

War and Constitution-Making in Revolutionary Massachusetts, 1754-1788

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Abstract

Throughout the Revolutionary era, Americans embraced the capacity of constitutional government at all levels to mobilize power to achieve desired ends. This study explores how and why the inhabitants of one province-turned-state looked to the institutions, practices, and authority of constitutional government to address the myriad challenges they faced between the French and Indian War and the ratification of the United States Constitution. In these years, people in Massachusetts viewed constitutions as more than sets of theoretical propositions designed to limit the power of those who ruled, and they appreciated them not only because they provided opportunities to declare inviolable rights. Constitutions also comprised practical plans of government through which the populace could effectively mobilize power during times of greatest strain. War and its burdens thus formed the essential backdrop as inhabitants considered what made for legitimate and effective government. In no other context did government demand so much of them; at no other times were they presented with as many opportunities to consider the nature of their attachments to the state and to each other. This study properly situates the narrative of constitutional development by first examining the process by which authorities worked with the populace to mobilize men and resources for war and the specific contexts of governance in which that process occurred. This approach foregrounds the concrete problems historical subjects were trying to address and then attempts to understand their actions and ideas.

For Massachusetts inhabitants, the experience of wartime mobilization and governance varied dramatically. The most important factor lay in the transformations to the larger polity under whose umbrella Massachusetts' government operated. Between the start of the French and Indian War and the ratification of the U.S. Constitution, Massachusetts existed as part of a powerful global empire, a confederation of states, and finally a federal union. Massachusetts

inhabitants felt the effects of these shifting geopolitical circumstances in the course of their daily lives. While a province of the British Empire, the greatest fiscal-military state in the world, Massachusetts could wage war, as it did from 1754-63, without severely impinging on the prosperity or stability of local communities. During the Revolution, by contrast, the burdens of mobilization fell far more heavily on towns and individuals. As the state's Revolutionary government required ever-greater sacrifices from the populace, inhabitants created and adopted a new state constitution whose enhanced popular sanction for the exercise of authority, they hoped, would help Massachusetts overcome the challenges of war and its aftermath. Yet the disintegration of the British Empire had left Massachusetts in a geopolitical "state of nature" relative to the other former colonies. Of these states, Massachusetts appeared perhaps best-equipped to thrive in the Confederation it had helped establish. Even Massachusetts' "excellent" constitution proved ineffective in the context of the Confederation's dysfunction, however. In 1775, Massachusetts had accepted war to preserve its corporate rights within the empire; by the 1780s, a majority in Massachusetts concluded that collective "self-preservation" now demanded a stronger continental union, an American empire of sorts, that performed many of the same functions as its British predecessor—albeit in ways amenable to a mobilized people's raised expectations. Constitutional governments endowed with popular legitimacy offered an alternative means to mobilize power in a world of imposing monarchical states.

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Introduction

Throughout the Revolutionary era, Americans embraced the capacity of constitutional government at all levels to mobilize power to achieve desired ends. This study explores how and why the inhabitants of one province-turned-state looked to the institutions, practices, and authority of constitutional government to address the myriad challenges they faced between the French and Indian War and the ratification of the United States Constitution. In these years, people in Massachusetts viewed constitutions as more than sets of theoretical propositions designed to limit the power of those who ruled, and they appreciated them not only because they provided opportunities to declare inviolable rights. Constitutions also comprised practical plans of government through which the populace could effectively mobilize power during times of greatest strain. For inhabitants, there existed no clear distinction between abstract political theory and the tangible workings of government, for a fundamentally dysfunctional government—one that did not respond to the people's needs, distribute burdens equitably, or protect the community from violence and threats—could never maintain the degree of legitimacy necessary to ensure its own survival.

In Massachusetts, war and its burdens thus formed the essential backdrop as inhabitants considered what made for legitimate and effective government. In no other context did government demand so much of them; at no other times were they presented with as many opportunities to consider the nature of their attachments to the state and to each other. Accordingly, my approach to understanding constitutional development in Massachusetts is to begin by examining both the process by which political authorities worked with the populace to mobilize men and resources for war and the specific contexts of governance in which that process occurred. This approach foregrounds the concrete problems historical subjects were

trying to address and then attempts to understand their actions and ideas. To do the opposite—to assign our subjects ideologies or worldviews and then, on that basis, to identify what they considered problems—comes at the risk of exaggerating how large certain issues loomed in their minds while also underestimating their capacity to assess their situations rationally and creatively. Through both their written statements and their actions related to wartime mobilization, inhabitants revealed their concerns, attachments, needs, and expectations about government. Their words and deeds pointed to a rich constellation of concepts and commitments that reflected a deep engagement with the issues facing Massachusetts and the United States at large.

In this study of constitution-making, then, missing are many of the usual terms, categories, and concepts that scholars of political thought and ideology have found to be central to the era's developments. By asking a different set of questions and exploring a different set of sources, I arrive at some different conclusions and emphasize different factors. My aim is not to dismiss the importance of the period's political theory, but to expand its definition and purview so it encompasses a broader range of issues, texts, contexts, and contributors. The themes that emerge by approaching constitutional thought through a study of mobilization and governance can help us place in proper perspective all the streams of thought that existed in Revolutionary America.

For Massachusetts inhabitants, the experience of wartime mobilization and governance varied dramatically. The most important factor lay in the transformations to the larger polity under whose umbrella Massachusetts' government operated. Between the start of the French and Indian War and the ratification of the U.S. Constitution, Massachusetts existed as part of a powerful global empire, a confederation of states, and finally a federal union. Massachusetts

inhabitants felt the effects of these shifting geopolitical circumstances in the course of their daily lives. While a province of the British Empire, the greatest fiscal-military state in the world, Massachusetts could wage war, as it did from 1754-63, without severely impinging on the prosperity or stability of local communities. During the Revolution, by contrast, the burdens of mobilization fell far more heavily on towns and individuals. As the state's Revolutionary government required ever-greater sacrifices from the populace, inhabitants created and adopted a new state constitution whose enhanced popular sanction for the exercise of authority, they hoped, would help Massachusetts overcome the challenges of war and its aftermath. Yet the disintegration of the British Empire left Massachusetts in a geopolitical "state of nature" relative to the other former colonies. In 1775, Massachusetts had accepted war to preserve its corporate rights within the empire; by the 1780s, many in Massachusetts concluded that collective "self-preservation" now demanded a stronger continental union, an American empire of sorts, that performed many of the same functions as its British predecessor—albeit in ways amenable to a mobilized people's raised expectations.

Each chapter explores the relationship between governance and its popular legitimation in light of these changing geopolitical circumstances. Each highlights key concepts and dynamics that mattered to the majority of Massachusetts inhabitants at given times. Chapter 1 begins the study's narrative arc by asking what war in Massachusetts was like while the province was part of the British Empire. I argue that "the attachment of the people" to the Massachusetts charter of 1691 helps to explain the province's participation in the French and Indian War—arguably the largest undertaking attempted by a colonial government prior to independence. First, inhabitants recognized that their charter constitution offered an optimal combination of autonomy and legitimacy. It enabled provincial leaders to control nearly every aspect of

Massachusetts' military policy and to believe sincerely that their actions rested on a firm constitutional foundation. Second, the importance of charter rights resonated on every level of Massachusetts government and society, from the province as a whole on down to towns, families, and individuals. Provincial leaders exercised charter rights to regulate Massachusetts' participation in the war, ensuring that the colony never shouldered unsustainable burdens. Charter rights also guaranteed that individual soldiers served on reasonable terms and possessed a legitimate basis for appeal when they felt their conditions of service had been violated. Third, the nearly decade-long process of mobilization resulted in a steady stream of official endorsements of Massachusetts' charter rights. Royal governors actively participated and defended charter rights against aggressive imperial officials. After the war, governors and the Board of Trade continued to acknowledge that the Massachusetts charter could not be altered—at least not unilaterally. The familiar developments of the imperial crisis occurred in the context of this widespread assumption about the charter's inviolability.

Chapter 1 also demonstrates the extent to which imperial power functioned as an essential aspect of Massachusetts' "constitution" during the provincial period. Inhabitants never assumed that their province could or should exist apart from the British Empire. In the 1750s and 1760s, that empire consisted of a patchwork of different jurisdictions established at various moments over the previous century and a half. Any single colony survived, especially during wartime, only because it was embedded in a larger imperial framework and was protected by the most powerful fiscal-military state in the world. So powerful was the British Empire that—albeit after many disasters and countless minor setbacks—it overcame these profound structural inefficiencies to defeat the French. Massachusetts leaders factored in imperial power when using charter rights to regulate the province's military policies. Simply put, Massachusetts' military

exertions alone would not have protected the province or resulted in military success had colonists not been able to take British forces and resources for granted. The British imperial framework enabled Massachusetts to enjoy basic political and financial stability. Local communities did not experience paralyzing levels of strain. Inhabitants accepted the provincial government's management of the war and did not seek any sort of constitutional change. Examining the French and Indian War thus serves as a point of comparison to the War of Independence, when Massachusetts experienced far greater difficulties mobilizing for war and saw the need to seek renewed popular sanction for government authority.

Chapter 2 offers an analytical narrative of the period between 1774 and 1775 when Massachusetts colonists mobilized to resist British authority and witnessed the outbreak of war. For reasons suggested in Chapter 1, inhabitants' overriding concern was to protect the corporate rights of Massachusetts within the British Empire. Colonists' acts of protest in the 1760s and 1770s aimed to achieve this end. Parliament's attempt to alter the Massachusetts charter by means of the Massachusetts Government Act proved the catalyst for the unprecedented province-wide military mobilization that occurred prior to Lexington and Concord. When trying to describe their situation at this precarious moment, Massachusetts colonists often alluded to being in a "state of nature." Importantly, however, when colonists used this phrase they did not intend to suggest that Massachusetts society had disintegrated and that internal anarchy had befallen the province. Rather, they understood the "state of nature" in geopolitical terms: as a result of Parliament's actions, Massachusetts had been cast into a state of nature with respect to Britain. Colonists invoked "the great law of self-preservation," a concept widely discussed by the great writers on the law of nature and nations. And while colonists characterized their conflict with the British as a "civil war," they did not conceive of it as an internal struggle between inhabitants

of Massachusetts possessing different views. Tories were not merely a minority faction within Massachusetts society but “enemies to their country” and no longer part of the political community.

In short, Massachusetts inhabitants saw the conflict as a corporate, not an atomistic struggle, and their organization reflected their continuing attachments to formal, constitutional government. The resistance coordinated by the Provincial Congress aimed to restore the constitution. Inhabitants demonstrated their support for this goal by following the Provincial Congress’ recommendations. These developments foreshadowed a fundamentally different scale of violence than that encountered previously in the years of the Imperial Crisis. Colonists prepared for a conventional, all-encompassing war—not scattered civil protest nor even guerilla-type violence.

Chapter 2 also explores the relationship between Massachusetts and the new American confederation that emerged as a result of the crisis. While they did not unambiguously grant control over their province’s constitutional future to the Continental Congress, Massachusetts inhabitants recognized their perilous geopolitical situation demanded that they reach out to other colonies to secure their continuing support. The “state of nature,” after all, implied that all the colonies now existed in an uncertain and potentially transient relationship relative to one another. Deferring to Congress proved a means of solidifying the union of the other colonies. By July, 1775, Massachusetts had restored its charter constitution in a manner that inhabitants acknowledged to be legitimate—a distinctive arrangement that set the stage for the state’s subsequent constitutional development. It had also bound itself to membership in a new American confederation directed by the Congress in Philadelphia. The character of this

confederation and of Congress' authority to direct a war effort would have profound impact on how Massachusetts inhabitants experienced mobilization and governance in the coming years.

Chapter 3 analyzes Massachusetts' efforts to raise men and resources for military service between 1775 and 1780. When compared with the French and Indian War, the Revolution placed vastly greater strains on authorities and the general populace alike. It mattered decisively that Massachusetts no longer made war as a province of a powerful monarchical empire but instead as part of a confederation of weak states. With an enemy army inside its territory or nearby, and with the coastline always threatened by the Royal Navy, Massachusetts could not, as it had in the previous conflict, carefully manage the size and timing of its troop levies to avoid straining inhabitants' capacities. Congress requested each state to provide troops by assigning quotas, but it could not enforce compliance with its requests. The burdens of continental war thus cascaded downward from Congress to Massachusetts, where the state's government distributed them across a complex political geography of nearly 300 incorporated towns and other settlements.

Inhabitants responded to these increased burdens by articulating a sophisticated understanding of equity. Equity comprised a fundamental principle of government, and it ultimately served as a technology for mobilizing power. This commitment to equity did not depend on inhabitants subscribing to any particular stream of political philosophy. It emerged more prominently from the imperatives of the times and the context of governance. Without the external support offered by an imperial state, Massachusetts authorities had to expend greater effort apportioning the burdens of war onto the state's diverse communities. Remarkably time-consuming and inefficient, this practice was nonetheless essential to sustaining mobilization indefinitely. For inhabitants, equity denoted a responsive inequality in treatment in light of the

“peculiar circumstances” facing a town or individual. After exerting themselves in an effort to comply with government’s demands, inhabitants maintained that various factors beyond their control often limited their ability, for instance, to raise their quota of men for military service. Their opinion of government hinged on its demonstrating a reasonable degree of responsiveness to their plight, though inhabitants accepted that government might never be able to alleviate their hardships completely. Equity could never be achieved permanently, and its definition lay in whatever speakers or writers could persuasively argue was equitable in a given set of circumstances.

Crucially, the need to appeal to equity encouraged inhabitants to understand themselves in the context of the larger political community. To make a plausible case, inhabitants needed to demonstrate that the entire state would ultimately benefit if authorities gave special treatment to one town, group, or individual. At the same time, inhabitants demanded that, as they were exerting themselves to carry out government’s requests, equitable government would ensure that all other inhabitants were doing their part. An equitable government, therefore, would be one capable of enforcing compliance by all members of the community. Everyone possessed a stake in maintaining government’s authority. The experience also encouraged a form of vernacular federalism, for the habit of thinking about the broader arena of governance in Massachusetts easily expanded to include a more sustained consideration of the confederation and its method of distributing burdens.

To understand the relationship between mobilization, governance, and equity in these years, I draw on an impressive set of petitions written mostly on behalf of towns. Petitioning had long been important in Massachusetts, but a vast increase in the number of mobilization-related interactions between authorities and inhabitants caused an uptick in the number of petitions as

well. By the time of the Revolution, the practice in Massachusetts did not carry with it as many of the connotations we tend to associate with supplications to superiors. Petitioning functioned to connect towns and inhabitants from all parts of the state to the General Court in Boston, which relied on these communications to formulate policies that responded to common problems and concerns. Petitioners knew they needed to make requests based on plausible depictions of their circumstances; failing to do so would all but assure their rejection by elected officials who were aware of inhabitants' goals. Petitioners knew they also needed to invoke the normative values of their society to legitimize their actions. However self-interested inhabitants desired to be, the need to justify their actions in terms of equity placed de facto limits on what they could write or do when it came to governance. Petitions therefore comprise a key set of sources for the study of constitution-making. They contain commentary from ordinary inhabitants that truly shaped government's structure and functions. Scrawled in meetinghouses across Massachusetts, these prosaic "memorials" represent, in their own way, expressions of political thought as sophisticated and important as the learned treatises and other elite writings that have loomed so large in accounts of the Revolution's history.

This exploration of wartime mobilization and governance establishes the context for understanding Massachusetts' formal constitutional development between 1775 and 1780—the subject of Chapter 4. Of all the states that adopted new constitutions during the Revolution, Massachusetts came last. Yet the Massachusetts Constitution of 1780—and especially the method by which it was written and ratified—quickly inspired admiration. I argue that this process is best viewed in terms of an ongoing search by inhabitants for more effective government at all levels. A constitution was a useful "piece of machinery" with the potential to channel power to meet the needs of constituents. Massachusetts had to overcome a distinctive

set of problems to arrive at a new constitution that would represent an improvement over the one it already possessed, however.

Massachusetts inhabitants encountered a conundrum after it became clear that the British had no intention of acknowledging American rights within the empire or of appointing a governor who would rule according to the 1691 charter. On the one hand, the charter-based frame of government colonists had resumed in July 1775 was too substantive, legitimate, and functional to replace easily and quickly. Unlike most other colonial constitutions, the Massachusetts charter provided a comprehensive plan of government, outlined in a discrete text, that inhabitants had lived under for decades. In 1774 and 1775, they had mobilized to preserve the charter against attempts to infringe upon it. And as the record of wartime mobilization revealed, the vast majority of inhabitants readily complied with the demands made by the General Court as it operated under the charter's authority. On the other hand, after the colonies declared their independence in 1776, a large proportion of leaders and inhabitants assumed Massachusetts would need a new constitution eventually. Because the charter had technically made Massachusetts a royal colony, the state's frame of government possessed not only unappealing associations but problematic institutional arrangements unsuited to an independent state. The charter provided for a crown-appointed governor who would never return and executive rule by a Council that also sat as the upper chamber of the legislature—but was elected primarily by the House. Although it had served colonists' purposes well during the provincial period, the skewed apportionment of representation also now appeared inequitable in light of the populace's wartime contributions of men and money.

Inhabitants found it difficult to adopt a new constitution because they risked making the new government less legitimate and therefore less effective than charter government. The need

to sustain wartime mobilization strongly suggested that any new government's basic structure would not depart radically from the charter's, with a few minor exceptions. The primary value of the new constitution, then, lay in the enhanced popular sanction it could give to the state's authority. There was little doubt that any new constitution would need to undergo a process of popular ratification prior to going into effect. But if the method of popular ratification inhabitants employed created grounds for some towns to question the legitimacy of the government, then the populace would benefit from retaining the charter. This is precisely what occurred in 1778, when the guidelines for ratifying a poorly drafted constitution virtually guaranteed its rejection and, even if successful, would not have ensured a greater degree of compliance with government's demands. Inhabitants learned from this experience. In 1779 and 1780, they called a specially elected convention to write a far more nuanced constitution and then mandated a process of ratification that deftly reassured inhabitants that, despite some voters' objections to parts of the proposal, once ratified the entire populace would consider itself bound to acknowledge its authority. Thus the civic ritual of constitution-making held the potential to create and channel immense power in service of common goals, but it could also go awry if it failed to present inhabitants with the set of plausible fictions they needed to overcome sources of doubt.

Simultaneously, inhabitants took an active interest in strengthening the confederation and providing it with a more settled governing structure. No sooner had their province been cast into a geopolitical "state of nature" than they sought to leave it. Although, like all Americans, they were uncertain of precisely what form a confederation could take, they nonetheless demonstrated their engagement with continental affairs. In 1776, inhabitants throughout Massachusetts explicitly sanctioned a declaration of independence, at least partly in hopes of binding the states

more closely together in a more powerful union. In 1778, the state sponsored a significant effort to provide the Articles of Confederation with a measure of popular ratification in which they received nearly universal approval.

Chapter 5 examines Massachusetts' experience as part of the Confederation during the 1780s. If any state was constitutionally well-equipped to thrive—or at least to manage effectively—in the period that followed the War of Independence, it should have been Massachusetts. The state possessed an “excellent” constitution with an unsurpassed popular mandate. Ironically, I contend, the very strength and legitimacy of Massachusetts' constitutional government nearly proved disastrous in the context of the Confederation. After the war's conclusion, the government's main tasks concerned complex issues of state finance. Taking seriously the need to maintain the state's public credit, the government adopted measures to deal with its own substantial debt from the war. These measures sometimes came at the immediate expense of individual inhabitants, but, as it had consistently in many contexts over the previous quarter century, authorities privileged the corporate well-being of the state while maintaining that all inhabitants' interests were ultimately involved.

The state also made strident efforts to comply with the tax requisitions that Congress assigned as the state's contribution toward the Confederation's domestic and foreign debt. Several states that balked at the large sums Congress requested settled for noncompliance. In Massachusetts, elected officials convinced of the long-term need to maintain the Confederation's credit drew on the enhanced constitutional authority of the state in an effort to collect the taxes. In addition, it should be remembered, a sizable proportion of the populace had given its sanction to the Articles of Confederation and took seriously their obligations under them. But they did not succeed in meeting the state's quotas. To a large extent, however, officials understood the

populace's inability to pay as a symptom of the larger structural issues plaguing the Confederation's government.

Massachusetts and the Confederation were fundamentally different kinds of polities. As the 1780s wore on, Massachusetts leaders grew increasingly frustrated when Congress, through its actions and inactions, appeared to govern in a manner Massachusetts inhabitants would not have tolerated from their state government in Boston. Congress was largely inequitable in its distribution of burdens, taking no heed of the state's circumstances. It was also unresponsive to (what Massachusetts leaders considered) reasonable petitions for alterations and special grants, and it made no sustained efforts to force other states to comply with its demands and policies—thus making Massachusetts' compliance all the more difficult. The Confederation's failures threatened the integrity of the Massachusetts Constitution itself. Many interpreted Shays's Rebellion of 1786-1787 as an attack on the authority of the state constitution. The Shays rebels lashed out at state authority because the government based in Boston, in compliance with Congress' requests, levied and tried to collect the direct specie taxes that comprised one of their main complaints. The majority of state's inhabitants upheld the constitution's authority and quickly helped put the rebellion down. Yet the rebellion and the other developments of the 1780s appeared to demonstrate that their own constitutional government, no matter how legitimate, could ultimately provide little security or equity for inhabitants while Massachusetts remained part of the Confederation.

The study concludes with a brief consideration of the ratification of the United States Constitution in Massachusetts and its consequences. Inhabitants saw that the Federal Constitution aimed to integrate Massachusetts and the other states more closely into a single political community. The Constitution therefore resembled a state constitution, and the populace

critiqued it using the same standards and principles they had applied, for instance, in 1780. The mechanics of the ratification process ultimately produced a close affirmative vote in the convention, but inhabitants' broader support for the new Constitution was clear. They strongly desired to make government more effective and equitable, which meant granting enhanced authority to a federal government that could command all states and their citizens to comply with its demands. The years between 1774 and 1788 therefore comprised the anomalous period in Massachusetts' history. The British Empire and the new federal union performed many of the same functions that proved critical for Massachusetts' stability and prosperity. Out of necessity, Americans had turned to constitutions and the processes of popular legitimation to mobilize enough power to defeat the British and ensure the survival of their vulnerable new nation in a dangerous world.

