known as Hilton Point, and Soewamapenesset which was commonly called Cow House River. This acceptance or at least acknowledgement of native place names added another layer into the meaning and understanding of the landscape of New England. While attempting to create a wholly English landscape, through the process of settlement the English were forced to recognise the presence of another group and that there was a history to the landscape which was not their own.

The process of naming which developed in the early years of the New England colonies reveal that the naming or renaming of places was not just about creating an 'English' landscape, but creating a pattern or series of names which were both English and significant to each individual settlement. This reveals the process of developing a communal identity within towns and villages in New England. In some cases the selection of a name was a reminder of the religious mission of early settlers, such as Salem, New Haven and Providence. In other cases a place name was chosen based on the identity held by the majority of migrants, or the leaders of a community. So, after a large contingent of settlers from Hingham Norfolk moved to Bear Cove (which was already settled by colonists from the West Country) they took control of the settlement and renamed it after their hometown. Similarly William Pynchon named his settlement

Springfield after his home town in Essex. The other type of name selected for towns was one which reflected its topography, such as Marblehead, Watertown or Roxbury (originally spelt Rocksbury). The fact that no towns from the first couple decades of colonization retained native place names is important to consider, reflecting a desire to *live* in an English place, even if they were comfortable accepting native names and identity in the wider landscape. However, many new towns and settlements did have native names during the first couple years of their formation, such as Aggawam (for both Ipswich and Springfield), Matianuck (Dorchester), and Pequot (New London) to name a few. The point at which these names changed was most often the formal incorporation of a town by the General Court.

This act of incorporation is a significant one, which has received little attention by historians, but is an important part of the creation of new places and new identities in New England. In England, the number of incorporated towns were on the rise in the sixteenth and seventeenth centuries and following this pattern in New England nearly every settlement was created as a town and incorporated. This was to help oversee the process of settlement, which could not be entirely managed by the central courts of the colonies. While the towns in New England did not have all the same rights afforded to those in England (for instance they did not have formal charters, seals, and varied in their form of government) this process of incorporation did provide them with the ability to manage their own lands, create laws and most importantly gave them a clear sense of communal identity and a sense of place.

The town was a crucial figure in the division and physical alternation of the land, as explored in Chapter Two. This chapter first examined the division of the land and planting of settlements and then transfer of custom and the relationship to the land revealed through mapping and boundaries.

The examination of surveying maps and reports, revealed the method for laying out new settlements and the importance of this act as one which ‘bound’ the land and as the point of transforming it from wilderness to property (much as the incorporation of a town re-made it into an English place). Surveying and mapping in New England were perceived differently by the middling class and lower orders than in old England, where the process was viewed as one which was aimed at the destruction of customary patterns of usage and of the ancient rights of commons. Instead, in New England this was part of a process which aimed to recreate these rights and customs, though within a property system which included a larger number of landowners and a developing notion of absolute ownership of the land. Not only was the division of land, and the establishment of traditional boundary markers something introduced by the government, but these other systems were also encouraged, and sometimes enforced, by colonial government. This includes an order for perambulations and inspection of boundary markers – which was to be announced, to include all interested parties and to be completed at certain intervals and at certain times of the year. Additionally, the government re-created the commons system and ensured that this land was maintained and not abused.

It was not only customary practices which were carried over from the old world, but also the perception and relationship to specific resources. This included a fear of shortages, particularly of wood, caused by problems with maintaining fuel supplies in England at this time. This led to heavy regulation of the resource, particularly in areas such as Cape Ann which began trading in wood supplies in the middle of the century. Overall, this chapter revealed the process of re-creating English methods and relationships to the landscape and the process of constructing an English place in the New World.

The final two chapters of this thesis examined challenges which threatened the system and network of places created in New England, and the structures which supported these new property regimes. Chapter Three introduced the concept of narrative and how it was used to cover gaps in ideas of property and ownership caused by the presence of a native population in the landscape which the English were trying to claim and cultivate. This looked at the process of layering and interpreting the landscape through the stories people told about their places: how they obtained and used them, and the flexibility of these concepts and narratives.