Chapter 1

“The Attachment of the People”: The Massachusetts Charter, the French and Indian War, and the Coming of the American Revolution

In July 1774, shortly after his arrival in London, Thomas Hutchinson first learned the details of the Massachusetts Government Act. Hutchinson reacted with shock and disappointment at the news that Parliament had decided to alter a key portion of his native province’s charter. Taking pains to distance himself from the measure, he told Thomas Gage, his successor as royal governor, that he considered “it a most fortunate circumstance for me, that I have never had the least share in promoting or suggesting any part of [it].”¹ Hutchinson’s opposition to “breaking in upon, or taking away the Charter” had long been known among British officials.² Despite his frustration with several aspects of the charter, Hutchinson nevertheless warned that the consequences of altering it would far outweigh the benefits. He envisaged no scenario that would result in “a peaceable submission to a new form of government.”³ “I knew the attachment of the people,” he later confided to his diary, “and feared the convulsion it would occasion.”⁴

Hutchinson’s understanding of the people’s attachment to the charter hardly differed from that of his avowed enemy, John Adams. In most respects, the two stood on opposite ends of the spectrum. For Adams, Hutchinson would forever be the corrupt governor who advocated the abridgement of colonial liberties and the unlimited sovereignty of Parliament. He accordingly

¹ Hutchinson to Gage, 4 July 1774, in Peter Orlando Hutchinson, ed., *The Diary and Letters of His Excellency Thomas Hutchinson, Esq.* ... , 2 vols., (London: Sampson Row, Marston, Searle and Rivington, 1883-86), 1:177.

² Hutchinson Diary, 5 July 1774, in Hutchinson, ed., *Diary and Letters* 1:183. See also Bernard Bailyn, *The Ordeal of Thomas Hutchinson* (Cambridge, Mass.: Harvard University Press, 1975), 279, and William Pencak, *America’s Burke: The Mind of Thomas Hutchinson* (Washington D.C.: University Press of America, 1982), 144-45. As Bailyn notes, Hutchinson continued to remind others of his consistent opposition to altering the charter. See Hutchinson to –, 6 July 1774, Hutchinson to –, 8 July 1774, Hutchinson to –, 20 July 1774, Hutchinson to Jonathan Sewall, 8 July 1775, in Hutchinson, ed., *Diary and Letters* 1:180-82, 190-91, 501.

³ Thomas Hutchinson to Lord Hillsborough, 9 Oct. 1770, printed in *Boston Gazette*, 7 Aug. 1775.

⁴ Hutchinson Diary, 16 May 1776, Hutchinson, ed., *The Diary and Letters* 2:55.

assumed that Hutchinson sought to destroy the Massachusetts charter. Fortunately, that was not likely; Adams wrote, “The Constitution of this Province, has enabled the People to resist their Projects, so effectually, that they see they shall never carry them into Execution, while it exists.” Adams noted the people’s reverence for their charter and granted it a place of unsurpassed importance in the Empire. There existed, he claimed, “a Republican Spirit, among the People, which has been nourished and cherished by their Form of Government.” This “same Spirit,” in turn, “spreads like a Contagion, into all the other Colonies, into Ireland, and into Great Britain too, from this single Province.” For these reasons, Adams predicted in March 1774, “no Pains are too great to be taken, no Hazards too great to be run, for the Destruction of our Charter.”⁵ A few months later, the attempt to destroy the charter arrived in the form of the Government Act. Adams’s suspicions notwithstanding, Hutchinson was not to blame. Despite their differences, both Hutchinson and Adams appreciated the deep and abiding “attachment of the people” to the Massachusetts charter. Both opposed any initiative to change it, correctly perceiving that such a measure would cause violent resistance on an unprecedented scale.⁶

This unlikely convergence of views offers an opportunity to reassess the standard narrative of the imperial crisis and the onset of the Revolution. The challenge is twofold. First, we must account for the degree of popular engagement that Hutchinson and Adams took for granted. Second, we must explain why that popular engagement in Massachusetts reached its apogee as a defense of the 1691 charter. Indeed, the alteration of the charter, by provoking a

⁵ John Adams, 12 Mar. 1774, in L.H. Butterfield, ed., *Diary and Autobiography of John Adams* (Cambridge, Mass.: Harvard University Press, 1961) 2: 93.

⁶ John Shy compared the views of two British officials, hardliner Henry Ellis and the relatively radical Thomas Pownall, to argue that even those on opposite ends of the British spectrum agreed on the fundamental points regarding Parliament’s relationship to the American colonies. See “The Spectrum of Imperial Possibilities: Henry Ellis and Thomas Pownall, 1763-1775” in his, *A People Numerous and Armed: Reflections of the Military Struggle for American Independence*, rev. ed. (Ann Arbor: University of Michigan Press, 1990), 43-80.

province-wide military mobilization, created the conditions necessary for the outbreak of war.⁷ To explain the mobilization of “the people,” historians of ideology, political culture, and identity discern motives—supposedly more fundamental and universal—that often bear a tenuous connection to the chronology and character of events. Constitutional historians and students of political thought correctly define respective British and American positions in the era’s transatlantic debates, but fail to account adequately for the on-the-ground passion that Hutchinson rightly feared.

Historians such as Bernard Bailyn, Richard Bushman, and Timothy Breen emphasize a variety of ideological or socio-cultural dynamics that, they maintain, resonated with the populace at large and drove resistance. Bailyn’s ideological interpretation suggested that a “theory of politics” based on English Whig thought pervaded colonial society, instilling Americans with a common “intellectual switchboard.” Bushman’s study of provincial Massachusetts emphasizes “deeply ingrained assumptions...so common that they were as much feelings as ideas.” This political culture was defined by “[a]...general concern about self-interested rulers, broadly diffused through provincial society, [that] alerted people to the danger signals.” For Bailyn and Bushman, these “danger signals” occasionally related to the constitutional issues of the imperial crisis, but they also included anything that triggered colonists’ underlying anxieties about corruption, dependence, and conspiracy. For Bushman, then, the real danger of the Massachusetts Government Act was not that it violated the sanctity of charter rights, but that it would enable the governor to create a “web of patronage.”⁸

⁷ Harry A. Cushing, *History of the Transition from Provincial to Commonwealth Government in Massachusetts* (New York: n.p., 1896), 132-36 as well as Chap. 2 below. See also, David Ammerman, *In the Common Cause: American Response to the Coercive Acts of 1774* (1974, repr. New York: W.W. Norton, 1975), 140.

⁸ Bernard Bailyn, *The Ideological Origins of the American Revolution* Enlarged Edition (Cambridge, MA: Harvard University Press, 1992), 22, 55. Richard L. Bushman, *King and People in Provincial Massachusetts* (Chapel Hill: University of North Carolina Press, 1985), 7, 187.

Breen, also noting the “shrill, even paranoid, tone of the public discourse in the colonies,” situates the colonists within the broad cultural and political processes taking place in the British world. In his view, there existed a “popular fear that the English were systematically relegating Americans to second-class standing within the empire,” a development that seemed to challenge their identity as Britons. Thus when he examines the ordinary Americans who comprised the resistance movement, Breen—elaborating on Richard D. Brown—observes that their motivations cannot be reduced to “a single cause or narrow agenda” but rather reflect a general belief in God-given natural rights that must be preserved “against tyranny,” as well as the “immediate passions” of “fear, fury, and resentment.”⁹ Neo-progressive historians have also emphasized deeply-rooted underlying motivations, which they connect to socio-economic conditions and access to political power. According to Ray Raphael and Stephen Patterson, many common people in Massachusetts were driven by “radically democratic impulses” and the desire for “immediate reforms of a democratic nature.”¹⁰

Two issues complicate this approach to the Revolution. The first is one of causation and timing. Historians who emphasize the significance of general assumptions, fears, or longings are left to identify a tipping point at which people finally decided to take more drastic actions. If these concerns—about conspiracy, dependence, British identity, or inequitable government—were already extant or gradually increasing, then we need to explain why people failed to act

⁹ Timothy H. Breen, “Ideology and Nationalism on the Eve of the American Revolution: Revisions *Once More* in Need of Revising,” *Journal of American History* 84 (June 1997):31-39 and *American Insurgents, American Patriots: The Revolution of the People* (New York: Hill and Wang, 2010), 11, 242, 253, Brown notes that the Massachusetts towns were encouraged in 1773 by the Boston Committee of Correspondence to articulate their views and cites an eclectic mix of reasons for resisting. *Revolutionary Politics in Massachusetts: The Boston Committee of Correspondence and the Towns, 1772-1774* (W.W. Norton, 1970), 121. Barbara Clark Smith highlights the importance colonists placed on the right to consent to laws both before and after their enactment. Colonists feared that British policies were undermining this right. Smith, *The Freedoms We Lost: Consent and Resistance in Revolutionary America* (New York: New Press, 2010), chp. 3, esp. 88-90. See also, Patrick Griffin, *America’s Revolution* (New York: Oxford University Press, 2013).

¹⁰ Raphael, *The First American Revolution: Before Lexington and Concord* (New York: The Free Press, 2002), 217, and Patterson, *Political Parties in Revolutionary Massachusetts* (Madison: University of Wisconsin Press, 1973), 117.

more forcefully on any number of occasions during the imperial crisis. Pauline Maier provided the ideological interpretation's explanation for the slow escalation "from resistance to revolution," arguing that Real Whig thought stressed "order and restraint." Breen explains the ten-year gap between the Stamp Act and the outbreak of fighting as the time needed for Americans to build ties and trust among themselves.¹¹ The final stage of popular mobilization in these accounts always corresponds with the imposition of the Coercive Acts, whose substantive content these studies play down in favor of their symbolic meanings.¹² The Coercive Acts presented Americans with particularly offensive and varied provocations. Yet, prior to 1774, Americans had received news of obnoxious legislation, met in a continental congress, organized consumer boycotts, and formed extralegal committees—all without descending into a war no one desired. At the very least, more can be said about why war finally did break out, and in Massachusetts at that.¹³

The second difficulty concerns what the people aimed to do once they mobilized. The more intuitive and less specific one makes the motivating factors driving people's resistance, the more difficult it is to explain their actions. Ideology and political culture may have provided colonists with a long list of things to fear, but they did not prescribe an obvious, immediate program to pursue once inhabitants reached their tipping point.¹⁴ The ordinary American "insurgents" Breen rightly restores to a prominent role certainly set out to "preserve their rights"

¹¹ Pauline Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776* (1972 repr. New York: Norton, 1991), 28. Breen, "Ideology and Nationalism," 33.

¹² A point made by Ammerman, *In the Common Cause*, 12.

¹³ Ammerman, *In the Common Cause*, esp. pp. 1-17, 140, 145-46, 150-51. For Maier, the question becomes when Americans were generally convinced that the king himself was part of the conspiracy to deprive them of their rights, a point reached around 1775—after the Coercive Acts. Maier, *From Resistance to Revolution*, 225, 237-41. Brendan McConville offers a similar interpretation and chronology in *The King's Three Faces: The Rise and Fall of Royal America* (Chapel Hill: University of North Carolina Press, 2006), 286-87.

¹⁴ Bushman, *King and People*, 214. Bushman strains to explain why most Massachusetts colonists remained so devoted to preserving the 1691 charter after it had proved an insufficient bulwark against corruption. Brown, *Revolutionary Politics*, 231-33 notes that in 1774 some suggested the possibility of returning to the 1629 charter.

in the face of British affronts; yet, they just as surely possessed more elaborate thoughts about what, in practical, constitutional terms, defending “the common good” and securing their proper status entailed. Adding substance and a degree of specificity to their motivations in no way diminishes their passion; it makes it more comprehensible.¹⁵

Another approach to the Revolution focuses on the political theory and constitutional issues of the imperial crisis. Scholars such as John Phillip Reid and Jack P. Greene have demonstrated that the American rejection of Parliament’s authority rested on a viable foundation of British legal and constitutional principles.¹⁶ Disputing Reid and Greene's contention that British constitutionalism alone provided sufficient grounds for colonists' claims, Michael Zuckert and Craig Yirush argue that natural rights ultimately underpinned the American position. Charters, all these scholars agree, were of marginal relevance during the imperial crisis and thus Americans arrived at a theory of colonial “constitutions”: the colonies possessed valid claims for rejecting Parliamentary sovereignty.¹⁷

Without doubting colonists’ sophistication, it is fair to question whether this rather abstract view of the imperial crisis alone accounts for the extent of popular mobilization, especially in Massachusetts in the wake of the Government Act. We can build on this approach’s contributions by considering how Americans might have developed an appreciation for constitutional matters in more immediate, concrete contexts—ones that resonated as powerfully

¹⁵ Breen, *American Insurgents*, 242-43.

¹⁶ Reid’s view is best encapsulated in his *Constitutional History of the American Revolution: Abridged Edition* (Madison: University of Wisconsin Press, 1995); Greene's in, *Peripheries and Center: Constitutional Developments in the Extended Politics of the British Empire and the United States, 1607-1788* (New York: Norton, 1986) and “From the Perspective of Law: Context and Legitimacy in the Origins of the American Revolution” in his *Interpreting Early America: Historiographical Essays* (Charlottesville: University Press of Virginia, 1996), 467-492.

¹⁷ Zuckert, “Natural Rights and Imperial Constitutionalism: The American Revolution and the Development of the American Amalgam,” *Social Philosophy and Policy* 22 (2005), 27-55; and Craig Yirush, *Settlers, Liberty, and Empire: The Roots and Early American Political Theory, 1675-1775* (New York: Cambridge University Press, 2011), chap. 3, esp. 101. Greene, *Peripheries and Center*, pp. 36, 84, 141, and “From the Perspective of Law,” 480.

with ordinary inhabitants as with the more lawyerly colonial elites.¹⁸ In the course of uncovering the theoretical grounds on which all American colonists could assert rights in the abstract, historians of political thought have perhaps overlooked the importance of the people's more tangible "attachment" to the specific colonial "constitutions" under which they lived.

Living in provinces did not make colonists parochial or narrow-minded. On the contrary, it was through these constituted polities that they exercised rights, experienced the benefits of government, and participated in the British imperial project. Thus when Parliament overstepped its authority, colonists who wished to safeguard their natural and constitutional rights took actions to uphold their colonies' corporate rights. The innovative forms that protests often took, like consumer boycotts, should not obscure that this was their ultimate aim.¹⁹

In Massachusetts, defending corporate rights meant preserving the charter.²⁰ As Hutchinson recognized, in the bond between the people and their charter lay immense potential for popular mobilization. Such a mobilization would owe its effectiveness, in turn, to the fact that it would be directed toward a well-defined end: the preservation of the particular constitutional arrangement defined in the charter that secured inhabitants' rights, established a government responsive to their needs and interests, and affirmed their province's connection to the British Empire. Appreciation for the Massachusetts charter antedated the imperial crisis of 1765-1775 and did not arise solely as a result of constitutional debates; its popularity depended on more than just the principles that lay at its theoretical foundations. The people of Massachusetts revered it because they experienced the effectiveness of charter government and the importance

¹⁸ Breen, "Ideology and Nationalism," p. 31 and *American Insurgents*, 4.

¹⁹ Timothy H. Breen, *The Marketplace of Revolution: How Consumer Politics Shaped American Independence* (New York: Oxford University Press, 2004), and Barbara Clark Smith, *The Freedoms We Lost: Consent and Resistance in Revolutionary America* (New York: New Press, 2010), chap. 3.

²⁰ John L. Brooke, *The Heart of the Commonwealth: Society and Political Culture in Worcester County, Massachusetts, 1713-1861* (1989 repr. Amherst: University of Massachusetts Press, 1992), 142-57.

of charter rights. Their view extended past the local to the provincial level and beyond. To understand why the charter merited the approbation of those who lived under its remit, we need to examine Massachusetts's mobilization efforts during the French and Indian War.

Three important conclusions emerge when we examine the province's involvement in the war. First, the Massachusetts charter of 1691 offered an unusually strong and legitimate basis on which provincial leaders could exercise control over military policy and, at the same time, believe that they acted in accord with British imperial authority. Several features distinguished the Massachusetts charter. In addition to a legislature established on highly advantageous terms, the existence of a crown-appointed royal governor with roles and powers outlined in the charter often worked in colonists' favor. A provision in the Massachusetts charter circumscribed the governor's ability to order inhabitants beyond the geographical limits of the province without their or their representatives' consent. This provision provided provincial leaders with the constitutional means to regulate the government's exertions and to dictate conditions of service for Massachusetts troops. Although colonists in other provinces found ways to achieve similar results, what differentiated Massachusetts was the extent to which its charter appeared explicitly to sanction provincial control. Bay colonists recognized, in short, that their charter granted them an optimal combination of autonomy and legitimacy.

Second, the exercise of charter rights never mattered more to a greater number of people than during the French and Indian War. Charter rights enabled the province to conduct a war effort commensurate with both genuine zeal for the greater British cause, on the one hand, and awareness of its own practical limitations on the other. At the provincial level, this ensured that the military-related burdens Massachusetts shouldered never imposed unbearable financial, economic, and social strains on colonial or local governments. The size and duration of service

for annual manpower levies fluctuated in response to changing circumstances. The General Court's deft management of the war effort facilitated a relatively rapid postwar recovery. Moreover, individual inhabitants throughout the province experienced the importance of charter rights even more directly. Every man who served in the Massachusetts forces—a conservative estimate puts the number at thirty percent of military-age males²¹—enjoyed conditions of service guaranteed by charter rights as exercised by the General Court. In some cases, the stakes were high, as when the assembly prevented Massachusetts men from being sent to Cuba. Charter rights also enabled provincial leaders to promise reasonable dates of discharge, limit the frequency of impressment, and restrict deployment to tolerable destinations. While Massachusetts's government did not always succeed to inhabitants' complete satisfaction, a grateful populace recognized the benefits of charter government.

Third, colonists continued to revere the charter during and after the French and Indian War, and to believe that its status as the inviolable constitution had never been more secure. The ongoing process of mobilization resulted in a steady stream of official endorsements of the province's charter rights by successive governors. Not only did they participate in the process when the General Court invoked charter provisions to shape mobilization policy, royal appointees also defended colonists' rights against aggressive imperial officials. Francis Bernard and Thomas Hutchinson pointed out particular defects of the charter, but even they doubted the legal soundness or practical propriety of altering it without prior consultation. The Board of Trade also upheld the charter despite its unfortunate flaws. The French and Indian War thus represented both the strongest assertion of charter rights by colonists, and the clearest acknowledgement of those rights by British officials, prior to the Revolution.

²¹ Fred Anderson, *A People's Army: Massachusetts Soldiers and Society in the Seven Years' War* (New York: Norton, 1984), 60.

Frontiers and Limits

In June and July, 1754, at the request of the Board of Trade, commissioners from seven of Britain's North American colonies convened in Albany, New York. There, in addition to their main task of negotiating with the region's Native Americans, they produced a Plan of Union that aimed to establish an intercolonial government. The scheme provided for a union of all the colonies, headed by a crown-appointed President General who would act in conjunction with a Grand Council of elected representatives. The new continental government would manage Indian affairs, regulate new settlements, provide for the common defense, and levy taxes to pay its expenses. Although the Albany commissioners decided that the union would have to be implemented by an act of Parliament, they also mandated that it first be sent to each colony for approval—a provision they knew virtually guaranteed that their Plan would come to nothing. In the months that followed, colony after colony either ignored the Plan or positively rejected it.²²

Massachusetts at least considered the Plan. Thomas Hutchinson, then a member of the provincial Council, had attended the Congress and had helped draft it. Governor William Shirley, though not present at Albany, supported a union and conveyed the Plan to the General Court in October, 1754. The assembly took no action until early December, when it instructed the province's agent to oppose the Congress's Plan in London. The General Court spent the remainder of the month writing and considering two alternate plans for union. The first of these, rejected easily on December 14, proposed a temporary union of the New England colonies and New York. A second alternate plan outlined a temporary, defensive union of all the colonies.

²² Timothy Shannon discusses the Congress's decision to send the Plan to the colonies for approval and the commissioners' belief that the Plan was "a lost cause from the start." Timothy Shannon, *Indians and Colonists at the Crossroads of Empire: The Albany Congress of 1754* (Ithaca: Cornell University Press, 2000), 190, 207. For the Albany Congress in general and the Plan's reception, see Shannon, *Indians and Colonists at the Crossroads of Empire*, 174-201, 205-20; Fred Anderson, *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754-1766* (New York: Knopf, 2000), 77-85.

On December 27, the House voted to postpone its consideration of this plan until the province's inhabitants were given an opportunity to instruct their representatives. Despite the House's refusal to print the plan, Boston's town meeting obtained a copy and debated it in Faneuil Hall on January 17, 1755. Boston's strong opposition to any plan of union marked the end of debate on the subject in Massachusetts.²³

Among the colonies, Massachusetts gave the Albany Plan of Union and alternate proposals the most consideration. It did so not because inhabitants valued their charter rights any less than colonists elsewhere. Rather, Massachusetts lingered over the schemes for union because of the province's perilous geopolitical situation on the eve of a great war. Inhabitants feared that their province, once again, would have to exert itself disproportionately in the common defense. Intercolonial union's momentary appeal lay in the prospect of finally coercing neighbors to contribute.²⁴ Ultimately, the province's leaders decisively rejected union out of desire to maintain corporate rights. But that was not the only reason. They also rejected a union because they did not believe it would be adequate to the task confronting Massachusetts and the colonies as a whole. In order to understand Massachusetts's embrace of its constitution—its charter rights as well as its current connection to the Empire—we must first survey the geopolitical setting in which the province operated.

When mid-century Massachusetts colonists described the political geography of North America, they employed the language of “frontiers” and “limits.” Colonists needed both terms

²³ Robert C. Newbold, *The Albany Congress and Plan of Union of 1754* (New York: Vantage Press, 1955), 143-55; Shannon, *Indians and Colonists*, 217-19.

²⁴ On this point, see Newbold, *Albany Congress*, 145; Anderson, *Crucible of War*, 84; and Shannon, *Indians and Colonists*, 215-16. Shannon contends that support for a union in Connecticut and Massachusetts emerged because those colonies “shared exposed frontiers, a distaste for New York's management of Indian affairs, and past experience with the seventeenth-century confederation of New England colonies.” *Indians and Colonists*, 216. Massachusetts certainly possessed a frontier that needed to be defended, but colonists and officials there claimed Connecticut lacked any exposed frontier of its own. The colonies certainly shared a dislike for New York. It is doubtful, however, whether their participation in the New England confederation nearly a century before had any influence.

as they attempted to capture the complexity of the situation they encountered. Each colony possessed legal borders that were laid out in their respective charters and, in some cases, made more exact and definitive over time through negotiation. These were most commonly referred to as the province's "limits." Colonies quarreled with one another over the precise locations of their limits. Massachusetts, for instance, found itself embroiled in conflicts with all of its neighbors throughout the colonial period and beyond. But no one denied that fixed legal borders existed, if only they could be identified to the satisfaction of the interested parties. "Frontiers," on the other hand, most often referred to the practical extent of settlement in a given region. If limits were—in theory—fixed, permanent, *de jure* matters of right, then frontiers were fluid, impermanent, *de facto* situations that needed to be managed in response to pragmatic considerations. At mid-century, nearly every one of the mainland British colonies possessed one or more internal frontiers—areas in which the pale of settler occupation, however dense or diffuse, did not yet extend to the legal limits of the province.

The frontiers and limits of the British Empire were composites of the frontiers and limits of the several individual colonies. Britain's soon-to-be-renewed conflict with France for supremacy in North America would cast in stark relief latent tensions between colonists' understanding of "frontiers" and "limits." At the start of the French and Indian War, Massachusetts colonists assessed their situation and prospects in terms of these concepts, ultimately concluding that it was in no way reasonable to expect that their province—literally "limited" as it was—could single-handedly defend the British Empire's frontier with France in North America.