Prior to departure the stories told about the land in New England reflected an ideal. This portrayed the land as empty, unused, and the perfect environment to replicate English patterns of usage and settlement. The colonization of the New World and the establishment of ownership were based upon this notion of wasted land, which was claimed by the king by right of discovery and granted to the settlers by him and by God. However, within a few years of arrival and increasing interaction with native populations, whose numbers grew stronger further inland, many settlers began to acknowledge native land rights, and could see that this simplistic narrative would not support their property claims. This led to a re-writing of the narrative and story of early settlement and of the development of new ways of expressing property rights and ownership with further expansion. In some cases the story told about settlement was retro-actively adjusted through documentation, as was done with the initial 'gifts' of land to Massachusetts Bay in 1630-1 and recorded as such in 1636. In Plymouth, this story was re-told through published narratives, which changed initial meetings from treaties formed between equals to one of native submission and granting of land to the settlers. From the mid-1630s onward, this notion of native land rights was accepted by the General Courts of the colonies and population at large, and from this point forward

nearly every new settlement could trace its origins back to the grant from the court *and* the purchase of the land from native people.

This process of developing native land rights as a basis for ownership can be seen in the concept '*vacuum domicilium*', which has tended to be help up by historians as evidence of English dismissal of native land rights. However, while this phrase (which seems to be invented by John Winthrop) was initially linked with the early narratives of waste and empty land and used to argue against Roger Williams's support of native land rights, long-term study reveals that far from showing continuity in thought and position by English settlers, this phrase reflects changes over the course of the century. The phrase more rightly reflects New England settlers desire to obtain and retain land and property against any attack or threat. So while the phrase is first used against claims that native rights must be acknowledged (which threatened their claims based upon notions of discovery), by the end of the century the phrase was being used to *support* native land rights and defend against claims to the land by the king. Ultimately, this concept was never strong enough on its own and always used in conjunction with other arguments or documentation. This both reveals the fluidity, and possibly confusion over the phrase, but also the complexity of the New England property regime in general.

This complexity is what was examined in the final chapter of this thesis, which looked at the wider Atlantic context and considered the different networks and systems used to support colonial efforts and claims and also the threats and challenges which emerged following the Restoration and into the period of the Dominion of New England.

The systems and structures supporting property in New England were more complex than in England, and while there was more land in the New World this meant more trouble. Along with the concepts of property and place transferred from England,

such as boundary lines, documentation, improvement and cultivation (as discussed in Chapter Two); settlers also derived their ownership from charters and creation of place via ideas (based upon ideas of discovery, as seen in Chapter One); from debates about natural and civil rights, and purchase from native people (as seen in Chapter Three); and from inter-colonial networks, compacts, constitutions, and the purchase of charters. No two New England colonies established their claims using the same methods, each adopted a different combination of the above structures to support their claims and right to land. For example, Massachusetts and New Haven obtained a charter based upon discovery first and after arrival eventually began to use native land rights to justify their expansion or to secure their original grant. This was because neighbouring settlements such as Rhode Island first secured their claim to the land via purchase from the local sachem and then sought a charter to confirm their claim. However, not every colony followed this pattern, both Connecticut and Plymouth first based their settlement and secured their governments on internal agreements and consent to government, taking the form of the Fundamental Orders and Mayflower Compact respectively.

The securing of property was even more difficult for smaller settlements, as was shown with the example of Thomas Mayhew, who governed Martha's Vineyard and the surrounding island for forty years. Mayhew initially obtained ownership of the land via purchase of an older charter. However, this was not the only charter which included these islands, so Mayhew was required to make a second purchase to secure his ownership of the land. This was not the only obstacle to creating a new settlement as he also had to negotiate with leaders of the Massachusetts Bay Colony, of which he was a freeman, and whose control and dominance over the region was on the rise in the 1640s. Mayhew also ensured his claim by continually negotiating with several local tribes for land rights. In addition to these problems, he encountered difficulty after the Restoration as his holdings were moved into the jurisdiction of the new colony of New