Massachusetts's Maine District provides an illustrative example of how colonists understood the relationship between their province's frontiers and limits. Granted to

Massachusetts in its 1691 charter, the region was slowly becoming more populated. By 1760, two new counties, Cumberland and Lincoln, would be created to join the single original county of York. Yet at mid-century the Maine frontier still did not extend far to the west along the coast, leaving a large, unpopulated region between the last settlements to the west and the St. Croix River, which Massachusetts inhabitants believed to be the District's eastern limit. Such a discrepancy between a province's legal limit and its settlement frontier was hardly uncommon in British North America. What made Maine's situation unusual grew out of uncertainty about whether Massachusetts's limit there also served as the limit of the British Empire in the region. At issue were the "anciennes limites" of the historically French region of Acadia, which had been ceded to Britain in the 1713 Treaty of Utrecht but had remained a point of contention in the negotiations that followed the 1748 Treaty of Aix-la-Chapelle. Britain claimed this territory east of Maine all the way to the St. Lawrence.²⁵ France claimed, as William Shirley later explained to the Massachusetts House in 1755, "the whole Country to the Westward and Southward of the River St Lawrence as far as the Kennebeck [River] on one side of the Bay of Funda [sic], and Annapolis Royal on the other."²⁶ Notwithstanding British imperial claims to the Acadian territory, the unsettled state of the dispute meant that Massachusetts's limit in Maine continued to serve as the Empire's de facto border in the region as well.

By 1753, fears of French "encroachment" on British territory had spread throughout the colonies and to London. In the British view, French trespassing on any formal territorial limit (as those limits were understood by the British) constituted a violation of the law of nations and grounds for hostilities. In a circular letter to all the colonies, the Secretary for the Southern Department, the Earl of Holderness, instructed each governor "to resist any hostile attempts that

²⁵ Eliga H. Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge: Harvard University Press, 2012), 26.

²⁶ William Shirley to the House of Representatives, 7 Feb 1755, Massachusetts Archives, Boston, 109: 23a.

may be made upon any parts of His Majesty's Dominions within your government." Any agents of foreign powers discovered "to make any incroachment on the limits of His Majesty's dominions" were to be immediately ordered to desist. Holdernessee authorized governors to use military means if necessary, but only "within the undoubted limits of his Majesty's dominions."²⁷ Virginia's Lieutenant Governor Robert Dinwiddie undertook the most famous action in response to Holdernessee's instruction, sending an expedition to the forks of the Ohio to order French troops to leave Virginia limits. Throughout 1754, readers of the *Boston Gazette* could follow the fortunes of the Virginia contingent's commander, George Washington, as he was initially rebuffed by the French and then, a few months later, defeated and forced to surrender.²⁸

At the same time, Massachusetts inhabitants responded to purported French incursions within the limits of their own province. Early in 1754, rumors circulated of French activity along the Kennebeck River in Maine. Predictably, the reports distressed the numerous members of the Massachusetts General Court who held shares in the Kennebec land company, which planned to develop the still-unsettled region. Although receptive to such self-interested pleas, Governor Shirley phrased his official statement on the matter in the familiar terms of Holdernessee's letter. "[I]t seems plain," Shirley told the General Court, that the French "are now pushing into the very *Heart* of the Province," the Kennebeck River "being under His Majesty's Dominion, and within the Limits of the Government" of Massachusetts. Shirley dispatched an officer to inform the French to leave the area and, with the eager consent of the assembly, organized an expedition of 500 troops under John Winslow in case the French "shall refuse to quit his Majesty's Territories

²⁷ Earl of Holdernessee to William Shirley, 28 Aug 1753 in Lincoln, ed., *Correspondence of William Shirley* 2: 12-13.

²⁸ The *Boston Gazette* published extracts from Washington's diary on 16 April 1754; further accounts of the Virginian expedition followed on 2 and 30 July.

within this Government, without being compel'd to it by Force."²⁹ To everyone's surprise, Winslow found no sign of French settlement when he arrived on the site in early summer.³⁰

Unnecessary though it may have seemed in hindsight, the Kennebeck expedition's popularity demonstrated Massachusetts inhabitants' keen understanding of their duties and interests. Colonists readily acknowledged that the official limits of their province also functioned in this instance as the limits of the British Empire. Any violation of these limits needed to be resisted as a matter of right. In his 1754 election sermon Boston minister Jonathan Mayhew took for granted his audience's great concern for the Empire's formal territorial claims, noting that "We are morally sure from the steps which our neighbours are taking, that there must, sooner or later, be some great turn of affairs upon this Continent, which will put it out of our power, or out of theirs, to dispute about boundaries."³¹ Colonists likewise agreed with Governor Shirley when he informed the Norridgewalk Indians of Maine a month later, in June, 1754, that "by the established Law of Nations," it was the British king's right "to build Forts...in the Eastern Parts of this Government [of Massachusetts]" and to deny the French king's attempts to do the same.³² In addition to asserting a legal territorial claim, however, the Kennebeck expedition also demonstrated a willingness to meet the practical exigencies of defending the frontier of settlement in the region. With the rumored French encroachments and the inhabitants at risk both falling within the province's sole jurisdiction, Massachusetts colonists believed they had acted as any responsible government should in light of a threat to one of its frontiers.³³

²⁹ *Boston Gazette*, 23 April 1754.

³⁰ John A. Schutz, *William Shirley: King's Governor of Massachusetts* (Chapel Hill: University of North Carolina Press, 1961), 174-79.

³¹ Jonathan Mayhew, *A Sermon Preach'd in the Audience of his Excellency...* (Boston: Samuel Kneeland, 1754), 36.

³² *A Journal of the Proceedings at Two Conferences...Between His Excellency William Shirley...And the Chiefs of the Norridgewalk Indians...and the Chiefs of the Penobscot Indians* (Boston: John Draper, 1754), 14.

³³ Governor Shirley noted in his address of 23 April 1754 that "Vigorous Measures against the *French*" would "in a great Measure prevent them from attempting to make Depredations in our exposed in [*sic*] our exposed Settlements." *Boston Gazette* 23 April 1754.

Massachusetts faced a more complicated dilemma in the west, where the confusion of various “frontiers” and “limits” greatly contributed to the distinct perspective with which the province approached the French and Indian War. By the 1750s, Massachusetts’s western “frontier” corresponded more closely than ever to its western limits. Settlement of the colony had proceeded in stages over the previous century. After the coastal east, the Connecticut River Valley had served as the next locus of settlement, with towns along the river achieving incorporation throughout the latter half of the seventeenth century. Some of these towns approached Massachusetts’s northern limit. Deerfield, situated only about fifteen miles from (what was then) the New Hampshire border, had been the site of an infamous raid by French-allied Indians in 1704. In the first half of the eighteenth century, the focus of new settlement shifted to the interior of the colony. The towns of Worcester County, established in 1731, filled in the gap between the older communities in the east and those along the Connecticut River in Hampshire County. Finally, the approximately twelve to twenty-five-mile-wide region extending east from the western limit of Massachusetts, while by no means densely settled yet, would become sufficiently populous by 1761 to justify the creation of the new county of Berkshire. This region’s four established towns (New Marlborough, Sheffield, Egremont, and Stockbridge) lay near the southwest corner of the province, as did a few other minor settlements. Unincorporated “plantations” that would become the towns of Williamstown, Lanesborough, and Pittsfield lay in the northern half. At the start of the French and Indian War, the total population of this westernmost part of Massachusetts stood at somewhat fewer than the 3,029 persons the Berkshire County census of 1765 estimated.

Due to a coincidence of geographical and political factors out of its control, this semi-settled area of western Massachusetts served at mid-century as the effective frontier of the

British Empire. On a map, the provinces of New York and New Hampshire enveloped Massachusetts's western border, their limits extending north toward the Empire's boundary with France. In New York, however, no significant settlements existed north of Albany. Approximately twenty-five miles of open terrain separated this New York outpost and the settlement at West Hoosic (Williamstown) in the northwest corner of Massachusetts. In New Hampshire, which had shared a governor with Massachusetts until 1737, only a half-dozen tiny settlements "distinguished by no other than Indian or temporary names" were scattered throughout the upper Connecticut River valley.³⁴ As a result, the French and their Indian allies enjoyed an unobstructed invasion route that began at Montreal on the St. Lawrence River, about 250 miles north of Albany. The Richelieu River, Lake Champlain, Lake George, and the Hudson collectively formed a convenient corridor down which to travel. Even worse for Massachusetts, about twenty miles north of Albany the Hoosic River branched off from the Hudson and proceeded east, through the southwest corner of New Hampshire, before flowing into northwest Massachusetts.³⁵

As open hostilities commenced in North America, western Massachusetts experienced the enemy's first concerted attacks. Governor Shirley, who had spent several months in Maine negotiating with Indians and overseeing the Kennebeck expedition, arrived back in Boston in September 1754 to find the assembly relieved by his return and the populace much alarmed by "the distressing Accounts we are receiving from our Western Fronters [*sic*]." The newspapers carried numerous reports of assaults on Berkshire and Hampshire County settlements. Initial rumors "of an Army of French and Indians having surrounded Stockbridge" proved overblown, the *Boston Gazette* stated, but hostile natives had still killed a man, three children, and a servant

³⁴ Jeremy Belknap, *The History of New Hampshire* (Dover, N.H., 1812), 2: 185.

³⁵ *A History of the County of Berkshire County, Massachusetts...By Several Gentlemen of the County* (Pittsfield: Samuel W. Bush, 1829), 10.

maid in the vicinity. Elsewhere, Indians were said to have burnt much of “Housack” (Adams) in northwestern Massachusetts, while over forty canoes packed with Indians were believed to be advancing toward the province “with a Design to make a Descent on our Frontiers.”³⁶ Such reports of threats or actual attacks on towns within the limits of Massachusetts became ubiquitous in the early years of the war. The inhabitants of Greenfield summed up the ominous situation faced by large parts of the province when they petitioned the Massachusetts General Court for protection in February 1757. “Greenfield lays about three Miles North of Deerfield,” they wrote, “there being no town between that and Canady [*sic*].”³⁷

Defending Massachusetts’s frontier thus demanded a strategy based on geographical realities and pragmatic imperatives; the legal limits of the province here proved inconsequential to the goal of protecting the province’s inhabitants. As colonel of the Hampshire County militia, Israel Williams lamented the “dark, distressing scene opening” on the “Western Frontiers” he was responsible for defending. Writing to Governor Shirley in September, 1754, Williams proposed, first, that scouting parties based at Fort Massachusetts (present-day North Adams) “waylay the roads from Crown Point,” the major French outpost on Lake Champlain. It went without saying that these scouting parties would be crossing over into New York’s jurisdiction at times. Next, noting the “large opening where the Enemy can...come down” between the Hudson River and Fort Massachusetts, Williams suggested that two forts be built to fill the gap—one to be maintained by New York and the other (presumably located somewhere in Massachusetts) at the expense of Connecticut. Williams knew something also needed to be done to prevent the

³⁶ Accounts of Shirley’s return, the rumors of a French and Indian army at Stockbridge, and the advance of the fleet of Indian canoes are all in the *Boston Gazette*, 17 September 1754. See also, e.g., *Boston Gazette* 26 Nov 1754: “By an Express from the Westward, we hear, That a Number of Indians having lately come over the Lake, ‘twas fear’d that an Assault was intended by them upon Stockbridge, or some other Settlements on our Western Frontiers.”

³⁷ Petition of the Inhabitants of Greenfield, 25 Feb 1757, Mass. Arch. 117: 208.

enemy from advancing through western New Hampshire.³⁸ As recently as 1753, the Massachusetts General Court had objected to New Hampshire's refusal to maintain Forts Dummer and No. 4, which were still being supported by Massachusetts long after the territory on which they sat had been transferred to New Hampshire.³⁹ The Scottish-born Boston doctor and writer William Douglass noted that of the fifty-six "generally insufficient" fortifications maintained by Massachusetts, fifteen "are in another province."⁴⁰

Ultimately, Massachusetts colonists understood that the security of their frontiers required offensive expeditions that eliminated the source of the threat. Indians found ways to penetrate Massachusetts territory regardless of the number or location of the province's fortifications. The Boston writer William Clarke pointed to "the immense Charge the Governments must be at...to defend their extended Frontiers" in what amounted to "a very ineffectual Manner." Many frontier settlements, Clarke explained, remained "in continual Terror; the Lands lay waste and uncultivated from the Danger that attends those that shall presume to Work upon them."⁴¹ Governor Shirley never doubted that the only true solution to Massachusetts's dilemma involved destroying the French fort at Crown Point on Lake Champlain, which had served as a staging area for Indian raids since the 1740s. "[A] most favorable Opportunity" existed, Shirley told the General Court in early 1755. Control of Crown Point would "put it into our power not only to cover our Western Frontiers against the incursions

³⁸ Israel Williams to William Shirley, 12 September 1754, in Lincoln, ed., *Correspondence of Shirley* 2:86, 87, 88. For Shirley's approving reply of 26 September 1754, see *ibid.*, 91.

³⁹ Schutz, *William Shirley*, 170-71. See also William Pepperrell's message to Governor Shirley on behalf of both houses of the General Court, 4 January 1754, in James Phinney Baxter, ed., *Documentary History of the State of Maine* (Portland: 1908), 12: 236-41. Jeremy Belknap later noted that the fort at No. 4 "had been built by Massachusetts when it was supposed to be within its limits." Belknap, *History of New Hampshire* 2: 224.

⁴⁰ William Douglass, *A Summary, Historical and Political, of the First Planting, Progressive Improvements, and Present State of the British Settlements in North-America* (London: R. Baldwin, 1755), 553. Douglass, though an outspoken critic of Shirley, proposed a defensive scheme that also included forts in New Hampshire and constant scouting parties. See *ibid.*, 552.

⁴¹ William Clarke, *Observations on the late and present Conduct of the French, with Regard to their Encroachments upon the British Colonies in North America* (Boston: S. Kneeland, 1754), 23.

of the French and Indians from Canada but to march an Army in a few days to the Gates of the City of Montreal itself, and pour our troops into the heart of their Country...How much Blood and Treasure would it save to His Majesty's Subjects of New England and New York in a time of war?" Shirley asked rhetorically.⁴²

Massachusetts inhabitants might reasonably have objected to Shirley's declaration "that this Province will be the first Mover in the Operations" against Crown Point.⁴³ In the words of the *New-York Weekly Gazette*, the French "Fortress of *Crown-Point*" lay well "within the Limits of this Province [of New York]" and "within the undoubted Dominions of *Great-Britain*." New Yorkers acknowledged that the French "are, from authentic Records, and by the Law of Nations, as undoubtedly within the Dominions of our Crown, as the City of *New-York* itself."⁴⁴ Such admissions echoed the terms of Holderness's letter that had justified Massachusetts's own expedition against suspected French incursions on its limits in Maine. By the same logic, New York ought to spearhead the assault on Crown Point. Shirley believed, however, that the exigencies of the moment ought to override questions about New York's formal responsibility. Citing his "Duty" to preserve "the Security and Welfare of his Majesty's Good People within [this] Province," he pushed ahead with plans for a Massachusetts-led effort.⁴⁵

This initial phase of the French and Indian War reinforced for Massachusetts colonists a basic understanding of how their province functioned in the larger context of British North America. Bay colonists assumed that expeditions such as the one against Crown Point would be difficult to organize—the cooperation even of New York could not be taken for granted—because their province served as the de facto "frontier" for every other northern colony.

⁴² William Shirley to the Council and House of Representatives, Mass. Arch. 109: 28.

⁴³ *Ibid.*, 29-29a.

⁴⁴ An extract from the 23 September 1754 issue of the *New-York Weekly Gazette* was published in the *Boston Gazette*, 1 October 1754.

⁴⁵ William Shirley to the Council and House of Representatives, 13 Feb 1755, Mass. Arch. Vol. 109: 29a.

Inhabitants of communities on Massachusetts's own frontier of settlement understood the quandary on a local level. According to one Massachusetts pamphleteer in 1754, "The poor exposed suffering People in the Frontier" served as "a Wall, Cover and Defence to the Inland Plantations."⁴⁶ Numerous communities throughout Massachusetts would make precisely this argument when they petitioned for provincial protection and assistance. As the inhabitants of Pequoiag (incorporated as Athol in 1762) in northern Worcester County put it, losses sustained as a result of the war prevented them from "Defending themselves & of being a Cover to Older Towns."⁴⁷ Settlers were never more aware of the consequences of their geographic location than in wartime.

Pursuing the same line of reasoning but on a larger scale, Massachusetts officials and inhabitants never tired of pointing out the advantages other provinces enjoyed due simply to their geographic location. "[T]he Colony [of Connecticut] is entirely covered by this Province," Governor Shirley explained to London in 1754, "so that it hath no frontier of its own, to defend in time of war, and consequently is at no expence in the maintenance of marching Companies, Forts and garrisons for that purpose."⁴⁸ Similarly, Shirley's successor Thomas Pownall would later note that Rhode Islanders "having their Inland Frontier entirely covered are at very little Charge except for the part they contribute to the General Service."⁴⁹ The Massachusetts General Court made sure to remind the province's agent in London, William Bollan, that Massachusetts "for many Years past protected [other colonies] to which we are a Frontier."⁵⁰ And when the pamphleteer William Clarke wrote that "The Colonies of *New-Jerseys* [*sic*], *Connecticut*, and

⁴⁶ *A Plea for the Poor and Distressed, Against the Bill For granting an Excise upon Wines and Spirits distilled, sold by Retail, or consumed within this Province, &c.* (Boston: 1754), 4. Evans 7296.

⁴⁷ Petition of Joseph Lord in behalf of the inhabitants of Poqu[o]aig, 1758, Mass Arch 117: 403.

⁴⁸ William Shirley to the Earl of Holderness, 7 January 1754, in *Corr. of Shirley* 2: 21.

⁴⁹ Thomas Pownall to William Pitt, 23 March 1758, Parkman MSS., Massachusetts Historical Society, Boston, 42:213.

⁵⁰ Massachusetts General Court to William Bollan, 26 September 1755, *Corr. of Shirley* 2:288.

Rhode-Island, are at present secured, by having some of the other Colonies as a Barrier to them,” he undoubtedly referred first and foremost to Massachusetts.⁵¹

Of course, even the least generous observer could not deny the numerous occasions on which these nearby provinces had come to Massachusetts’s aid. Connecticut, especially, had contributed its men and resources to the common defense many times. In 1704, the colony had sent several hundred troops to secure Massachusetts’s western frontier in the aftermath of the Deerfield raid. It had also provided men for the aborted Port Royal expedition of 1709 and for the successful 1745 assault on Louisbourg. In September, 1754, the *Boston Gazette* even reported “two or three Companies of armed Men on their March from Connecticut to assist the Inhabitants of the [Massachusetts] Frontiers.”⁵² Despite examples of mutual support, Massachusetts inhabitants continued to suspect that their fellow colonists would never act with sufficient urgency as long as Massachusetts served as a geographical buffer, absorbing the enemy’s initial incursions. In early 1756, for instance, Governor Shirley ordered Israel Williams to travel to Hartford to impress upon Governor Fitch and his advisors the “Necessity” of Connecticut’s help in constructing fortifications in western Massachusetts: “as it will afford equal Protection to the Frontiers of that Colony as to those of this Province.”⁵³ Shirley’s own phrasing pointed to the difficulty of Massachusetts’s dilemma. Having already accepted that colonies such as Connecticut did not truly possess “frontiers” of their own but were “covered” by Massachusetts, Massachusetts inhabitants did not anticipate that their fellow colonists would exert themselves as if their own lives depended on it.

Massachusetts inhabitants had long accepted that any intercolonial expedition—such as the one proposed for Crown Point in 1755—would consist of agreed-upon quotas of men and

⁵¹ Clarke, *Observations On the late and present Conduct of the French*, 25.

⁵² *Boston Gazette*, 10 September 1754.

⁵³ William Shirley to Israel Williams, 17 March 1756, *Corr. of Shirley* 2: 423.

resources supplied by the participating governments. The crown had enjoined the colonies to establish quotas for military efforts as early as 1692.⁵⁴ Writing before the outbreak of hostilities in 1754, however, Shirley admitted that he knew “from past experience” that the colonies’ compliance in fulfilling their quotas was ultimately voluntary. He insisted that “His Majesty” must mandate “what is each Colony’s just quota of Men or Money which it shall contribute to the common cause.” Shirley also wanted the crown to find “a method to enforce its taking effect.”⁵⁵ Shirley’s appeals notwithstanding, the home government rarely attempted to dictate a colony’s contribution or enforce its compliance throughout the course of the war. Even Lord Loudoun, the British general in chief whose arrogant approach to managing the colonial war effort drew the ire of nearly every provincial assembly, refrained from adjusting the quotas that the colonies set for themselves.⁵⁶

The preparations for the 1755 Crown Point expedition revealed at the outset of the war that although the other colonies would contribute troops, the process remained inefficient and fragile—hardly a strong foundation for Massachusetts’s security. In his capacity as the second ranking British commander in North America, Governor Shirley wrote to the northern colonies in early 1755 to propose troop quotas. New Hampshire responded that it would raise 500 troops instead of the 600 that Shirley requested. Rhode Island agreed to send 400 men, but on the condition that Shirley first send official word that he had received assurances of the other

⁵⁴ Harry M. Ward, *Join or Die: Intercolony Relations 1690-1763* (Port Washington, NY: Kennikat Press, 1971), 106.

⁵⁵ William Shirley to the Earl of Holderness, 7 Jan 1754, in *Corr. of Shirley* 2: 14.

⁵⁶ Earl of Loudoun to William Pitt, 14 February 1758, Parkman Transcripts, MHS, 42: 217: “...in September, when Governor Pownall was here with me, he was of Opinion that I should take no notice of the Quotas, as settled at the general Meeting at Albany, but to write to the Governors of the different Provinces, for such number of Men from their Province, as I thought necessary for the service, proportioning that, as I judged they had Abilities to furnish. I told him I could not agree, to make any Alteration, in the Only rule that had been universally followed and Acquiesced under...; yet as they had all continued ever since, to furnish by that Quota I thought it was too hazardous, to attempt an alteration in it at this time...” Loudoun went on to express his concern over a report that the New England colonies were planning a conference to adjust their quotas without input from the other colonies. He invited the New England colonies, New York, and New Jersey to a conference at Hartford, where he hoped to broker—but not mandate—a quota agreement that would satisfy all parties.

provinces' compliance in supplying their men. Connecticut, after lodging a protest that its quota of 1,000 troops "is much to[o] large a Proportion, when compared to those proposed to be raised by the Province of the Massachusetts and New York," agreed to send the men Shirley wanted in deference to the difficulties facing those two colonies.⁵⁷ These quotas were subsequently confirmed at a planning conference of all the colonial governors held at Alexandria, Virginia, in April. Yet Shirley's frustrations did not end here. Once the colonies agreed on their quotas, any change of plans, however necessary, threatened to derail the entire arrangement. Shirley encountered resistance from the Massachusetts General Court when he tried to reroute 300 of the province's troops from the expedition against Crown Point to join another force marching toward Fort Niagara. Shirley reassured the assembly that doing so would not "be look'd upon as any Breach of the Agreement" Massachusetts had made with the other colonies respecting the troop quotas; the 300 men had been raised as a reinforcement separately from the 1,200 the province had previously levied and allocated for Crown Point.⁵⁸

The General Court's primary objection on this occasion, and on many others over the course of the French and Indian War, followed from its view that Massachusetts inevitably contributed far more than its fair share to the common defense. The legislators agreed with the governor that both the Crown Point and Niagara expeditions needed to be undertaken with the utmost zeal, but they "wish[ed] the Governments to the Southward had contributed to this

⁵⁷ New Hampshire Resolve, 20 March 1755, Mass. Arch., 109: 64; Rhode Island Resolve, n.d., Mass. Arch. 109: 53; Connecticut Resolve, 13 March 1755, Mass. Arch. 109: 59.

⁵⁸ William Shirley to the Council and House, 13 June 1755, Mass. Arch. 109: 99. Shirley cleverly construed the General Court's objection to center on the possible reaction of Connecticut's Governor Fitch to the redirection of the additional troops from Crown Point to Niagara. As is clear from the General Court's 3 June 1755 message, however, the assembly's objection focused on the fact that Massachusetts was raising 300 troops for which the province received no credit in the colonial quotas. "[A] real concern for his Majestys service... makes us wish that your Excellency had it in your power... to increase the forces [for Niagara] in some other way than by the assistance of this Government." Committee of the Council and House to William Shirley, 3 June 1755, Mass. Arch. 109: 90.

general interest in proportion as those to the Northward have done.”⁵⁹ More specifically, the legislators consistently argued that Massachusetts exerted itself beyond its just proportion, both by choice and by necessity. While acknowledging that “It might appear invidious if we were to compare our service with those of any other particular Colony,” the legislators proceeded to do exactly that, always finding in their own province’s favor. The 1,500 men Massachusetts supplied as its quota for the Crown Point and Niagara expeditions represented only part of the total manpower the province had in arms in 1755. Several hundred more in Massachusetts pay were serving in forts throughout the province, and 3,000 additional troops, though not directly on the provincial payroll, had left their communities to serve in an expedition against Nova Scotia or in one of two American regular regiments. The General Court therefore felt justified in claiming that Massachusetts inhabitants “have now a greater burden lying upon [them] than any one of his Majestys Colonies besides have ever sustained.” From Massachusetts’s perspective, colonial quotas actually guaranteed that manpower burdens would be distributed unequally among the colonies. Assigned solely on the basis of population, the quotas could not factor in the consequences of a province’s geographic position. Massachusetts’s location carried with it threats and difficulties “to which no other Collony on this Continent is alike expos’d.”⁶⁰

The mental map of North America that Massachusetts colonists possessed reminded them of their province’s disproportionate responsibility. Inhabitants imagined themselves on the edge of a vast imperial frontier. As long as this frontier produced only disorganized Indians and Canadians, Massachusetts accepted its role as guardian of the region. At the start of this new conflict, however, there existed every indication that Massachusetts faced nothing less than the concerted forces of the French empire. Boston readers learned in a brief 1754 pamphlet entitled

⁵⁹ Committee of the Council and House to Shirley, 3 June 1755, Mass. Arch. 109: 90.

⁶⁰ Report of committee appointed to consider Shirley’s message of 13 June, 14? June 1755, Mass. Arch. 109: 129.

A Letter from Qubeck, in Canada, to M. L'Maine, a French Officer that, in contrast to past conflicts that were smaller in scale, the governor of New France had been fully “invested with the Power and Authority of Church and State.” The French’s three-pronged offensive strategy encompassed the entire continent and was “supported with Money and other Assistance, by His Most Christian and Catholic Majesties” back in Europe. The *Letter* reported that the French army in Canada numbered 5,000 regular troops; other estimates, equally troubling, could be found in the newspapers.⁶¹ “[W]hat ravages and depredations might we justly look for,” the Reverend John Mellen asked his listeners in a sermon delivered in June, 1756, “especially if *France* succeeds in pouring in upon us such vast troops and armaments, as they have projected?”⁶² The specter of France’s renewed commitment, combined with the seemingly intractable geopolitical inequities of the British colonial system in North America, gave Massachusetts inhabitants reason to despair.

Bay colonists accordingly assumed, from the beginning of the war, that they could not be expected to resist and conquer the concerted forces of the French Empire without substantial metropolitan assistance. Later, during the Imperial Crisis of the 1760s and 1770s, colonists would play down the role of British arms in their defense. Such a view contradicts the overwhelming chorus of voices who agreed at the time with a 1754 pamphleteer. According to this writer, Massachusetts was “An infant Colony, whose extraordinary Charges of a Military Nature..., ought to be born [*sic*] by the Mother Country, whose Dominions we extend, whose Frontiers we are, whose Customs we pay, and whose Trade and Naval Power we greatly support.”⁶³ Neither Massachusetts alone nor even a hypothetical union of all the colonies

⁶¹ The *Boston Gazette*, 26 March 1754, reported that 8,000 French troops had sailed to North America in 1752, to be deployed throughout the continent.

⁶² John Mellen, *The Duty of all to be ready for future impending Events* (Boston: S. Kneeland, 1756), 6.

⁶³ *The Review* (Boston: n.p., 1754), 2.

possessed resources equal to those of an empire. “But whilst the Court of France is aiming at the Dominion of this Continent and employing strength and Treasure for this purpose,” stated the General Court, “we humbly hope that equal Strength and Treasure will be graciously afforded by his majesty to frustrate all such unjust designs, and that too great dependance will not be plac’d upon the ability of his majesty’s Subjects in America for their own Defence.”⁶⁴ The great disparity in population between the British colonies and New France, Massachusetts alone having more than three times as many inhabitants as Canada, meant nothing when the conflict was viewed through these imperial and geopolitical lenses.

Charter Rights

Massachusetts’s leaders, mindful of the enormity of the task ahead of them and the unpredictable dynamics of intercolonial cooperation, sought to regulate their province’s military efforts in the best interests of both Massachusetts and the empire. They turned to the privileges and rights guaranteed by the Massachusetts Charter of 1691. Constitutional arrangements within its “limits” determined how Massachusetts would participate in a war that swept the frontiers of the British Empire in North America and beyond.

The circumstances of the charter’s origins as well as its specific contents made it the most advantageous constitution enjoyed by any of the mainland colonies. The timing of the grant—1691—worked in the colonists’ favor. Following the revocation of their first charter by King Charles II in 1684, Bay colonists took advantage of the opportunity presented by the overthrow of Charles’s brother and successor James II in the Glorious Revolution. Massachusetts agents petitioned the new Protestant monarchs King William and Queen Mary to “re-establish their

⁶⁴ Report of Committee appointed to consider Shirley’s message of 13 June 1755, 14? June 1755, Mass. Arch. 109: 130.

corporation and grant them their laws and former privileges.”⁶⁵ When William and Mary granted a new charter, they linked provincial Massachusetts to Britain’s post-Revolution regime. The charter’s issue date guaranteed that it could never be easily dismissed as a relic of the despotic Stuart past. Instead, colonists could argue that the second charter reflected the same principles of liberty that the Revolution had restored at home; it formed part of the new regime’s more enlightened imperial blueprint.⁶⁶

The legitimacy that clung to the charter in consequence of its post-Revolution origins proved a fortunate safeguard for Massachusetts, not least because the frame of government it established appeared more and more idiosyncratic as time passed. It resembled an amalgam of royal and corporate government.⁶⁷ Under the new charter, the governor was appointed by the crown, not elected as he had been in the 1629 charter. Although the presence of this royal official appeared to reduce Massachusetts’s autonomy, the charter offered colonists important offsetting concessions. Foremost was the charter’s explicit establishment of a House of Representatives.⁶⁸ The charter even empowered the House to fix the number of representatives each town was permitted to elect annually. This provision, in turn, directly affected the legislature’s upper house, the Council. The charter set the number of councilors at twenty-eight

⁶⁵ Quoted in Henry R. Spencer, *Constitutional Conflict in Provincial Massachusetts* (Columbus, OH: Press of Fred J. Herr, 1905), 15.

⁶⁶ Jack P. Greene, “The Glorious Revolution and the British Empire, 1688-1783” in Jack P. Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville: University Press of Virginia, 1994), 85. On this point I would refine the argument made by Elizabeth Mancke, who draws a distinction between those colonies settled before the Glorious Revolution and those settled and chartered after it. Mancke, “Early Modern Imperial Governance and the Origins of Canadian Political Culture,” *Canadian Journal of Political Science/Revue canadienne de science politique* 32, 1 (1999), 12. Colonists did not believe that the post-Revolution issue date of their charter made them subject to the sovereignty of the Crown-in-Parliament instead of to the king alone. See Theodore B. Lewis, “A Revolutionary Tradition, 1689-1774: ‘There Was a Revolution Here as Well as in England,’” *New England Quarterly* 46 (Sep., 1973), 434-35; Nelson, *Royalist Revolution*, 46.

⁶⁷ Philip J. Stern notes that many colonies were fusions of the three “ideal types” of colonial constitutions identified by Sir William Blackstone (crown, proprietary, and charter or corporate), though the fusions were most often amalgams of proprietary and corporate forms, not crown and corporate. Stern, “‘Bundles of Hyphens’: Corporations as Legal Communities in the Early Modern British Empire,” in Lauren Benton and Richard J. Ross, eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 30-32. (Quote p. 31.)

⁶⁸ Spencer, *Constitutional Conflict*, 17.

and mandated their election by the members of the House voting in one body with the incumbent councilors. The governor could veto the General Court's choice of councilors but could not nominate them; in every other royal colony the council was appointed by the crown. The charter also stipulated that the governor convene the General Court at least once per year.⁶⁹

The charter assigned war-making duties to the governor, but it also granted the assembly powers that limited his discretion in prosecuting military affairs. The governor possessed the authority to command the militia, appoint its officers, and "to assemble in Martiall Array and put in Warlike posture the Inhabitants...and to lead and Conduct them" in the course of pursuing and killing any enemies who dared to attack the province. The governor's command extended to operations "by Sea as by Land within or without the limitts of" Massachusetts. He could also erect or demolish fortifications.⁷⁰ As impressive as his powers appeared on paper, however, the governor could not conduct military operations without money. The charter accordingly assigned to the legislature the authority to levy taxes needed for the "defence and support of ...Government...and the Protection and Preservation of the Inhabitants...whereby [they] may be Religiously peaceably and Civilly Governed Protected and Defended."⁷¹

This power over the province's purse enabled the General Court to dictate both the size and lifespan of any military force raised in Massachusetts. Not long after the second charter went into effect, the House attempted to expand its control over fiscal matters to include the right not just to audit accounts after the fact, but to approve all warrants on the treasurer prior to the disbursement of funds. The House's "right" in this regard was dubious at best. By charter, the

⁶⁹ In addition, an "Explanatory Charter" was issued in 1726 to clear up disputes between the House and the governor over the House's right to adjourn itself and the governor's right to veto the House's selection for speaker. The House voted on and accepted the Explanatory Charter. Bushman, *King and People*, 77-78

⁷⁰ Francis Newton Thorpe, ed., *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, Volume III (Washington D.C.: Government Printing Office, 1909), 1884.

⁷¹ *Ibid.*, 1882.

funds raised by the General Court were to be “to be Issued and disposed of by Warrant under the hand of the Governor...with the advice and Consent of the Councill.”⁷² Governors assumed this meant they could use province funds at their discretion. Yet the House persisted throughout the 1720s and the controversy was only resolved in the early 1730s when the Privy Council issued an instruction denying that the charter granted the House a right to approve warrants. The House eventually conceded this specific point, but proceeded thereafter to exploit a loophole in the Privy Council’s statement that acknowledged the representatives’ power to insert “one or more clauses of appropriation” in their supply bills.⁷³ The House composed lists that stated exactly how much money could be spent on particular items, and then simply “allowed the council to issue warrants only within precise, narrow limits for detailed purposes.”⁷⁴ By mid-century, the House had grown accustomed to leveraging its financial powers into control over important aspects of defense policy, including the size of frontier garrisons and expeditionary forces as well as the wages of officers and men in the province pay.⁷⁵

The Massachusetts charter granted inhabitants another, even more unassailable means to control military affairs. The charter qualified the governor’s power to lead forces both “within or without the limitts” of Massachusetts by stating that he “shall not at any time...Transport any of the Inhabitants...or oblige them to march out of the Limitts of [the province] without their Free and voluntary consent or the Consent of the Great and Generall Court or Assembly.”⁷⁶ This “limits provision” found its way into the final version of the 1691 charter due to the efforts of the

⁷² *Ibid.*, 1882.

⁷³ Quoted in Spencer, *Constitutional Conflict*, 113.

⁷⁴ Spencer, *Constitutional Conflict*, p. 114. The analysis here draws on the account in Spencer, *Constitutional Conflict*, 104-14. See also Bushman, *King and People in Provincial Massachusetts* (Chapel Hill: University of North Carolina Press, 1985), 115-18, though Bushman’s account does not acknowledge the House’s continued ability to control appropriations.

⁷⁵ Spencer, *Constitutional Conflict*, 120-21. Governor Thomas Pownall, in the winter of 1757-58, questioned the assembly’s right to set the terms of the province’s garrisons, arguing that by charter this fell to the governor. Pownall eventually acquiesced to the House’s bill. Pencak, *War, Politics, and Revolution*, 157.

⁷⁶ Thorpe, ed., *Federal and State Constitutions, Colonial Charters, and Other Organic Laws*, 1884.

Massachusetts agents who pressed for its inclusion during negotiations with the Committee of Trade.⁷⁷ The provision contrasts sharply with the language of the 1688 commission that empowered the detested governor of the Dominion, Sir Edmund Andros, “to transferr” New England forces “to any of [the] Plantations in America” and to engage enemies “in or out of the limits of [the king’s] Territories” at his pleasure.⁷⁸

No other colonial charter or commission contained a passage circumscribing the governor’s prerogative in military affairs so clearly and so favorably for the colonists. Other colonies attempted to accomplish by statute what Massachusetts enjoyed in its charter. Both Carolinas, Virginia, and Georgia all passed laws at mid-century “restrict[ing] their militias to service within their respective colonies.”⁷⁹ The imperial administration undoubtedly viewed these laws as detrimental to good governance. When the Virginia Burgesses tried in the mid-1750s to insert a stipulation in its appropriations bills restricting the colony’s forces from marching beyond Virginia’s borders, they elicited a rebuke by the Board of Trade that persuaded them to drop the restriction in future years.⁸⁰ The inclusion of the limits provision in the charter led the Board to adopt a different posture toward Massachusetts. The commission issued to Governor Shirley in 1741 affirmed the limits provision by enjoining Shirley to command “such

⁷⁷ “Massachusetts Agents to Lords of Trade and Plantations,” [8 June] 1691, in Robert Earle Moody and Richard Clive Simmons, eds., *The Glorious Revolution in Massachusetts, Selected Documents, 1689-1692* (Boston: Colonial Society of Massachusetts, 1988), 544. Compare the first draft of the charter, written by attorney general George Treby, in Moody and Simmons, eds., *Glorious Revolution in Massachusetts*, 536.

⁷⁸ Thorpe, ed. *Federal and State Constitutions, Colonial Charters, and Other Organic Laws*, 1866. On the wartime context in which Massachusetts received its new charter, see Owen Stanwood, *The Empire Reformed: English America in the Age of the Glorious Revolution* (Philadelphia: University of Pennsylvania Press, 2011), chp. 5, esp. 172-73.

⁷⁹ Greene, *Quest for Power*, 299.

⁸⁰ *Ibid.*, 306.

Forces, with their own Consent, or with the Consent of Our Council and Assembly, [and] to Transport [them] to any of Our Plantations in America, as occasion shall require.”⁸¹

The charter’s limits provision also enabled the General Court to determine whether men would be impressed into the service. The requirement that the governor first obtain the “consent” of either the inhabitants or the General Court allowed the “Captain-General” to propose military operations initially, but left the final decisions in the hands of the legislature.⁸² The size of the forces, the length of their service, their destination, and the manner by which they were raised: in Massachusetts effective authority in all these cases fell disproportionately to the House of Representatives and to the elected Council.

Both before and during the French and Indian War, the province’s governors largely concurred with the General Court in its interpretation of the charter on these points. They explicitly cited the limits provision on many occasions. Future Lt. Governor Thomas Hutchinson invoked the limits provision in 1747 after Commodore Charles Knowles of the Royal Navy sent a press gang into Boston and precipitated a riot. Hutchinson, then Speaker of the House, objected to Knowles’s actions on the grounds that the commodore certainly lacked the authority to impress if “by charter, . . . even the king’s governor cannot carry a man . . . out of the province without the consent of the assembly.”⁸³ Governor Shirley similarly acknowledged the

⁸¹ Commission to William Shirley in Charles Henry Lincoln, ed., *Correspondence of William Shirley: Governor of Massachusetts and Military Commander in America, 1731-1760*, Volume I (New York: Macmillan, 1912), 32. (Hereafter abbreviated *Shirley Corr.*)

⁸² William Douglass, *A Summary Historical and Political* 1: 474. The requirement that the governor obtain the consent of the inhabitants *or* the General Court permitted individual colonists voluntarily to enlist into military units, such as the regular regiments raised in the colonies during the French and Indian War. Yet the provision’s wording left impressment at the discretion of the assembly. The Massachusetts agents who negotiated the charter had initially suggested that the authority to send inhabitants out of the province be vested in the governor and Council, with the “Consent of the Generall Court.” Moody and Simmons, eds., *Glorious Revolution in Massachusetts*, 544. The Committee of Trade subsequently agreed that the governor alone should possess the authority to order “Inhabitants [out] of the Colony,” but that he should first obtain the inhabitants’ “owne consent *and* [the consent] of the Generall Court . . .” *ibid.*, 562. Emphasis added. The final charter substituted the phrase “their own consent *or* Consent of the Generall Court.” Emphasis added.

⁸³ Hutchinson quoted in Pencak, *America’s Burke*, 28.

importance of the limits provision. “The Governors of the Massachusetts Bay,” he explained to Lord Loudoun in 1756, “are prohibited by the Royal Charter to impress any of the Inhabitants to be transported out of the province, without the Consent of the Assembly; and it is by Virtue of an Act of Assembly, that I have Issued my Warrants, for impressing the Men.”⁸⁴ The Scot Loudoun was clearly baffled by this distinctive feature of Massachusetts’s constitution.

No sooner had Shirley explained to Loudoun how the provision constrained the governor’s ability to institute impressment than the general received another lecture, this one courtesy of a committee appointed by the General Court. The context was a thorny negotiation relating to the supply of Massachusetts troops garrisoning a fort in New York beyond the term specified by the legislature. The committee told Loudoun that “by the Royal Charter of King William & Queen Mary” the Massachusetts governor was obliged to “obtain the consent of the general Assembly” before ordering any inhabitant to leave “the bounds of the Province.” In return for its consent, the assembly attached to the use of the troops “such restrictions & limitations as have been thought proper.” Any deviations from this agreement violated the General Court’s charter rights and threatened the province with ruin.⁸⁵

So seriously did provincial and crown officials take the charter’s limits provision that many of their actions are otherwise inexplicable. An illuminating case occurred in August, 1757, shortly after Thomas Pownall arrived to serve as the new governor, when news of the impending

⁸⁴ Shirley to Loudoun, 30 August 1756, in *Shirley Corr.* 2: 526. See also Shirley to Robert Hunter Morris, 29 February 1756, *Shirley Corr.* 2: 407-8. For Governor Francis Bernard’s acknowledgement of the limits provision, see his “Answer to the Queries of the Board of Trade,” 5 September 1763 in Colin Nicholson, ed., *The Papers of Francis Bernard: Governor of colonial Massachusetts, 1760-69*, Volume I: 1759-1763 (Boston: Colonial Society of Massachusetts, 2007), 405. (Hereafter abbreviated *Papers of Bernard.*)

⁸⁵ Committee of War of Mass. Province to Lord Loudoun, 21 September 1756, MA 76: 85-86. In discussing this episode, Fred Anderson plays down the appeal to the charter and emphasizes the “contractual relationships” that pervaded New England society. See Anderson, *A People’s Army*, p. 184. Loudoun, who despised Shirley, assumed that royal governors in all the colonies, including Massachusetts, lacked freedom of action owing entirely to the assemblies’ control of their salaries. See Loudoun to the Duke of Cumberland, 22 Nov-26 Dec 1756, in Stanley M. Pargellis, ed., *Military Affairs in North America, 1748-1765: Selected Documents From the Cumberland Papers in Windsor Castle* (New York: D. Appleton-Century Company, 1936), 273.

fall of Fort William Henry reached Boston. Both Pownall and the Council agreed that Massachusetts militia troops might be needed to resist victorious French forces in the vicinity of Lake Champlain. But the Council reminded Pownall that he could not order the militia into New York territory without the authorization of the full General Court, which could not occur while the House was in recess.⁸⁶ Pownall accordingly ordered “the troops to the ‘extreme western frontiers of the province,’ which put them a few miles from Albany and within easy marching distance of the threatened forts”—but still within Massachusetts.⁸⁷ He reminded the militia officers in charge that they might lead men into New York, but those men must themselves agree “voluntarily” to leave “the limits of the province.”⁸⁸ Explaining his handling of the matter to the reconvened House on August 16, Pownall stated that he had followed the “Advice of his Majesty’s Council in every Measure” and that he would “alway[s] religiously observe your ever valuable Charter-Rights and Privileges.”⁸⁹ In the end, the retreat of the French obviated the need for the militia. Yet the complicated legal maneuvers Pownall undertook in the midst of such a dire situation reveals just how loath he was to infringe on the assembly’s charter rights.⁹⁰

⁸⁶John A. Schutz, *Thomas Pownall, British Defender of American Liberty: A Study of Anglo-American Relations in the Eighteenth Century* (Glendale, CA: Arthur H. Clark Company, 1951), 92. The General Court never relinquished its right to consent to military operations that would take inhabitants out of the province. In the 1690s, it passed statutes permitting the governor with the consent of only the council to send inhabitants beyond Massachusetts’s borders. These acts remained in force only during the recess of the House or through the end of the current legislative session. No such acts were passed during the French and Indian War. See Spencer, *Constitutional Conflict*, 117-18. For examples, see *Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay* (Boston: Wright and Potter, 1869), 1: 176-77 (1694), 268-69 (1697).

⁸⁷ Schutz, *Thomas Pownall*, 93.

⁸⁸ Thomas Pownall to Sir William Pepperrell, 13 August 1757, in Baxter, ed., *Documentary History of the State of Maine* (Portland: Lefavor-Tower Company, 1909) 13: 88-89. See also Pownall to Loudoun, 10 August 1757, quoted in Schutz, *Thomas Pownall*, 95-96.