York. Mayhew was able to re-negotiate his right to the islands, but with limitations now – he would only remain governor for the rest of his life after which his land would return to the crown. In addition to these problems within the wider English Atlantic world, Mayhew also faced problems when the Dutch re-took New York, which then placed his islands under their control and led to a rebellion among his settlers who disliked his government. However, Mayhew was able to regain control and held onto the island until his death at the age of 90. What this case study revealed is the continually shifting basis of power and claims to ownership in the Atlantic world. While some like Mayhew were able to navigate these changes and other colonies like Massachusetts were large and powerful enough to ignore them, many of the colonies were continually in negotiation or transition trying to maintain support and authority for their settlements, and internal property regimes.

This was seen in the chaos surrounding the post-Restoration period, where every colony was forced to re-negotiate or plead for a confirmation of its grant and holdings. The success or failure to do so ultimately determined the fate of the colonies. Some, like New Haven, were punished for their support of the regicides and Parliamentary forces during the war and lost their colonial status, while others like Connecticut were able to finally gain a charter to secure their holdings in the eyes of the English government. Plymouth never obtained a confirmation of their charter in this period and lost their colonial status in 1691. However, the many disputes in the colonies over boundaries (the confusion of which was caused by the multiple overlapping charters issued early in the century and the expansion of Massachusetts Bay) combined with a growing interest by the Stuart monarchs in controlling their colonial holdings led to a series of visitations and finally a revocation of the colonial charters and the formation of a new political entity, the Dominion of New England.

The short rule of the Dominion of New England, 1686-8, revealed just how the various methods of creating a new place and property regime in New England had created a new identity and just how closely linked these concepts were. This was first seen in the revoking of the colonial charters, particularly in Connecticut which at the time was described as a seizure and later remembered as a rape upon the colony. Within a few decades this incident had been re-cast into legend with the story of the Connecticut Charter Oak, which allowed for the imagined continual possession of the original charter. The Dominion did not only attack the charters of the colonies but also the several aspects of property, most importantly the commons, the granting of land by the towns and use of Indian Deeds. The response to these threats closely mirrored the same disputes over ancient rights and customs occurring in old England at the same time. This thus revealed that while the structures of property may have varied in New England, and led to notions of absolute ownership, the basic concepts and the relationship between people and their land remained the same on both sides of the Atlantic.

Overall, this study revealed the transition between two property systems: the customary system in England, and what is often viewed seen as a modern capitalist property regime. Because English and American history as often studied in isolation from each other, we have too often missed the opportunity to examine continuities between these systems, and failed to consider what a study which examining the movement of ideas, concepts and cultures about land and property across the Atlantic might reveal. This movement of ideas and concepts was not just flowing from England to the colonies, but back and forth between the two. As seen in Chapter Four (particularly with the example of Thomas Mayhew) the process of colonization was not a one- or even two-way system but could connect multiple points throughout the Atlantic world, which we as historians should follow. This work has highlighted many

similarities between the two systems of property and landscape and hopefully some of the benefits that could be gained from further transatlantic research. In particular, notions such as the commons, and the link between identity and the landscape, which in New England was being replicated even as it was being threatened in England. While new systems did mean some changes and alterations in the structure and conception of property and ownership, this was not the sign of an emerging 'America' but instead should be viewed as a different regional or local identity within England.

In conclusion, this thesis has analysed the government court records, published and private accounts of the first century of New England's colonies. The focus upon the creation of an English place and property regime in this new landscape has enabled an original study of the first century of colonization which has offered a fresh perspective on the transfer of English methods and ideas, and on the relationship between people and their landscape in early modern society. This thesis has revealed a greater continuity between the systems and problems of old and New England than had previously been imagined and highlighted the potential of including New England into English studies of the landscape and property in the seventeenth century. Not only has this work demonstrated the link between, identity, landscape and property in old and New England at this time, but also how this period and process of colonization inspired writings, such as John Locke's, on government, property and rights. Thus, which seventeenth-century new England may be more appropriately viewed as a distant region of England, the origins of later debates on property, liberty and independence can be traced back to these early settlers and their struggle to create for themselves an English place and property regime in the New World.

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