⁸⁹ Pownall to House and Council, *Journals of the House of Representatives of Massachusetts*, 55 vols. (Boston: Massachusetts Historical Society, 1919-1990), 34: 82, 83.

⁹⁰ For Pownall’s defense of the governor’s rights by the Massachusetts charter to command fort garrisons and to exercise executive authority while within the limits of the province, see Thomas Pownall to William Pitt, 1 Nov 1758, in Gertrude Selwyn Kimball, ed., *Correspondence of William Pitt When Secretary of State with Colonial Governors and Military and Naval Commissioners in America* (New York: The MacMillan Company, 1906) 1: 382-86. (Hereafter abbreviated *Corr. of Pitt with Governors.*); Thomas Hutchinson to Jeffrey Amherst, n.d. May 1760, in John W. Tyler and Elizabeth Dubrulle, eds., *The Correspondence of Thomas Hutchinson, Volume I: 1740-1766* (Boston: Colonial Society of Massachusetts, 2014), 144.

Colonists upheld the limits provision specifically and revered the charter in general. Praise of the charter was ubiquitous in these years. Pamphlets of its text appeared multiple times between 1692 and 1759.⁹¹ In his 1755 election sermon preached before Governor Shirley, the Reverend Samuel Checkley lauded “THE charter privileges, which, under God and the king, we yet enjoy.” These “great and valuable” privileges were to be passed from one generation to the next.⁹² The charter, elaborated the General Court in 1757, established the “Powers and Privileges of civil Government” that enabled colonists to enjoy the “natural Rights of English-born Subjects” and to cope with all variety of “Burdens and Pressures.” Inhabitants’ appreciation for these privileges would always “animate and encourage them to resist, to the last Breath, a cruel invading Enemy.”⁹³ Mention of the charter also occurred in less formal but equally suggestive contexts. The readers of Nathaniel Ames’s “Almanack” for 1755 would have run across a poetic description of the province that complimented the Charles River by noting that it “well deserves her Notice in the Charter.”⁹⁴ This was high praise.

Intimately familiar with every pertinent aspect of their charter, Massachusetts leaders were primed to control their province’s wartime mobilization with a degree of self-assurance unsurpassed by any other colonial government. Unlike colonists elsewhere, Massachusetts inhabitants premised their authority over military affairs almost entirely on the provisions contained in the royal grant of 1691. In many cases, they did not need to invoke the kinds of

⁹¹ All editions were published in Boston in the years 1692, 1699, 1714, 1726, 1743, and 1759. See Evans #'s: 616, 867, 1686, 2762, 5002, and 8400. The text of the Explanatory Charter received a separate printing in 1726. See Evans #2659.

⁹² Samuel Checkley, *A Day of Darkness. A Sermon Preach'd before his Excellency William Shirley, Esq...* (Boston: John Draper, 1755), p. 30. For acceptance and embrace of the new charter by Massachusetts religious leaders, see Harry S. Stout, *The New England Soul: Preaching and Religious Culture in Colonial New England* (New York: Oxford University Press, 2012 [orig. 1986]), 122-25.

⁹³ General Court to Governor Pownall, 16 December 1757, *House Journal* 34: 209.

⁹⁴ Nathaniel Ames, *An Astronomical Diary: or an Almanck for...1755* (Boston: Draper, 1754), n.p. Evans 7143.

constitutional arguments that their counterparts in other provinces employed. It was generally acknowledged that royal charter provisions were superior to all other pronouncements.⁹⁵

By the mid eighteenth century few in Massachusetts worried that their charter could be revoked. The passage of many decades worked in Massachusetts's favor⁹⁶, as did the charter's association with the post-Glorious Revolution era. On the surface, the Connecticut and Rhode Island charters gave those provinces even more control over military matters. Yet the near-total autonomy permitted by Connecticut's charter aroused the attention and suspicions of imperial officials. Always anxious that their charter would meet the same fate as Massachusetts's original charter, Connecticut colonists adjusted their policies to remain in the good graces of the home government.⁹⁷ Massachusetts, by contrast, enjoyed the ideal constitutional arrangement to prosecute a war effort on behalf of the Empire that was suited to its own abilities and self-interest, rightly understood.

Charter Rights Invoked: Mobilization

Massachusetts compiled a laudable record during the French and Indian War, its contributions to the British cause unsurpassed among the colonies. The General Court used the powers granted by the charter to regulate every step in the process of raising and deploying its forces. The most striking aspect of Massachusetts's mobilization was the frequency with which provincial leaders, with the governor's active involvement, made critical decisions about the war

⁹⁵ Spencer, *Constitutional Conflict*, 19; Greene, *Quest for Power*, 16.

⁹⁶ The Board of Trade had certainly expressed its desire to revoke all the colonial charters, including Massachusetts's, in 1701 and 1721. See Cecil Hedlam, ed., *Calendar of State Papers, Colonial Series, America and West Indies* Volume 19 (London: His Majesty's Stationery Office, 1910), 141-43 (hereafter abbreviated *CSPC*); *CSPC* 32: 445-46. For an overview of such attempts, see Yirush, *Settlers, Liberty, and Empire*, 91-112, 185-91, 199. On the lack of concern in Massachusetts for the charter's revocation, see Spencer, *Constitutional Conflict*, 19-20; Yirush, *Settlers, Liberty, and Empire*, 218.

⁹⁷ Nelson Prentiss Mead, *Connecticut as a Corporate Colony* (Lancaster, PA: New Era Printing Company, 1906), 1-2. Harold Selesky writes that, certainly by 1758, Connecticut's assembly "was following the policy begun in 1709 of complying with imperial military demands to win a favorable hearing in London on challenges to the charter." Harold Selesky, *War and Society in Colonial Connecticut* (New Haven: Yale University Press, 1990), 112. For the nature of corporate autonomy into the eighteenth century, Stern, "'Bundles of Hyphens,'" 37-40.

effort. Everything had to be determined on an annual basis, including: the number of men to be raised; the duration of the men's service; whether the ranks would be filled by impressment; and the geographical scope of the forces' deployment. All of these considerations took place simultaneously each year and a determination about one issue often affected the others. For the sake of clarity, I will consider them separately.

Two points deserve emphasis. First, the meticulous attention to detail provincial leaders brought to the management of military affairs underscores their awareness of how these decisions affected all Massachusetts inhabitants. They worked with an eye toward the well-being of the province as a whole. Everyone stood to suffer if the province experienced financial ruin, economic hardship, or a general deterioration of confidence in government. Provincial leaders adopted measures likely to minimize these problems. Thousands of individuals and their families personally benefitted from the General Court's discretion as well. Soldiers who enlisted or were drafted into the provincial ranks received basic assurances concerning their service. These terms by no means guaranteed that their time in the army would be pleasant or safe, and promises related to dates of discharge, especially, could not always be fulfilled in practice. Yet the General Court's ability to establish certain conditions for the troops it raised made service in the provincial forces more tolerable than it might have been. It also provided soldiers with a legitimate basis for appeal when they felt their conditions of service had been violated.

Second, the sheer volume of government transactions that mobilization entailed reinforced and reaffirmed charter rights. Colonists already believed they possessed the right to control most aspects of the province's military affairs by virtue of their charter. Their experience of actually doing so every year for nearly a decade confirmed their conviction. Governors did not acquiesce to the assembly's wishes out of mere expediency: they repeatedly acknowledged

the province's rights and willingly participated in the process, even when doing so drew the ire of the imperial officials who oversaw Britain's war effort.

The size of the Massachusetts forces varied from year to year. The governor, in communication with the British commander about upcoming campaigns, usually initiated the process by proposing a number of men to the assembly in the winter or early spring.⁹⁸ The assembly then evaluated the urgency of the security situation, the financial state of the province—including Massachusetts's chances of being reimbursed—and the cumulative effects of the manpower drain on local communities and the economy. Provincial officials often began by approving a relatively low number knowing that it might be increased later. The first full year of the war, 1755, presented the clearest example of this practice. After initially approving 1,200 men, the General Court voted to augment the force by 300, then by another 500, then by another 300, and finally by another 2,000 in early September. A total of 4,300 men were authorized to serve in the province's pay. This did not include 2,000 Massachusetts men serving in provincial regiments in the pay of the crown, or about another 1,000 men serving in Sir William Pepperrell's regular American regiment (also in the crown's pay). The province's total manpower contribution for 1755 of over 7,000 troops can be attributed to the initial enthusiasm for the cause and to concerns about protecting Massachusetts territory at a time when no other British forces were present in the region.⁹⁹

The numbers of men authorized in subsequent years continued to fluctuate in response to the major considerations of finance, security, and previous manpower demands. In 1756,

⁹⁸ For the role of governors in negotiating with colonial assemblies, see Beaumont, *Colonial America and the Earl of Halifax, 1748-1761* (Oxford: Oxford University Press, 2015), 164-65.

⁹⁹ For the number of troops raised by Massachusetts in 1755, see Shirley to the General Court, 7 Feb 1755, Mass. Arch. 109: 25-26; Shirley to GC, 28 Mar 1755, House Journal 31: 267-68; House Vote, 29 Mar 1755, House Journal 31: 269; House Vote, 26 Jun 1755, House Journal 32: 116-17; House Order, 7 Aug 1755, House Journal 32: 124-25; House Resolve, 6 Sep 1755, House Journal 32: 154; Anderson, *A People's Army*, 10.

Governor Shirley presented an extremely ambitious plan calling for simultaneous advances by large forces of provincials toward Crown Point and western New York. The General Court initially refused to levy any men for the campaigns, pointing to its manpower exertions of the previous year and to the lack of funds for enlistment bounties. Only after Shirley offered the province a loan of £30,000 out of the crown funds he controlled as commander of British forces in North America did the assembly agree to raise 3,000 men, which it eventually adjusted to 3,500 after learning that Connecticut had raised more men than expected.¹⁰⁰

In 1757, the new British commander, Lord Loudoun, requested only 1,800 men from Massachusetts. This small number, combined with the arrival of a partial reimbursement from Britain for expenses incurred in 1755, elicited no objections from the assembly.¹⁰¹ By the spring of 1758, however, with no word yet received of a reimbursement for 1756 expenses, the General Court again hesitated to authorize any men for the year's campaigns. The deadlock was broken on March 10 when Governor Pownall presented a letter from Secretary of State William Pitt promising that the province would be reimbursed for a large part of its military expenses. The next day the General Court authorized a force of 7,000 men. Pitt's reimbursement policy

¹⁰⁰ For 1756, see Minutes of Council of War, 12 Dec 1755, Mass. Arch. 75: 29-33; Report of Both Houses on the Governor's Message, 13 Feb 1756, House Journal 32: 330; Shirley to House and Council, 14 Feb 1756, House Journal 32: 333; Council and House to Shirley, 16 Feb 1756, House Journal 32: 336; Shirley to Council and House, 3 Mar 1756, House Journal 32: 383; House Vote, 3 Mar 1756, House Journal 32: 385; Report of Committee, 4 Mar 1756, House Journal 32: 387. An emergency reinforcement of 1,000 militiamen from Hampshire and Worcester counties was raised in October, but never saw action because of a series of administrative errors. See House and Council to Shirley, 7 Sep 1756, House Journal 33: 172; Report on His Honor's Message, 6 Oct 1756, House Journal 33: 184; Report on His Honor's Message, 16 Oct 1756, House Journal 33: 204-6.

¹⁰¹ House Vote, 15 Feb 1757, House Journal 33: 326; Act for the More Speedy Levying..., 19 Feb 1757, *Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay* (Boston: Albert J. Wright, 1878), 3: 1024-26.

remained in place.¹⁰² In the following year, 1759, the assembly at first approved 5,000 men, eventually augmenting that number with an additional 1,500.¹⁰³

Decisive British victories in 1759 justified reducing the size of Massachusetts forces. The General Court nominally authorized 5,000 men for 1760, but the actual number raised fell far short of this.¹⁰⁴ In 1761, the assembly cleverly interpreted Governor Bernard's request for two-thirds of the previous year's number to mean that he desired two-thirds of the men actually raised, not two-thirds of the 5,000 that had been approved for voluntary enlistment in 1760. The result was an authorized force of 3,000.¹⁰⁵ In 1762, despite Bernard's request for the same number as in 1761, the General Court at first granted only 2,000 troops. It relented a month later and approved the reenlistment of 600 men who had entered service the previous year as well as the raising of 620 new men, for a total of 3,220. The assembly also appropriated enough money to offer bounties for 893 men who would voluntarily enlist in one of the king's regular regiments.¹⁰⁶

When deciding on the number of men the province would raise for the year, the General Court also designated a discharge date. The assembly's record on this point shows a clear pattern: it permitted smaller forces to remain in service longer and restricted the larger levies to shorter periods of service. The mandated period of service for the 4,300 men in provincial pay in

¹⁰² For 1758, see Pownall to House and Council, 2 Mar 1758, House Journal 34: 310-11; Debate of House, 10 Mar 1758, House Journal 34: 334; House Vote, 11 Mar 1758, House Journal 34: 335; Message from Council, 14 Mar 1758, House Journal 34: 341; Anderson, *A People's Army*, 14.

¹⁰³ For 1759, Report of Committee of Both Houses, 10 Mar 1759, House Journal 35: 273-75; Council to House, 10 Mar 1759, House Journal 35: 277; Pownall to House and Council, 13 Mar 1759, House Journal 35: 284-85; House and Council to Pownall, 14 Mar 1759, House Journal 35: 287; House to Pownall, 16 Apr 1759, House Journal 35: 337-38.

¹⁰⁴ For 1760, Report of Committee, 24 Jan 1760, House Journal 36: 191; Lt. Gov. Hutchinson to House and Council, 16 Apr 1760, House Journal 36: 307.

¹⁰⁵ For 1761, Gov. Bernard to House and Council, 25 Mar 1761, House Journal 37: 250-51; Vote on His Excellency's Message, 4 Apr 1761, House Journal 37: 293; Vote on Gov.'s Message, 16 Apr 1761, House Journal 37: 344.

¹⁰⁶ For 1762, Bernard to House and Council, 23 Feb 1762, House Journal 38: 168; Resolve relating to levies, 3 Mar 1762, House Journal 38: 287-88; House to Bernard, 4 Mar 1762, House Journal 38: 292; Resolve relating to His Excellency's Speech, 16 Apr 1762, House Journal 38: 308-9.

1755—eight months—served as a rough benchmark for future levies. The General Court reduced the size of the force for 1756 to 3,500 and accordingly permitted it to serve longer—potentially up to twelve months. Likewise, the 1,800 men raised for 1757 could be kept in service for up to twelve months. The General Court changed course radically in 1758, however, when the size of the provincial levy grew to 7,000 men. The assembly specified November 1 as the date of discharge in that year, and the 6,500 men raised in 1759 received the same assurance. When the size of the Massachusetts army dropped slightly in 1760 to 5,000 men, the period of service authorized by the General Court lengthened slightly—to November 31.¹⁰⁷

Predictably, the longest period of service the General Court ever authorized corresponded to the province’s second-smallest levy of the war. In the spring of 1761, Bernard could hardly contain his excitement when recounting his successful negotiations with the legislature. Knowing that British commander Jeffrey Amherst wanted the Massachusetts forces to serve in garrison duty for at least a full calendar year, Bernard asked the assembly to set June 1—or at least May 1—1762 as the date of the men’s discharge. The General Court approved July 1, on the condition that the men would be released before that date if the war ended. “In point of time they have exceeded my utmost demands,” Bernard wrote to Amherst.¹⁰⁸ Persuading an assembly to keep its soldiers on duty through the winter, he boasted to William Pitt, “was a new point

¹⁰⁷ For 1755, Order, 28 March 1755, House Journal 31: 267; for 1756, Report of the Committee[e] of a Plan...accepted by both Houses, 16 Feb 1756, House Journal 32: 336; for 1757, *Acts and Resolves* 3: 1024; for 1758, Vote, 11 Mar 1758, House Journal 34: 335, and House to Council, 14 Mar 1758, House Journal 34: 335; for 1759, Report of a Committee of Both Houses, 10 Mar 1759, House Journal 35: 275; for 1760, Report, 24 Jan 1760, House Journal 36: 191-92. In 1759, the assembly agreed on 10 Mar that the year’s levy would be discharged by 1 Nov; that is, the date was determined before the House agreed to authorize the voluntary enlistment of 1,500 additional men. Thus in 1760, when the assembly agreed that 5,000 men were to be enlisted by 15 Mar for service until 31 Nov, it was technically dictating a longer period of service for the same number of men to be raised initially in 1759. Yet it is important to note that while the initial 5,000 for 1759 could be impressed, none of the 5,000 for 1760 were subject to impressment. For impressment, see below.

¹⁰⁸ Bernard to Jeffrey Amherst, 4 Apr 1761, *Papers of Bernard* 1:96.

never before gained in any of the provinces, at least not in this.”¹⁰⁹ But Amherst failed to share the governor’s elation, especially since the General Court had approved only 3,000 men instead of the 4,000 Bernard had promised. With evident sarcasm directed at the assembly’s pretensions and the governor’s duplicity, the general acquiesced by noting that the Massachusetts troops “will, in all human probability, be discharged long before the First day of July 1762.”¹¹⁰ Amherst, in fact, did dismiss all but 600 of these men in January 1762. The General Court subsequently authorized the 1762 levy to serve only through October 31.¹¹¹

The General Court guaranteed—to the extent that it could, given the myriad practical difficulties at play—that provincial soldiers would be released upon completion of their stated terms. On several occasions the legislature enlisted the governor’s aid. Having “been addressed by the Assembly & received many private solicitations, to Procure the dismissal [sic] of the Massachuset[t]’s Provincials whose time of Service had expired,” Bernard urged Amherst in 1760 to release troops serving at Louisbourg and Halifax.¹¹² British officers detested provincial troops who mutinied when they felt they were being forced to serve beyond their terms, but provincial leaders and even the crown governor supported the troops. “[I]f the Men have done their duty & performed their contract,” Bernard told Amherst in the midst of another dispute over men serving at Halifax in 1763, “you will direct that they shall have ev[e]ry thing that is due to them.”¹¹³ Ultimately, commanders who refused to release Massachusetts inhabitants from their posts infringed on the province’s charter rights. The numerous Massachusetts soldiers who refused further duty over the course of the war premised their actions on the sanctity of the

¹⁰⁹ Bernard to William Pitt, 6 Apr 1761, *Papers of Bernard* 1:98.

¹¹⁰ Amherst to Bernard, 9 Apr 1761, *Papers of Bernard* 1: 101.

¹¹¹ Bernard to House and Council, 13 Jan 1762, House Journal 38: 168; House Resolve, 3 Mar 1762, House Journal 38: 287-88. Bernard, quite naively, suggested in February 1762 that the 1761 men whom Amherst had dismissed from service be kept in the field until July. See Bernard to House and Council, 24 Feb 1762, House Journal 38: 277.

¹¹² Bernard to Amherst, 27 Sep 1760, *Papers of Bernard* 1: 55.

¹¹³ Bernard to Amherst, 30 May 1763, *Papers of Bernard* 1: 372.

contract offered to them by their legislature.¹¹⁴ Corporate rights provided the foundation for the individual rights claims made by Massachusetts inhabitants.

Keeping men beyond their stated term of enlistment was tantamount to impressment, and the General Court fiercely defended its charter right of controlling this aspect of mobilization policy. After the assembly decided on the number of men to be raised in a given year and how long they would serve, it also decided whether to pass an act authorizing the governor to complete the levy by drafting men into the provincial forces.

Massachusetts's militia system, created originally by statute in the late seventeenth century and amended occasionally thereafter, served as the manpower pool out of which the governor enlisted or impressed the requisite number of men. By the time of the French and Indian War, the province's territory was divided into thirty-two militia regiments, each of which was organized into numerous local companies. More often than not, recruitment efforts fell short of the province's goal. By virtue of the charter, it was the General Court's prerogative to decide whether to make up the difference by compelling some inhabitants to serve. Whenever the assembly determined in favor of impressment, it passed an act that permitted the governor to issue warrants to the militia officers throughout the province. These warrants ordered militia officers to muster their units on a given day and, if the quota assigned to them had not yet been filled by voluntary enlistment, to draft enough men to make up the deficiency.

The General Court permitted impressment in each of the first five years of the war, though it often delayed authorizing the practice for some time after the initial call for enlistment. The first "Act for the More Speedy Levying of Soldiers" was passed late in the first campaigning season, on September 8, 1755. The act called for a militia muster throughout the province a week later, when officers would impress enough men to meet the figure of 2,000 the assembly

¹¹⁴ For mutinies, see Anderson, *A People's Army*, 187-94.

had approved as an emergency reinforcement for the army in New York.¹¹⁵ Indeed, the assembly gave no indications the following spring that it viewed impressment as an inevitable part of the mobilization process. On March 4, 1756, it approved an army of 3,500 men. Only after Governor Shirley reported a month later that not “a third Part of the propos’d Number is yet Enlisted” did the House and Council agree to impressment.¹¹⁶ In 1757, the assembly approved impressment earlier than in previous years, but set a date for the militia muster over a month in the future. By this time, presumably, the relatively small army of 1,800 would already be full and a draft unnecessary.¹¹⁷ The assembly once again proved more reluctant the following year when the size of the provincial army increased. After approving 7,000 men on March 11, 1758, it waited until April 20 to hold a “large debate” on whether to approve impressment. Governor Pownall reported that the General Court’s subsequent act enabled him to impress the 2,540 men needed to complete the levy.¹¹⁸ In 1759 the General Court agreed in mid-March to a date—April 6—on which the governor could impress. Provincial leaders may have assumed that only a small proportion of the 5,000 soldiers would be drafted, given that nearly 4,500 had enlisted voluntarily the previous year.¹¹⁹

While never popular, impressment comprised a legitimate act of the provincial government. The General Court’s reluctance to authorize it, as well as the bounties offered to incentivize voluntary enlistment, made the practice more palatable to the populace. Moreover, even on those occasions when the legislature consented to impressment, the fact that the impress was carried out by militia officers appointed by the governor insulated elected provincial leaders

¹¹⁵ *Acts and Resolves*, 3: 872-73.

¹¹⁶ Shirley to House and Council, 1 Apr 1756, House Journal 32: 420; *Acts and Resolves* 3: 923-24.

¹¹⁷ The General Court passed the act authorizing impressment on Feb 19, 1757, and chose March 22 as the muster date. Vote relating to enlisting soldiers, 15 Feb 1757, House Journal 33: 326; *Acts and Resolves* 3:1024-26.

¹¹⁸ Vote, 11 Mar 1758, House Journal 34: 335; House to Council, 14 Mar 1758, House Journal 34: 341; Vote on levies, 20 Apr 1758, House Journal 34: 406; *Acts and Resolves* 4: 86-87; Thomas Pownall to William Pitt, 22 Apr 1758, *Corr. of Pitt with Governors*, 223-24.

¹¹⁹ Report of Committee of Both Houses, 10 Mar 1759, House Journal 35: 273-75; *Acts and Resolves* 4: 191-94.

from some potential criticism. The General Court's policy of allowing impressed men to pay a £10 fine to avoid the draft undoubtedly benefited some men more than others, yet petitions suggest abuses of impressment protocol by militia officers elicited sharper objections.¹²⁰

The General Court stopped authorizing impressment in April 1759. After consenting to an impress to raise the balance of the 5,000 men approved for that year, the assembly asked Governor Pownall to grant a recess so members could return to their towns and assess whether their communities could supply any additional troops. When the House reconvened two weeks later, it concluded that "A further Impress would distress and discourage the People to such a Degree, that as well in Faithfulness to the Service, as to the particular Interest of this Province, we are bound to decline it." The House voted instead to offer unprecedentedly large bounties to 1,500 additional men who would enlist voluntarily.¹²¹ The General Court refused to authorize impressment the following year, even though both Governor Pownall and Lt. Governor Hutchinson repeatedly noted that enlistment returns fell far short of their goal.¹²² In 1761 and 1762, the General Court specified that provincial troops were to be raised "by enlistment only" and never considered impressment.¹²³ The decision to curtail the practice at a time of immense strain enhanced the legislature's standing among inhabitants who recognized that they would not be forced into service unless their representatives deemed it absolutely necessary.¹²⁴

¹²⁰ See e.g., Complaint against Capt. Johnson, 30 Dec 1756, Mass. Arch. 76: 156.

¹²¹ House and Council to Pownall, 28 Mar 1759, House Journal 35: 320; House to Pownall, 16 Apr 1759, House Journal 35: 337-38.

¹²² Pownall to House and Council, 29 May 1760, House Journal 37: 8; House Vote, 30 May 1760, House Journal 37: 11-12; Hutchinson to House and Council, 3 Jun 1760, House Journal 37: 20-21; Hutchinson to House and Council, 17 Jun 1760, House Journal 37: 64.

¹²³ Vote on His Excellency's Speech, 4 Apr 1761, House Journal 37: 293; Bernard to House, 2 Jun 1761, House Journal 38: 19-20; Resolve, 16 Apr 1762, House Journal 38: 308-9.

¹²⁴ In his study of Connecticut, Harold Selesky interprets the legislature's decision to end impressment as evidence that colonial leaders had abandoned the ideal of universal military service and instead had opted to raise its military forces from the poorest elements of society. Selesky, *War and Society in Colonial Connecticut*, 155-62.

Inhabitants also benefitted from the General Court's efforts to place geographical restrictions on where provincial troops could be deployed. Throughout the war, the assembly either issued general statements on where Massachusetts men could *not* be sent or specified the campaign in which the troops were to participate. In 1755, the General Court mandated that the provincial troops "shall not be sent to the Southward of New-York."¹²⁵ Since Governor Shirley's military plans for that year called for a campaign against Crown Point on Lake Champlain in northern New York, such a restriction might have appeared merely symbolic. The General Court demonstrated the following year, however, that it was willing to set stricter geographical parameters. Perhaps in response to Shirley's attempt in 1755 to transfer Massachusetts troops from the Crown Point expedition to the campaign against Niagara, the assembly directed that "the Forces of this Government shall not be compelled to march Southward of Albany, or Westward of Schenectady." On paper, such limitations seem curious. Most of Massachusetts, after all, lay south of Albany. But in practice, the assembly's instructions meant that Massachusetts forces would serve in the regions of northeastern New York, New England, and Nova Scotia that were most relevant to the province's security but still crucial to the overall British war effort. The House remained acutely aware of the geographical dimensions of its mobilization policies. Two days after approving the Albany-Schenectady restriction, it asked its members from Boston to "procure the best Maps of this Part of America, and get the same properly framed, in order to their being hung up in the Representatives Chamber."¹²⁶ Decisions made in future years suggest the representatives consulted these maps frequently.

¹²⁵ Order, 28 Mar 1755, House Journal 31: 267.

¹²⁶ Motion, 18 Feb 1756, House Journal 32: 342.

Like other aspects of mobilization policy, the geographical restrictions changed slightly from year to year. In 1758 and 1759, the assembly specified only that the troops were to be used “for the intended Expedition against Canada.”¹²⁷ In 1760, the men were to garrison forts in Nova Scotia and Louisbourg.¹²⁸ Bernard hesitated even to approach the legislature about raising men for 1761 until he could convey Amherst’s plans for their deployment. When Amherst informed the governor that Massachusetts should prepare its troops “to march wheresoever I may have Occasion for them,” Bernard knew the legislature would object. He reassured provincial leaders that British North America was divided into two districts. The northern colonies possessed “different Plans of Operation” and therefore “none of the Men which are now to be raised in this Province shall be sent Southwest of the Delaware [River].” The assembly responded at first by prohibiting the troops from being sent south of Albany, but it eventually acquiesced to the Delaware line.¹²⁹ Although it probably made no practical difference, the General Court returned in 1762 to its preferred prohibition against service “Southward of Albany.”¹³⁰

Geographical restrictions benefitted both the men in the ranks and the General Court. Massachusetts soldiers did not possess the final say over where they would serve. As with the

¹²⁷ The phrase comes from the house vote approving 7,000 men for 1758. See Vote, 11 Mar, 1758, House Journal 34: 335. The General Court, in its vote and act for 1757, specified only that the small provincial force of 1,800 men would be employed “for his majesty’s service, for the defence of his majesty’s colonies” and be “under the immediate Command of his Excellency the Right Hon. the Earl of Loudoun.” See *Acts and Resolves* 3: 1024-26 and Vote, 15 Feb 1757, House Journal 33: 326. While it was almost certainly clear that Loudoun intended to use the Massachusetts troops for that year’s campaign against Canada, the General Court explicitly mentioned the invasion of Canada in 1758 and 1759. For 1759, see Report of Committee of Both Houses, 10 Mar 1759, House Journal 35: 273-75 and *Acts and Resolves* 4: 191-94.

¹²⁸ Report of a Committee, 24 Jan 1760, House Journal 36: 191.

¹²⁹ Francis Bernard to Jeffrey Amherst, 7 Feb 1761, *Papers of Bernard* 1:74; Jeffery Amherst to Bernard, 15 Mar 1761, *Papers of Bernard* 1: 92; Bernard to House, 2 April 1761, House Journal 37: 284; Vote on His Excellency’s Speech, 4 Apr 1761, House Journal 37: 293; Bernard to Amherst, 4 Apr 1761, *Papers of Bernard* 1: 95-97; Amherst to Bernard, 9 Apr 1761, *Papers of Bernard* 1: 101-2; Bernard to House and Council, 15 Apr 1761, House Journal 37: 337; Vote on Governor’s Message, 16 Apr 1761, House Journal 37: 344. Bernard’s source for his assertion about the two North American districts divided by the Delaware River is unclear.

¹³⁰ Resolve relating to levies, 3 Mar 1762, House Journal 38: 287-88. Earlier in the year, the House had once again informed Bernard that it would not agree to raise any soldiers until it learned the troops’ destination. See Committee to wait on governor, 24 Feb 1762, House Journal 38: 277.

duration of service and impressment, the variations in the geographical restrictions belie the existence of any specific customary expectations on the part of inhabitants. But Massachusetts men clearly possessed general preferences as to their destinations. In 1761, for instance, Governor Bernard informed Amherst that two regiments raised in that year desired to be sent to Nova Scotia or Canada. Another regiment wished to serve in northern New York.¹³¹ Amherst agreed on the destinations but altered the distribution, sending two regiments to New York and just one to Nova Scotia.¹³² Since the General Court's only stipulation that year prohibited the men's deployment south of the Delaware, Amherst acted within his rights. But he had to live with the consequences. Enlistments, Bernard informed him, "in general go on Very poorly," in part because men from the coastal areas wanted to go east, to Nova Scotia, not west to New York.¹³³ In this way, ordinary soldiers exerted an indirect influence on military policy. Even this influence, however, depended on the legislature's decision not to authorize impressment.

As the war wound down the General Court's ability to set geographical restrictions probably saved the lives of numerous Massachusetts soldiers. Unlike Connecticut, Rhode Island, New York, and New Jersey, Massachusetts contributed no men in 1762 to the British campaign in Cuba, which obviously lay well south of Albany.¹³⁴ In 1740, during the War of Jenkins' Ear, Massachusetts had joined the other New England colonies in raising forces for a British campaign in the Caribbean that resulted in high mortality rates for the participants.¹³⁵ The survival rate proved no better for the Connecticut men who accompanied British forces to Cuba two decades later, when 625 of 1,050 (59.5 percent) died.¹³⁶ That colony's leaders, fearing that

¹³¹ Editor's Note, *Papers of Bernard* 1: 104.

¹³² Jeffrey Amherst to Francis Bernard, 26 Apr 1761, *Papers of Bernard* 1: 106-7.

¹³³ Francis Bernard to Jeffrey Amherst, 14 Jun 1761, *Papers of Bernard* 1: 118.

¹³⁴ For the colonies who contributed troops to the expedition, see Anderson, *Crucible of War*, 501.

¹³⁵ David Richard Millar, "The Militia, the Army, and Independency in Colonial Massachusetts" (Ph.D. Diss., Cornell University, 1967), 166-67.

¹³⁶ For the Connecticut casualty figure, Anderson, *Crucible of War*, 804n8.

refusal to comply with British requests might result in the abrogation of their corporate charter, agreed to allow voluntary enlistment for the expedition.¹³⁷ The Massachusetts General Court, by contrast, invoked its charter rights to protect the province's men from this danger altogether. Every time the assembly took tangible steps to shield inhabitants from unduly harsh, disagreeable, or deadly service, it enhanced its legitimacy and authority.

Although provincial leaders sought to control every important aspect of mobilization policy, they never aimed to obstruct British imperial designs. Their goal was to take advantage of the opportunities for discretion afforded by the charter to direct a sustainable military effort. Since the king had granted his subjects in Massachusetts certain privileges and rights, provincial leaders would have been irresponsible not to exercise oversight in the people's best interests. Just as Massachusetts mobilization constituted the most ambitious enterprise ever attempted by any of the North American colonies, so too did the General Court's close management of the war effort represent the strongest assertion of corporate rights prior to the Revolution. The crown governor's active participation in the mobilization process buttressed the authority of the province's charter. Unlike officials in Connecticut, Massachusetts's leaders believed their conduct rested on a firm constitutional basis and was therefore immune to censure.

Thus when General Thomas Gage requested 700 men from Massachusetts to help defeat the Indian leader Pontiac in late 1763, the House could simply refuse. "[W]e cannot justify our Conduct to our Constituents, if we should lay this Burthen upon them at this Time," the province's leaders concluded.¹³⁸ Governor Bernard, disappointed but powerless, replied that he

¹³⁷ Selesky, *War and Society in Colonial Connecticut*, p. 118.

¹³⁸ House to Governor Bernard, 2 Feb 1764, House Journal 40: 261-62. For the steps leading to the House's rejection of Gage's request, see Thomas Gage to Francis Bernard, 6 Dec 1763, *Papers of Bernard* 1:437-39; Bernard to Gage, 15 Dec 1763, *Papers of Bernard* 1: 331; Bernard to House and Council, 21 Dec 1763, House Journal 40: 118-19; House to Bernard, 31 Dec 1763, House Journal 40: 151; Bernard to House and Council, 18 Jan 1764, House Journal 40: 245.

would pass along the House's message to the ministry.¹³⁹ For nearly a decade, the assembly had used its powers to ensure that Massachusetts's contributions to the larger war effort would meet with the approbation of its "constituents." The province's charter constitution had never mattered more tangibly to more inhabitants.

The Benefits of Empire

A review of Massachusetts's mobilization record during the French and Indian War reveals that colonists viewed their province as inextricably part of the British Empire. Provincial leaders always believed that Massachusetts's role in the conflict was to contribute as best it could to the larger effort, not to achieve victory by its exertions alone. The province's corporate rights as outlined in the charter provided the legal means to manage wartime efforts, but the General Court was able to exercise those charter rights in the manner that it did only because it could depend on the Empire's protection and assistance. Despite its many limitations and shortcomings, Britain remained the greatest fiscal-military state in Europe, with land and naval forces second to none. Imperial power functioned as a key aspect of Massachusetts's constitution—one which provincial leaders factored into their deliberations when raising troops, protecting the vulnerable areas of the province, and financing the war.

The provincial government's practice of raising a variable number of men annually and guaranteeing their conditions of service made mobilization easier for Massachusetts, but it did not produce the most effective military forces. By guaranteeing generous terms of enlistment, the government made service in the provincial army an attractive option for potential recruits. At the very least, provincial service appeared far more appealing than duty in one of the regular regiments that were also attempting to enlist Massachusetts inhabitants. Regular recruiters faced many obstacles simply because they could not promise the same terms that the province offered.

¹³⁹ Bernard to the House, 2 Feb 1764, House Journal 40: 264-65.

William Shirley, who in addition to his appointment as governor also held a commission as colonel of a regular regiment, encountered this difficulty early in 1755. He pledged his “moral assurance” that Massachusetts men enlisting in his regiment would not be used “for the Southward.”¹⁴⁰ Two of Shirley’s officers recommended that the regular recruits be allowed to enlist conditionally, retaining the option to leave the service “if they should not be Desitn’d to the northward” as they hoped.¹⁴¹ Ultimately, of course, not even Shirley could restrict the king’s troops to any geographical limit.¹⁴² In addition to clear geographical stipulations, the province could offer inhabitants the prospect of serving with their friends, neighbors, and relatives, under officers they knew and trusted.¹⁴³

Yet the most crucial factor facilitating Massachusetts mobilization was the practice of raising troops annually for relatively brief, fixed periods. When given the choice between enlisting for a term of eight months to a year in the provincial army, or three years or even indefinitely in a regular regiment, most men opted for the former—especially since they could always reenlist the following year if they wished. The importance of predictable annual levies extended beyond their appeal for potential recruits. They spared town governments from much potential strain on their resources. The annual return of a community’s men at the expiration of their enlistments freed towns from having to support soldiers’ families. Among the provincial soldiers, a Massachusetts Council of War informed Lord Loudoun, there were “some who have small estates which without their care must be ruined, some who have parents, others wives &

¹⁴⁰ William Shirley to [Israel Williams?], 4 Jan 1755, Israel Williams Papers, MHS.

¹⁴¹ Ephraim Williams and Phineas Stephens to William Shirley, 7 Mar 1755, Israel Williams Papers, MHS.

¹⁴² This did not prevent Lt. Governor Phips from assuring the legislature in 1756 that Massachusetts regulars would not be sent outside North America. Lt. Gov. Phips to Council and House, 1 Jul 1756, House Journal 33: 74. Despite Phips’s urging, the General Court eventually rejected a proposal for the province to offer a bounty for men enlisting in regular regiments. See House and Council to Lt. Gov. Phips, 21 Oct 1756, House Journal 33: 216-17.

¹⁴³ On serving under familiar officers, see e.g. Committee to Lt. Gov. Hutchinson, 5 Jun 1760, House Journal 37: 32. For the importance of serving with familiar officers and peers, see Francis Bernard to Jeffrey Amherst, 19 Jun 1762, *Papers of Bernard* 1:233.

children who have a dependance on them for their subsistence.”¹⁴⁴ By ensuring the discharge of Massachusetts men on the dates it had specified, the General Court saved localities from the burden of these charges.¹⁴⁵

The same terms of enlistment that enticed men to enlist in the provincial army also help explain the performance of Massachusetts troops during the war. Undoubtedly, New England society inculcated provincial soldiers with a set of values and expectations that differed greatly from European military norms. Massachusetts men despised the harsh discipline meted out to British regulars, for instance. Nevertheless, the more important factors in accounting for the limited effectiveness of Massachusetts troops were the brief extent of their service along with their almost total lack of training. As a result, provincial troops proved better suited to some roles than to others.

New Englanders had gained a reputation for martial prowess after their successful capture of Louisbourg in 1745.¹⁴⁶ After a successful campaign in Nova Scotia against Fort Beausejour and an ambiguous victory in September 1755 at Lake George, however, subsequent campaigns revealed that the provincials lacked aptitude for offensive operations. In August, 1756, a British officer reported to Lord Loudoun that “The Provincials are no judges of ground and march with very little precaution.”¹⁴⁷ Reports such as these only confirmed what Loudoun, who entertained a notoriously low opinion of all colonists, already thought. “[T]he Troops furnished from the

¹⁴⁴ Massachusetts Council of War to Lord Loudoun, 21 Sep 1756, Mass. Arch. 76: 86.

¹⁴⁵ The General Court also refused to allow towns to offer bounties to men who would enlist and help fulfill the local militia company’s quota for the provincial levy. In 1757, the Council voted down a bill that would have enabled towns to offer such bounties. A year later, the House received a petition on behalf of the inhabitants of Milton asking that the town be permitted to collect a tax which was to go toward soldier bounties. The House ordered the petition to lie on the table. The idea behind town bounties was no doubt to prevent some of the inhabitants from being impressed.

¹⁴⁶ It should be noted that many Massachusetts commentators, including Thomas Hutchinson, ascribed the conquest of Louisbourg to sheer luck. Pencak, *America’s Burke*, 83. See also the critique of the expedition by the anti-Shirley writer William Douglass: Douglass, *A Summary Historical* 1:505.

¹⁴⁷ Lt. Col. Burton to the Earl of Loudoun, 27 Aug 1756, Parkman Mss., 42: 71. MHS.

Provinces,” he wrote in 1757, “are in general, Officers and Soldiers, the lowest dregs of the People on which no Dependance can be had.”¹⁴⁸ Loudoun warned the British officer Daniel Webb not to “risk a Battle with the Provincials, [against] the Regular Troops of France, let your numbers be what they will[.] I think the Chance is, that you will be beat.”¹⁴⁹

Loudoun’s exaggerated prejudices notwithstanding, Massachusetts troops clearly lacked the ability to invade Canada on their own or to take on the French army. Such complex tasks were beyond the abilities of men who possessed little training and who, in many cases, had been in the army for only a few months. Massachusetts troops also frequently lacked adequate arms.¹⁵⁰ Still, the provincials were far from useless, and served in less glamorous but necessary capacities throughout the war. General Amherst considered them “excellent Ax-men,” without whom “the works [at Crown Point] could not be carryed on.”¹⁵¹ Even Lord Loudoun believed the provincials could serve a purpose by manning posts behind the front lines that would otherwise need to be garrisoned by regulars.¹⁵² Garrisoning forts proved to be one of the primary assignments for provincial troops, especially in the latter years of the conflict when they manned posts in Nova Scotia and New York.¹⁵³ Although Massachusetts was not trying to produce troops suitable mainly for this type of duty, its method of raising men led to that outcome.

Massachusetts relied on British regulars to bear the brunt of the fighting. Prior to the war, the British military’s presence in New England had been insignificant. Indeed, numerous

¹⁴⁸ Earl of Loudoun to [the Secretary of State?], 16 Aug 1757, Parkman Mss. 42: 203. MHS.

¹⁴⁹ Earl of Loudoun to Webb, 20 Aug 1757, Parkman Mss. 42: 164. MHS.

¹⁵⁰ Shirley complained to the House about its failure to procure adequate supplies of firearms. Shirley to House, 6 Jan 1755, Mass. Arch. 109: 10; Shirley to House, 9 Jan 1755, Mass. Arch. 109: 12. The General Court needed to acquire arms again in 1757. House and Council to Lt. Gov. Phips, 21 Feb 1757, House Journal 33: 350.

¹⁵¹ Jeffery Amherst to William Pitt, 22 Oct 1759, Parkman Mss. 43: 135. MHS.

¹⁵² Earl of Loudoun to [the Secretary of State?], 16 Aug 1757, Parkman Mss. 42: 203. MHS.

¹⁵³ The province’s embrace of garrison duty for its soldiers marked a departure from the General Court’s position in 1755. In that year, it had written in a letter to the colony’s agent, William Bollan, that British regulars should garrison forts because “our People are not calculated to be confined in Garrisons, or kept in any particular Service, they soon grow troublesome and uneasy by reflecting upon their Folly in bringing themselves into a State of Subjection, when they might have continued free and independent.” Massachusetts General Court to William Bollan, 26 Sep 1755, *Shirley Corr.* 2: 287.

British expeditions in North America since the late seventeenth century had ended ignominiously, with colonists in Massachusetts left without the army or naval support they had been expecting.¹⁵⁴ These past incidents notwithstanding, colonists recognized the unprecedented nature of the present conflict and concluded that British forces would be needed. The arrival of regular troops under General Braddock in 1755 suggested to colonists that Britain had made a large-scale military commitment to the North American war. Imperial officials did not themselves fully embrace such a policy until the following year but, as John Shy notes, by 1758 and 1759 there were more than 30,000 British regulars serving in North America.¹⁵⁵ These troops took the lead in every major campaign, including the seminal victories at Louisbourg (1758), Quebec (1759), and Montreal (1760) that secured French defeat.¹⁵⁶ The relative ineffectiveness of Massachusetts troops ultimately made no difference to the outcome of the war.

The offensive prowess of the king's regulars also guaranteed that Massachusetts's lackluster frontier defenses were never seriously tested by enemy forces. Each year the General Court appropriated money for eastern and western frontier establishments consisting of several hundred men who manned defensive outposts or patrolled stretches of territory.¹⁵⁷ The value of these forces was dubious, however. Frontier communities frequently petitioned the General Court to propose that local inhabitants be put on the provincial payroll. The possibility of Indian attack served as the justification for these appeals, but the desire of inhabitants to receive any form of income in difficult times was, as the petitioners readily acknowledged, the primary

¹⁵⁴ For an account of these ill-fated British expeditions, see Millar, "The Militia, the Army, and Independency in Colonial Massachusetts," 157-78.

¹⁵⁵ Shy, *Toward Lexington*, 35.

¹⁵⁶ *Ibid.*, 19. Shy notes that British regulars also suffered disproportionate battle casualties compared to the provincial troops who served as their auxiliaries: at Ticonderoga in 1758, 1,522 casualties out of 6,000 regulars engaged compared to only 334 casualties among the 9,000 provincial troops present. *Ibid.*, 19n.39.

¹⁵⁷ See for instance House Vote, 10 Mar 1756, Mass. Arch. 75: 286-87.

motive. They had no intention of defending anything.¹⁵⁸ Provincial leaders in Boston received accounts describing dilapidated forts.¹⁵⁹ Other reports revealed incompetence and corruption among the commanders of frontier garrisons.¹⁶⁰ Despite these issues, Governor Pownall told William Pitt in 1758 that only five Indian attacks had occurred on the province's frontiers that year, and "not one Settlement is broke up."¹⁶¹ The following year, Pownall dismissed all the scouting parties serving "on the Western Frontiers." Massachusetts no longer needed to retain these men in service, Pownall noted, since "that Part of the Country is now entirely cover'd by the Operations of the Army in those Parts."¹⁶² By advancing toward Canada, British troops pushed back the imperial "frontier" that had formerly coincided with Massachusetts's limits.

Likewise, Massachusetts took for granted the security of its coasts, trusting to the Royal Navy for protection. Keenly aware of the navy's importance, colonists even articulated the war's larger meaning by noting that a French conquest of North America would cut off the navy's sources of supply. Britain would lose supremacy of the seas, enabling France to invade the home isles and to snuff out Protestantism and liberty.¹⁶³ Despite a few alarming reports of nearby French fleets, inhabitants maintained a peacetime mentality when it came to defending the Massachusetts coast. The General Court neglected making provision for its defense, probably because petitions on the subject—always a spur to discussion and policy-formation—were few

¹⁵⁸ For examples, see Petition of Boston Township No. 2, 1755, Mass. Arch. 117: 32; Petition of Hugh Morrison of Colrain, Jan 1756, Mass. Arch. 75: 62; Petition of Thos Stevens and others [Pearsontown], 20 Jul 1757, Mass. Arch. 117: 354; Petition of Stephen Crowfoot and others [Pittsfield], 10 Nov 1757, Mass. Arch. 117: 373.

¹⁵⁹ The proprietors of Williamstown reported, perhaps self-servingly, that Fort Massachusetts was in the process of falling down and ought to be rebuilt by the province. Petition of the Proprietors of Williamstown, Jun 1756, Mass. Arch. 117: 184. See also, e.g., Petition of Joseph Dwight and others [Stockbridge], 18 Apr 1757, Mass. Arch. 117: 286.

¹⁶⁰ Petition of the inhabitants of St. George's, 1756, Mass. Arch. 75: 306-8; Complaint of the Inhabitants of Herrington [Bristol, ME], 4 Apr 1757, Mass. Arch. 117:276-77; Remonstrance of Capt. Fairbank Moor and others [Fort Dummer], 17 May 1756, Mass. Arch. 75: 547-48.

¹⁶¹ Thomas Pownall to William Pitt, 12 Sep 1758, *Correspondence of Pitt*, 349.

¹⁶² Pownall to House and Council, 3 Oct 1759, House Journal 36: 56.

¹⁶³ William Clarke, *Observations On the late and present Conduct of the French* (Boston: Samuel Kneeland, 1755), 43-46.

and far between. Tiny Provincetown (population 265) successfully appealed to the assembly for a cannon to defend against French “privateteers,” but there was no general outcry from coastal towns.¹⁶⁴ Governor Pownall himself believed that their defense was better left to the Royal Navy: “‘tis better they shou’d owe their safety to this Protection than to the Strength of their Fortifications and Garrisons.”¹⁶⁵ Massachusetts thus enjoyed world-class naval defense, the cost of which the province’s inhabitants could barely fathom much less afford.¹⁶⁶

As the war drew to a conclusion, inhabitants harbored no naïve misconceptions about why their side had been victorious. The General Court thanked the king “for the tender Regard shewn to your American Dominions, for the powerful Fleets and Armies your Majesty has been pleased to send to these remote Colonies.”¹⁶⁷ The war, Governor Bernard noted in a speech, marked “the firm Establishment of the British Empire in North-America,” and demonstrated “the most striking Instances of the Superiority of it’s Power.” Bernard summed up inhabitants’ own views when he reminded Bay Colonists that “no other Nation upon Earth could have delivered you from the Enemy you have had to contend with.”¹⁶⁸

¹⁶⁴ Petition of Solomon Cook and others, of Provincetown, 12 Jan 1757, Mass. Arch. 117: 243-45, quote on 243; Petition of Joshua Atkins and others [Truro and Provincetown], 6 Apr 1757, Mass. Arch. 117: 283-85.

¹⁶⁵ Pownall to Pitt, 1 Nov 1758, *Correspondence of Pitt*, 383. Pownall had noted two months earlier that there were no Royal Navy ships in the vicinity of the New England coast. Sporadic activity by French privateers posed an issue, but British naval power in general served to reduce the number of serious threats. Pownall to Pitt, 12 Sep 1758, *Correspondence of Pitt*, 349.

¹⁶⁶ According to John Brewer, “The expense incurred to ensure that the entire mid-century [British] fleet did not deteriorate—never mind improve its performance—was more than a half a million pounds per annum.” Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (New York: Knopf, 1989), 35. Massachusetts’s total war-related expenses from 1754 to 1762 amounted to £818,000. Pencak, *War, Politics, and Revolution in Provincial Massachusetts*, 154. The province did maintain one sloop, the *King George*, to patrol the coasts, perhaps to interdict smugglers as much as to defend against the French. Yet the General Court still prioritized its own rights over the protection the *King George* offered. In 1762, the House sternly rebuked Governor Bernard for ordering the sloop to sail on word of enemy activity during a recess of the House. The representatives claimed that, because Bernard’s order resulted in an expense the province would have to pay for, this amounted to an unconstitutional tax. Bernard to House, 18 Sep 1762, House Journal 39: 119-21.

¹⁶⁷ Humble address of the Governor, Council, and Representatives, 5 Oct 1759, House Journal 36: 62. See also House and Council to Governor Bernard, 15 Feb 1763, House Journal 39: 245.

¹⁶⁸ Bernard to House and Council, 17 Dec 1760, House Journal 37: 100.

The province also expressed thanks for the financial grants the mother country issued throughout the conflict. Financing the war effort had been a concern in Massachusetts from the beginning. At the same time provincial leaders doubted whether Massachusetts could defeat the French on the field of battle, they also acknowledged the primitive state of the province's fiscal resources. Direct taxation, import duties, and excises, on which Massachusetts normally relied, were inefficient, so much so that Governor Shirley had to remind the General Court in December 1754 that the province needed to have at least some money in the treasury before it contracted debts.¹⁶⁹ In light of the difficulties raising revenue, Shirley recommended, as a start, that the province exempt from taxation anyone who would voluntarily lend money to the government. Parliament itself employed this method, "By which means notwithstanding the Vast expences of that Government [of Britain] the publick Money has been more easily raised than in other Kingdoms & States in Europe."¹⁷⁰ But in fiscal matters, Massachusetts hardly resembled Britain, whose financial might—especially its ability to fund an ever-increasing long-term debt—was well-known to colonists. "[H]owever great a Paradox it may appear at first Sight," explained Ellis Huske, Britain "never was, in point of Finances, so capable to go to War when it did not owe a Shilling, as at this Instant when it owes [£]72,000,000."¹⁷¹ Massachusetts, by contrast, had to finance its mobilization through a combination of direct taxes and the issuance of interest-bearing treasury notes that would have to be redeemed only a few years later, with revenue from direct taxes.¹⁷²

The cost of raising and maintaining large numbers of troops far surpassed the government's normal expenses. Provincial leaders insisted at the outset of the conflict that

¹⁶⁹ Governor Shirley to the House, 23 Dec 1754, Mass. Arch. 109: 7-8.

¹⁷⁰ Shirley to the House, 9 Jan 1755, Mass. Arch. 109: 14.

¹⁷¹ [Ellis Huske], *The Present State of North-America...Second Edition* (Boston: D&Z Fowle, 1755), 59.

¹⁷² The treasury notes bore 6% annual interest. The funded debt of Britain bore interest of 3 to 4%.

Britain would need to offer financial assistance.¹⁷³ Specifically, Massachusetts expected to be reimbursed, as it had been in the 1740s for its successful campaign against Louisbourg. The assembly continued to appeal to Shirley, the driving force behind the Louisbourg expedition, who had also secured for the province at that time over £180,000 sterling. Shirley now promised he would, “in the most cordial Manner,” serve as Massachusetts’s “Advocate with his Majesty” to secure “the Relief of the Province.”¹⁷⁴ The province first received word on July 1, 1756, that it would receive £68,744 to defray the cost of its exertions in 1755.¹⁷⁵ Inhabitants, to their great dismay, however, heard nothing about additional grants until March, 1758, when Governor Pownall passed along Pitt’s letter promising reimbursement for military expenditures. Even then, an official statement of reimbursement for the 1756 campaign (£27,380) did not arrive until October 4, 1758, shortly after the assembly had persuaded Governor Pownall to write to Pitt explaining the “difficult Circumstances” in which Massachusetts remained.¹⁷⁶ As Pownall later stated, “the arrival of that recompense will give a Vigour to the Province in the King’s Service equall to His Majesty’s highest expectations from it. Whereas the want of this will clog every Effort”¹⁷⁷ Massachusetts received four additional sums in the years that followed, so that the total amount of reimbursement came to £328,000.¹⁷⁸

Although the scale differed, reimbursement was a familiar concept in Massachusetts. Inhabitants interpreted the grants they received from Britain in the context of their experiences with provincial government. The same members of the assembly leading the effort for

¹⁷³ For instance, General Court to Shirley, [9-10] April 1754, *Corr. of Shirley* 2: 49.

¹⁷⁴ Shirley to House and Council, 7 Feb 1756, House Journal 32: 504.

¹⁷⁵ Spencer Phips to Council and House, 1 Jul 1756, House Journal 33: 73-75; Gipson, *British Empire Before the American Revolution* (New York: Knopf, 1961), 10: 39.

¹⁷⁶ Pownall to House and Council, 4 Oct 1758, House Journal 35: 72; Thomas Pownall to William Pitt, 30 Sep 1758, Parkman Mss. 42: 282. MHS.

¹⁷⁷ Pownall to Pitt, 8 Dec 1758, *Corr. of Pitt*, 414.

¹⁷⁸ Pencak, *War, Politics, and Revolution*, 146n.106; Gipson, *British Empire*, 10: 38-52.

reimbursement from Britain far more frequently found themselves on the other side, reading petitions submitted by individuals and towns requesting some kind of financial aid.

The flood of petitions written by provincial soldiers or their relatives during the war offers insight into the contemporary meaning of reimbursement. By modern standards, the provincial government provided remarkably little logistical support for its forces in the field. When a unit's term of enlistment expired, the men were expected to find their own way back, with a small allowance made for their travel expenses. Illness ran rampant in the ranks, and many men were sick upon their discharge far from home. Worse, medical expenses frequently exceeded the amount of a soldier's enlistment bounty and pay. The government's approach to these and similar cases was responsive rather than proactive: it relied on the individuals affected to appeal to the legislature for reimbursement of their costs. Plausible requests followed a standard pattern. The petitioner had entered the service, offering the public his time and labor in exchange for a small remuneration. The petitioner then suffered some hardship—a wound, sickness, loss of possessions, failure to receive proper compensation—as a result of which, without the interposition of the legislature, the petitioner would be left destitute through no fault of his or her own. The petitioner's goal, as stated in the petition, was simply to break even—to ensure that one's selfless public service did not result in permanent private ruin. The cost of reimbursing the petitioner would be insignificant for the province while the effect on the individual would be dramatic and enduring. In sum, provincial political culture operated on the premise that government would be receptive to reasonable requests. An individual's appeal and the government's response reinforced the notion of a single political community.

Massachusetts's reimbursement by Britain fit this model. Provincial leaders understood reimbursement as a necessary measure to keep the government solvent. According to Pownall,

writing for the inhabitants, Massachusetts had made “Efforts so disproportionate to its natural Strength” that “the faith of the Government” was in jeopardy and bankruptcy possible. “[T]he preservation of the Government of this Province itself depends upon that Recompence,” Pownall stated.¹⁷⁹ In the end, reimbursements covered between 40 and 50 percent of Massachusetts’s war-related expenditures.¹⁸⁰ Although they did not prevent heavier tax burdens and corresponding individual hardships during the war years and through most of the 1760s, reimbursements unquestionably stabilized the province’s finances. In 1762, Governor Bernard was impressed by “the extraordinary Credit & good State of the Finances of this province” and asserted that Massachusetts would be out of debt by 1765.¹⁸¹ Bernard’s prediction proved optimistic, but not by much. The amounts of new province taxes levied annually by the legislature declined after 1762 and no new taxes were levied in 1768, 1770, or 1771. As far as extant treasury records reveal, it appears that Massachusetts paid off its debt by the end of 1773.¹⁸²

¹⁷⁹ Thomas Pownall to William Pitt, 30 Sep 1758, Parkman Mss. 42: 288.

¹⁸⁰ For the figure of two-fifths, Anderson, *A People’s Army*, 16. For the figure of £91,000 sterling short of one half total expenses, see Gipson, *British Empire*, 10: 54.

¹⁸¹ Francis Bernard to the Board of Trade, 12 Apr 1762, *Papers of Bernard*, 192.

¹⁸² Despite its imperial bias, the best analysis of the impact of reimbursement on Massachusetts’s finances is Gipson, *British Empire*, 10: 53-62. For the claim that the province had paid off its debt by 1773, *ibid.*, 61. For new taxes levied by year. See J.B. Felt, “Statistics of Taxation in Massachusetts,” *American Statistical Association Collections* 1, 2 (Boston: T.R. Marvin, 1847):410. Province taxes levied in a given year do not correspond to the direct tax burden on inhabitants in that year since taxes from previous years were still being collected. Pencak, *War, Politics, and Revolution*, 154-55, 177n.21 errs on the amount of taxes levied in these years, misconstruing the amount out on loan in a given year with new taxes levied. See for instance *Acts and Resolves* 4: 883-99 and *Acts and Resolves* 5: 89-106.

For Gipson, British reimbursements represented another instance of imperial generosity toward the colonies. The great impact those grants had on the finances of the colonies comprised another reason why the colonies needed the Empire. And colonial pleas for reimbursement and the subsequent lack of gratitude for them was yet another example of colonial intransigence, as the colonists were “ripe for revolt” by the early 1760s. Subsequent scholars, understandably unconvinced by Gipson’s simplistic larger interpretation of colony-Empire relations, emphasized instead that the reimbursement sums failed to cover most of Massachusetts’s expenses. According to these scholars, an economic depression hit Massachusetts after the war. When added to provincials’ allegedly widespread disenchantment with metropolitan Britons that resulted from interactions during the conflict, economic troubles and high taxes pushed colonists further down the road to revolution. Both interpretations of reimbursement, its impact, and its contemporary meaning are flawed. Gipson erred by casting colonists as undeserving, inconsistent complainers who, had they not been greedy, could have financed the war effort unaided by

The province clearly benefitted during the war from being part of a British imperial framework. British military power enabled Massachusetts leaders to conduct a war effort that, while impressive in terms of the numbers of men mobilized year after year for nearly a decade, ultimately would not have achieved victory single-handedly. Neither the limited effectiveness of provincial troops nor the lack of sustained commitment to frontier and coastal defense resulted in serious consequences for Massachusetts. Meanwhile, the assembly kept expenditures lower than they might have been by controlling the size and duration of the province's annual military levies. The crown's reimbursement grants then provided the Massachusetts government with sums—which would have taken years to collect through direct taxation—it could use to pay down a significant proportion of its debt and prevent interest from accruing.¹⁸³

Massachusetts inhabitants viewed Britain's military and financial contributions to their protection as evidence that province and Empire constituted a single community, each fulfilling their proper roles. Provincial leaders were accustomed to using government resources to relieve inhabitants who had fallen into circumstances that stretched their limited capacities. It appeared self-evident that the same logic applied within the Empire. Moreover, accepting the assistance of the mother country need not inhibit the province from exercising its corporate rights as outlined in its charter-constitution. If anything, the General Court grew bolder in setting restrictions on mobilization after it began receiving regular reimbursements. Colonists embraced and celebrated imperial power, knowing that their rights—and also their lives—depended on it. The question

Britain. The subsequent scholars erred by exaggerating the economic and financial distress of the province after the war and by underplaying the importance of reimbursement to Massachusetts's financial stability. One need only to compare the aftermath of the French and Indian War to the aftermath of the War of Independence to appreciate the benefits that accrued to Massachusetts from its connection to the world greatest fiscal-military state following the earlier conflict. Gipson, therefore, is correct on the smaller point of reimbursement's salutary impact, but incorrect in his assessment of colonial attitudes toward Britain.

¹⁸³ For a discussion of how Massachusetts used reimbursement funds to the best advantage of the province, see Francis Bernard to House and Council, 7 Apr 1761, House Journal 37: 302.

remained whether this constitutional arrangement, which inhabitants believed had proved so successful, would continue to exist.

Charter Rights Affirmed

The war only strengthened the resolve of Massachusetts inhabitants to maintain their charter constitution in its present form. Colonists had no intention of giving up such an advantageous arrangement, protesting every perceived infringement of their charter rights. The area in which they may have innovated, however, had they desired to do so, was the composition of the House of Representatives, whose members determined provincial policy and largely elected the Council. Since the charter had left it to the General Court to decide the distribution of representation and voter qualifications, Bay colonists certainly possessed the legal means to channel any popular support for change into legislation. Moreover, if anything was going to stimulate pleas for altering the system of representation, it would have been the assembly's attempt to apportion unprecedented wartime burdens on the populace. Yet a review of the debates that occurred within the province reveals that, in the end, inhabitants always supported the constitutional status quo.

Bay colonists showed from the beginning of the war that they endorsed existing constitutional procedures when dividing up the tax burden. In 1754, a new excise bill passed the House and Council. The bill proposed to expand the excise on liquor to include all spirits consumed by inhabitants in their homes, not just that which was sold at inns and taverns. The bill's supporters consisted of representatives from inland towns that favored any measure likely to reduce the direct taxes levied on land and property. But coastal, commercial towns, which would see the highest tax increase as a result of the expanded excise, opposed the bill.¹⁸⁴

¹⁸⁴ Paul S. Boyer, "Borrowed Rhetoric: The Massachusetts Excise Controversy of 1754," *William and Mary Quarterly*, 3rd Series, Vol. 21, No. 3 (Jul. 1964): 329-332.

Governor Shirley, sensing that it would be politically unwise to sign the bill outright and risk alienating his supporters in the merchant community, proclaimed that it was “inconsistent with the *natural Rights* of every private Family.” Shirley vowed to sign it only if the assembly passed it again upon reconvening in the fall session.¹⁸⁵

Shirley’s invocation of natural rights referred to a provision in the bill that required inhabitants to swear an oath to the excise man when paying their taxes for the year. Opponents of the bill claimed that this intrusion into private households violated “certain Privileges which descend to us as an unalienable Inheritance, as we are Subjects of the *British* Realm, which no little Corporation Government can deprive us of.”¹⁸⁶ Supporters of the bill, in contrast, maintained that appeals to natural rights were unnecessary in the context of an established society. Massachusetts possessed a “Method of making Laws and Rules” spelled out in “one of the happiest Constitutions in the World.”¹⁸⁷ Since the excise had gained the approbation of the people’s representatives, it ought to stand. The vast majority of representatives agreed on the constitutionality of the measure, and the bill passed easily in December 1754.¹⁸⁸

As the debate over the 1754 excise suggests, tensions persisted over tax apportionment. Coastal towns continued to insist that they were being assessed more than their just share. Major commercial centers such as Boston, Salem, and Marblehead all petitioned the General Court at one time or another complaining of inequitable tax burdens.¹⁸⁹ Yet the main—and usually only—proposal these petitions put forth was the need for a new valuation that would redistribute

¹⁸⁵ Shirley quoted in *ibid.*, 333. Emphasis in original.

¹⁸⁶ *The Relapse* (Boston: n.p., 1754), 3. Evans 7303.

¹⁸⁷ “Rusticus,” *The Good of the Community Impartially considered...* (Boston: n.p., 1754), 33. Evans 7312. On this point see Boyer, “Borrowed Rhetoric,” 348-49.

¹⁸⁸ Boyer, “Borrowed Rhetoric,” 349-50.

¹⁸⁹ Petition of the merchants and other inhabitants of Boston, 26 Dec 1755, Mass. Arch. 117: 51-54; Petition of the Selectmen as ordered by the inhabitants of Boston, Feb 1756, Mass. Arch. 117: 55-57; Petition of Benjamin Lynde and others, Committee of the town of Salem, 30 Dec 1758, Mass. Arch. 117: 432-33; Petition of Isaac Mansfield Jr. in behalf of the inhabitants of Marblehead, 11 Jan 1759, Mass. Arch. 117: 434-36.

the tax burden on the basis of an up-to-date assessment of real and personal property.¹⁹⁰ This was a common practice. Despite the war's heavier than normal burdens, inhabitants remained confident that the solutions to their problems lay within the ordinary remit of government.

The incorporation of new towns in the early 1760s—a total of 37 between 1759 and 1765—offered Bay colonists the prospect of changing the makeup of the House. If particular constituencies across Massachusetts felt they were being systematically exploited, here was an opportunity to begin to adjust the balance of representation in their favor. In the spring of 1761, the General Court passed five bills incorporating new towns, most of them in the new county of Berkshire. Citing his 40th instruction from the Board of Trade, which prohibited the governor from consenting to incorporations that would increase the number of representatives, Bernard vetoed the bills.¹⁹¹ The new communities could still enjoy all the privileges of incorporation, except representation, if they were designated as “districts.”

The surprising reactions to the district proposal demonstrate how secure all Massachusetts inhabitants felt about their existing constitution. Many communities seeking incorporation actually preferred classification as a district. To these inhabitants, the voice the town would gain in the House was not worth the cost of supporting a representative in Boston. They were clearly comfortable with how the General Court was conducting the war effort. They were also evidently unaware of any long-term threats to their interests posed by the voting power of other towns. The established towns, by contrast, insisted on the right of newly incorporated communities to send representatives. The House decried the attempt to “[brand]” settlements

¹⁹⁰ For instance, Petition of Charles Apthorp and others, Committee of the town of Boston, 25 Apr 1758, Mass. Arch. 117: 395-97. This committee, led by the prominent merchant Apthorp, also proposed an alteration in the method by which the General Court apportioned poll taxes and real and personal taxes, which it claimed would provide immediate relief. Many Bostonians, the petition asserted, had fled the town to avoid unbearably high taxes.

¹⁹¹ Bernard to House and Council, 17 Apr 1761, House Journal 37: 354; Francis Bernard to the Board of Trade, 3 Aug 1761, *Papers of Bernard* 1: 130-31.

“with the ignominious, or at best, less honourable Name of District.” On the surface, established towns should have supported district classification. Representation in Massachusetts disproportionately favored the province’s less populous towns already. At a time when the legislature was assessing taxes and distributing other burdens, the last thing the established towns should have desired was to skew the relationship between population—and wealth—and representation even further. They took the opposite position for two reasons. First, the strain of mobilization on the localities was never severe enough to raise questions about the legitimacy of the system of representation. Second, district classification appeared to threaten charter rights. “It is certain,” the House told Bernard, “that the Royal Charter, the great Rule and Foundation of our Duty and Privileges, and referred to by your Excellency’s Commission” granted the General Court the power to determine town representation. This it had done in a 1692 statute that had received “the Royal Approbation.”¹⁹² In the view of Bay colonists, their right to control this matter was clear. As the postwar era began, inhabitants in all parts of the province revered the constitution and the government it established—while also assuming that arrangement to be permanent.

In the course of reviewing the town incorporation acts for approval, the Board of Trade also reaffirmed the inviolability of the Massachusetts charter in the early 1760s. The Board itself was responsible for the controversy, for it had instructed Bernard to veto bills entitling new towns to representation. The Board’s instruction aimed to rectify an unfortunate consequence of the charter’s provision concerning the constitution of the assembly. As the number of representatives increased, the House gained a more and more overwhelming say in the election

¹⁹² House to Bernard, 18 Apr 1761, House Journal 37: 361.

of the 28-member Council. Whereas the ratio of representatives to councilors formerly stood at three to one, by 1761 the ratio stood at six to one.¹⁹³

But the Board now realized that it had issued its instruction without adequately considering “those parts of the Charter, and of the Act of 1692, which relate to the Constitution of the House of Representatives.”¹⁹⁴ After the Board studied the matter in greater detail, it declared its earlier instruction to be, in effect, unconstitutional. It concurred with Bernard that there ought to be greater “Balance” between the two houses of the legislature. Yet the growth of the House “appears...an Evil resulting from the original frame of the Constitution in what regards the Right of the People to choose Representatives laid down in the Charter itself and in the Act of [1692,] which was founded upon the Charter and has been confirmed by the Crown.” Bernard should employ “Discretion” and “use [his] best Endeavours” to limit the number of new representatives, but the Board “doubt[ed] the Propriety of any Measures on the part of Government which might have the Effect to restrain the Operation of those fundamental Principles of the Constitution.”¹⁹⁵ However ill-advised the charter’s provisions now seemed, the Board concluded, they must be upheld.¹⁹⁶

¹⁹³ Bernard to the Board of Trade, 3 Aug 1761, *Papers of Bernard* 1: 130-31. Six to one was the ratio on paper only. Not all towns empowered to send representatives did so. Also, many towns that possessed over 120 freeholders sent only one of the two representatives they were entitled by law to send.

¹⁹⁴ Board of Trade to Bernard, 25 Nov 1761, *Papers of Bernard* 1: 160.

¹⁹⁵ Board of Trade to Bernard, 11 Jun 1762, *Papers of Bernard* 1: 229.

¹⁹⁶ This followed on a 1758 pronouncement in which the Board decided that it was “doubtful whether it would be advisable in the present situation of things to attempt an effectual remedy” of the House’s exaggerated influence in the province’s government. Lords of Trade to Thomas Pownall, 22 Nov 1758, quoted in Charles A.W. Pownall, *Thomas Pownall..., Governor of Massachusetts...* (London: Henry Stevens, Son & Stiles, 1908), 189. Strangely, less than a year after the Board determined it could not restrict newly incorporated towns from representation, it again wrote to Bernard concerning incorporation acts. It inquired of the governor “what is the Constitution and Practice of the Province in th[ese] case[s]” and asked him to send “an Exact List of the several Towns and Places, which send Representatives, distinguishing the Number, which each Place sends, when and by what Authority the rights of Representation was first Establish’d and in what way this Right takes Place, whether by Petition to the General Court, or by direct application to the Governor.” Board of Trade to Bernard, 8 Feb 1763, *Papers of Bernard* 1: 323. In his reply, Bernard reminded the Board of their earlier correspondence on the matter. See Bernard to Board of Trade, 30 Apr 1763, *Papers of Bernard* 1: 353.

Finally, one would expect the men who served as governors during the war to be strong advocates of constitutional reform. These men had seen their own initiative and powers limited as the General Court exercised its charter rights. They had experienced first-hand the consequences of every charter provision. Shirley, Bernard, and Hutchinson all expressed a desire to make changes in these years. Their proposals, however, were accompanied by statements supporting Massachusetts's charter government. Moreover, the governors doubted the practicality and prudence of imposing change from above.

Shirley presented his view of Massachusetts's constitution in 1749 when he outlined a charter for the new province of Nova Scotia. Shirley believed the Massachusetts charter ought to serve as "the Basis" of Nova Scotia's charter, but with a number of admittedly significant differences. Shirley thought "the Assembly should be Triennial instead of Annual;" that the numbers of representatives and councilors should be fixed; that the authority to incorporate towns and determine their privileges and rights ought to be vested in the crown instead of the legislature; and that the province should enjoy equity courts.¹⁹⁷ Shirley was keen to propose these measures for Nova Scotia precisely because he assumed that, once granted, its charter, like Massachusetts's, could not be altered. Despite all the flaws he discerned in it, Shirley still considered Massachusetts's constitution preferable to most others. In late 1754, he criticized the Albany Plan of Union for too closely resembling the "old Charter Governments" of Connecticut and Rhode Island in its lack of prerogative powers for the crown-appointed President General. For Shirley, Massachusetts under the 1691 charter, "wherein the Crown hath resum'd its prerogative," would have served as a far better model for the intercolonial union. Shirley considered the 1691 charter appropriate for a province that had arrived at its maturity; the

¹⁹⁷ William Shirley to the Duke of Bedford, 217 Feb 174[9], *Corr. of Shirley* 1: 470; Shirley, "General Heads of a Plan of a Civil Government Propos'd for His Majesty's Province of Nova Scotia," *Corr. of Shirley* 1: 473-75.

corporate charters, by contrast, were relics of an earlier stage of colonial development, living fossils adequate for neither the present nor the future.¹⁹⁸

Francis Bernard also offered a number of suggestions for improving Massachusetts's constitution, all the while maintaining that "few things are Wanting to make it compleat."¹⁹⁹ In addition to introducing equity courts and a civil list, Bernard proposed to transform the Council "as near as possible" into "the house of Lords." The crown should appoint the councilors and even give them "some title for Life...such as Baron or Baronet." Bernard naively predicted that inhabitants would eventually accept this "alteration" to their charter.²⁰⁰ He also hoped for a reconfiguration of provincial borders whereby Connecticut and Rhode Island—"two Republicks," Bernard scoffed—would be "dissolved," and most of their territory as well as that of New Hampshire adjoined to Massachusetts, which in turn would give up its jurisdiction over Maine.²⁰¹ Hutchinson, for his part, would have preferred a limit on the size of the House of Representatives and a Council made more independent by means of a triennial election.²⁰²

Having governed the Bay Colony in war and peace, however, both Bernard and Hutchinson understood the extent to which inhabitants valued their charter. Bernard never defended the status of charters in general as strongly as his predecessor, Thomas Pownall. But for much of the 1760s he affirmed that before any Massachusetts reforms "the consent of the Province should be first obtained."²⁰³ Any transfer of territory colonists claimed by virtue of

¹⁹⁸ William Shirley to Sir Thomas Robinson, 24 Dec 1754, *Corr. of Shirley* 2: 116-17.

¹⁹⁹ Francis Bernard, Answer to Queries of the Board of Trade, 5 Sep 1763, *Papers of Bernard* 1: 414.

²⁰⁰ *Ibid.*, 413.

²⁰¹ Bernard to the Earl of Halifax, 9 Nov 1764, *Papers of Bernard* 2: 154. For Bernard's plan to redraw colonial boundaries, see Bernard to Richard Jackson, 2 Aug 1763, *Papers of Bernard* 1: 387-88; Bernard to Richard Jackson, 22 Oct 1764, *Papers of Bernard* 2: 146-49.

²⁰² For limits on the House, see Hutchinson to Lord Hillsborough, 9 Oct 1770, printed in *Boston Gazette*, 14 Aug 1775; for triennial Council, see Hutchinson to Bernard, 20 Oct 1770, printed in *Boston Gazette*, 21 Aug 1775.

²⁰³ Bernard, Answers to Queries of the Board of Trade, 5 Sep 1763, *Papers of Bernard* 1: 413-14.

their charter “should be done by a Convention with the Massachusets [sic].”²⁰⁴ Even if the “Consent of the Colonies” was determined not to be “absolutely necessary” in a legal sense, he maintained it would be “Very expedient.”²⁰⁵ Officials should “enquire how far it is like to be approved or disapproved by the generality of those who are to be immediately affected by it.”²⁰⁶ Even in the aftermath of the Stamp Act riots of 1765, Bernard “purposely omitted” mentioning to the province’s leaders “the danger their disobedience would bring on their Charter” since “it is [not] a nice subject at all times, but more so when the people are inflamed.”²⁰⁷ Bernard took a harder line in 1768 during the Townshend Act protests and the arrival of British troops in Boston, when he grew frustrated with the intransigence of the towns and the Council. His letters to Lord Hillsborough, in which he wrote bluntly of “the forfeiture of the charter,” were published the following year, earning him the everlasting enmity of Massachusetts Whigs.²⁰⁸

Hutchinson never advocated the unilateral revocation of the province’s charter. Although Whigs assumed the worst, Hutchinson argued for the entirety of the imperial crisis that prior to any action on the charter “opportunity should be given to the assembly to make their defence, . . . because it is possible the people may be alarmed and see their error, and if they should

²⁰⁴ Francis Bernard to John Pownall, 5 Dec 1762, *Papers of Bernard* 1: 306. The governor warned Connecticut’s agent in London that any “attempt to take . . . land from the Province [of Massachusetts] by means of a legal exception to the Validity of the Charter” would result in “ill humor, Animosity & litigation.” Francis Bernard to Richard Jackson, 6 Dec 1762, *Papers of Bernard* 1: 308. See also, Bernard to Richard Jackson, 22 Oct 1764, *Papers of Bernard* 2: 149.

²⁰⁵ Bernard to the Earl of Halifax, 9 Nov 1764, *Papers of Bernard* 2: 158.

²⁰⁶ Bernard to Richard Jackson, 22 Oct 1764, *Papers of Bernard* 2: 146.

²⁰⁷ Bernard to John Pownall, 27 Sep 1765, *Papers of Bernard* 2: 365. Bernard concludes the sentence somewhat ambiguously: “it might be considered as a threat at present, and as a Hint for the future: and they are not like to be reminded of this Consideration.”

²⁰⁸ Quote in *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood...* (London: J. Wilkie, n.d.[orig. Boston: Edes and Gill, 1769]), 89. See also Nicolson, *The “Infamous Governer”: Francis Bernard and the Origins of the American Revolution* (Boston: Northeastern University Press, 2001), 198-202.

not, they will be left without excuse.”²⁰⁹ He stated clearly what he expected from the people if they ever learned that their charter had been altered: “violent opposition.”²¹⁰

Among the wartime governors of Massachusetts, Thomas Pownall offered the strongest defense of charters and colonial rights. A charter, Pownall wrote in his *Administration of the Colonies*, was “the indefeasible right by which those colonies thus established, are the colonies of Great Britain, and therefore not to be altered...”²¹¹ During his tenure as governor as well as after, Pownall insisted that infringing the powers granted in a charter was not “conformable to law, to prudence, or sound policy.”²¹²

Instead of persuading the governors that Massachusetts’s charter constitution needed immediate and drastic changes, then, the war reinforced the conviction that the charter could not be altered in any way inhabitants found objectionable. And inhabitants were likely to find almost any changes objectionable. As Bay colonists well knew, they enjoyed a frame of government unlike any in British America—a constitution resembling that of a quasi-autonomous corporate colony, but with features that enabled the province to comply with the wishes and authority of the crown. During the French and Indian War, the largest undertaking Massachusetts ever attempted, provincial leaders exercised powers granted to them by the charter, most notably drawing on its distinctive limits provision in order to regulate mobilization.

These rights had not been questioned; they had been affirmed by crown officials so frequently

²⁰⁹ Hutchinson to Bernard, 20 Oct 1770, printed in *Boston Gazette*, 21 Aug 1775.

²¹⁰ Hutchinson to Lord Hillsborough, 9 Oct 1770, printed in *Boston Gazette*, 7 Aug 1775. As Bailyn notes, the Reverend William Gordon found it necessary to add editorial comments when a batch of Hutchinson’s letters were first published in 1775. Otherwise it would not have been clear to readers “why the letter [Hutchinson] had written to Hillsborough which had stopped the efforts to alter the Massachusetts constitution was really evidence of his ‘assiduity’ in destroying it.” Bailyn, *Ordeal of Thomas Hutchinson*, 335-36.

²¹¹ Thomas Pownall, *Administration of the Colonies*, 3rd Ed. (London: J. Dodsley, 1766), 55.

²¹² *Ibid.*, 56. See also Thomas Pownall to William Pitt, 1 Nov 1758, *Corr. of Pitt*, 384-86. Pownall argued that the commissions granted to British military commanders in North America ought not to infringe upon even the crown governor’s rights as outlined in the Massachusetts charter. Pownall cited the Massachusetts governor’s “Military Power and Authority over all Forts and Forces within the Province” and maintained that placing British officers in command of Massachusetts garrisons would comprise “an absolute Breach of the Royal Charter, which the Crown ever since the Revolution, has been greatly tender of.” *Ibid.*, 385.

and over so long a period that colonists could not help but conclude that their charter rights had never before rested on so firm a foundation. In this regard, the French and Indian War seemed to make a break with Britain less likely.²¹³

Controversies abounded in the years following the war, many of them over the correct interpretation of the charter and the connection to Britain that it signified.²¹⁴ As Massachusetts colonists protested Parliamentary claims, they derived strength and purpose from the charter that had enabled them to persevere through harrowing times.²¹⁵ Bay colonists' concern for protecting their peculiar set of corporate rights might appear at odds with a more cosmopolitan understanding of a greater British good. But for Massachusetts inhabitants, charter rights provided the means to participate and prosper within the British Empire. During the French and Indian War, their impact had been felt on every level of government and society, from the province as a whole on down to towns, families, and individuals. Given the charter's critical importance in the recent past, it is not hard to understand why Massachusetts colonists remained attached to it, refusing to face an uncertain future without it.

²¹³ On whether the war hastened the onset of the Revolution, Anderson, *A People's Army*, esp. 111, 223; Jack P. Greene, "The Seven Years' War and the American Revolution: The Causal Relationship Reconsidered," *Journal of Imperial and Commonwealth History* VII (1980), 85-105; John M. Murrin, "The French and Indian War, the American Revolution, and the Counterfactual Hypothesis: Reflections on Lawrence Henry Gipson and John Shy," *Reviews in American History* 1, 3 (Sep., 1973); Woody Holton, "How the Seven Years' War Turned Americans into (British) Patriots" in Hofstra, ed., *Cultures in Conflict*, 127-44.

²¹⁴ The prominence of the charter in the many debates that occurred in Massachusetts can be surveyed, for example, in Alden Bradford, ed., *Speeches of the governors of Massachusetts, from 1765 to 1775; and the answers of the House of Representatives, to the same; ...which led to the independence of the United States* (Boston: Russell and Gardner, 1818).

²¹⁵ On the comparatively legalistic form of resistance in Massachusetts and the "conditions of law" in the province, see John Philip Reid, *In a Defiant Stance: The Conditions of Law in Massachusetts Bay, the Irish Comparison, and the Coming of the American Revolution* (University Park: The Pennsylvania State University Press, 1977), 162.

Chapter 2

In a State of Nature: Self-Preservation in Massachusetts, 1774-1775

Writing to his friend James Warren of Plymouth on April 9, 1774, John Adams considered the course the colonists' dispute with Britain might take in the future. "I am of the same opinion that I have been for many Years," wrote Adams five months after colonists had destroyed the East India Company's tea in Boston harbor, and shortly before news of the Coercive Acts would arrive in Massachusetts,

that there is not Spirit enough on Either side to bring the Question to a compleat Decision—and that We shall oscilate like a Pendulum and fluctuate like the Ocean, for many Years to come, and never obtain a compleat Redress of American Grievances, nor submit to an absolute Establishment of Parliamentary Authority. But be trimming between both as we have been for ten Years past, for more Years to come than you and I shall live. Our Children, may see Revolutions, and be concerned and active in effecting them of which we can form no Conception.¹

Writing at what seems clear in hindsight to be the start of the terminal phase of the Imperial Crisis, Adams believed that relations between the colonies and Britain would continue as they had since the conclusion of the French and Indian War. Although tensions and controversies abounded, revolution still seemed unlikely.

What ultimately mobilized Massachusetts inhabitants beginning in the spring of 1774 was the fear that British authorities were trying to destroy the Massachusetts charter. Because this threat affected all inhabitants, and because the likely consequences appeared so dire, resistance to British policy encompassed the entire province and took an unprecedented form. The Government Act brought upon Massachusetts a crisis in which all the various justifications colonists had long cited for their resistance to Parliament—natural law, constitutional principles,

¹ John Adams to James Warren, 9 Apr 1774, *Papers of John Adams* [PJA] 2:83.

charter rights—coalesced. The nature of the threat to the accepted constitution of Massachusetts shaped how Whigs understood their predicament and their goals.

In the tumultuous period spanning 1774 and 1775, two concepts possessed paramount influence and importance in provincial Massachusetts: the “state of nature” and “self-preservation.” For Massachusetts Whigs, the “state of nature” described a geopolitical situation. It served as a shorthand means to denote the unstable international system into which Massachusetts, conceived as a corporate whole, was being cast as a result of Parliament’s unconstitutional assaults on the corporate rights of the province. This geopolitical understanding of the “state of nature”—one which could be found in all the great treatises on the law of nature and nations²—built on a view of the imperial constitution that Whigs had articulated in the years preceding. The “dominion theory” described the empire in federal terms, with Massachusetts and all the other provinces retaining their integrity as polities bound to the empire solely through the British king.³ In accordance with their view of the “state of nature,” Whigs refused to believe their province’s society had collapsed to the point where inhabitants needed to form a new original compact to establish government internally; they lamented, instead, that all external ties linking Massachusetts to Britain had been, or soon would be, severed.

Reinforcing the corporate identity of Massachusetts as well as their geopolitical understanding of the “state of nature,” Massachusetts colonists also invoked the first law of nature and of nations: “self-preservation.” “Self” referred to the notion of a Massachusetts corporate people that had existed since the founding of the colony and that continued to exist

² This is a central claim in Richard Tuck, *Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (New York: Oxford University Press, 1999).

³ John Phillip Reid, ed., *The Briefs of the American Revolution: Constitutional Arguments between Thomas Hutchinson, Governor of Massachusetts Bay, and James Bowdoin for the Council and John Adams for the House of Representatives* (New York: New York University Press, 1981); Alison L. LaCroix, *The Ideological Origins of American Federalism* (Cambridge, Mass.: Harvard University Press, 2010), chp. 3. See also Eric Nelson, “Patriot Royalism: The Stuart Monarchy in American Political Thought, 1769–75,” *The William and Mary Quarterly*, Vol. 68, 4 (October 2011): 533-572.

despite the current crisis. “Preservation” was appropriate because the goal of colonists in Massachusetts was to maintain the rights they believed had been guaranteed to them through the provincial charter that Parliament sought to destroy. And “self-preservation” in general evoked the universally-acknowledged right of a people or nation to resist an invading enemy by force of arms.

By studying Massachusetts in terms of its having been cast into a geopolitical “state of nature” and as therefore entitled to the right of “self-preservation” we can begin to see both the provincial and continental dimensions of the American Revolution. It is common to note how the resistance movement of the 1760s and 1770s and especially the Coercive Acts of 1774 served to bind American colonists together to the point that they frequently proclaimed that they were united “in the common cause.”⁴ Indeed, there were numerous manifestations of this unity of sentiment. Yet at the same time that colonists believed themselves to be united in the common cause, their provinces were also “in a state of nature” relative to both Britain and one another.

The Massachusetts Government Act

The Coercive Acts, passed by Parliament in response to the destruction of the tea in Boston, set in motion a series of events that led to Revolution.⁵ Viewed by colonists in Massachusetts as all components of the same overarching plan to force them to recognize Parliamentary sovereignty, the Acts nevertheless varied in importance when it came to spurring

⁴ David Ammerman, *In the Common Cause: American Response to the Coercive Acts of 1774* (New York: Norton, 1975 [orig. 1974]).

⁵ Important accounts of the period surrounding the outbreak of fighting in Massachusetts in 1775-75 include Richard D. Brown, *Revolutionary Politics in Massachusetts: The Boston Committee of Correspondence and the Towns, 1772-1774* (Cambridge, Mass.: Harvard University Press, 1970); Stephen E. Patterson, *Political Parties in Provincial Massachusetts* (Madison: University of Wisconsin Press, 1973), 91-124; Robert A. Gross, *The Minutemen and Their World* (New York: Hill and Wang, 1976); Richard L. Bushman, *King and People in Provincial Massachusetts* (Chapel Hill: University of North Carolina Press, 1985); Ray Raphael, *The First American Revolution: Before Lexington and Concord* (New York: Free Press, 2002); Matthew C. Boesen, “From Charter to Constitution: Local Self-Government in Revolutionary Massachusetts, 1774-1780” (Ph.D. Diss., University of Virginia, 1998), 6-147.

Revolutionary resistance. What mattered most to colonists was the Acts' potential permanently to undermine the province's ability to resist the enforcement of Parliamentary measures. As long as Massachusetts could continue to exercise its corporate rights of self-government Parliament's illegal dictates could be ignored or at least managed. Herein lies the reason why the Coercive Acts proved so threatening for all the North American colonies. The specificity with which the ministry seemed to be dismantling Massachusetts' exceptionally robust charter constitution succeeded not only in mobilizing Massachusetts inhabitants on an unprecedented scale; it also caused other colonists to fear that their provinces would be the next targets.

The Boston Port Act, official news of which arrived first in May, 1774, was the most geographically-delimited of the Coercive Acts. Targeting what appeared to be the center of rebellious activity, it prohibited all ships from entering or exiting Boston Harbor, with the exception of those on official crown-authorized business and those supplying food and firewood for the inhabitants. The Act was to remain in effect until the colonists had reimbursed the East India Company for the goods destroyed the previous December. Colonists in Massachusetts immediately condemned the Port Act on several grounds. Unable to persuade them to pay the duty on tea of their own volition, colonists reasoned, Parliament had "evidently design'd to compel the Inhabitants [of Boston] to a Submission to Taxes imposed upon them without their Consent."⁶ Crippling the capital's economy and lines of communication with the outside world was an action, the Boston Committee of Correspondence maintained, "not to have been expected even from a barbarous State."⁷ The city had been "accused tried and condemned... , contrary to

⁶ Journal of the House of Representatives, 17 June 1774 in L. Kinvin Wroth, ed., *Province in Rebellion: A Documentary History of the Founding of Massachusetts, 1774-75* (Cambridge, Mass.: Harvard University Press, 1975), Doc. 44, 226. Hereafter *PIR*. Citations will note a document number, followed by the page number(s).

⁷ Boston Committee of Correspondence to the Colonies, 13 May 1774, Doc. 16, 92.

natural Justice and the laws of all civilised States even supposing competent Jurisdiction” on the part of Parliament.⁸

The Port Act turned Boston into a symbol of Parliamentary oppression throughout the continent. Bostonians themselves were eager to further such a notion, asking in a circular letter to the colonies “Whether you consider Boston as now suffering in the common cause, and sensibly feel and resent the Injury and Affront offer’d to her?”⁹ In response, the other colonies showed support in the form of donations of food and supplies to the inhabitants of the capital, thereby strengthening the ties between Americans in an era that celebrated sentimental bonds of affection.¹⁰ At the same time, however, the Port Act alone was not responsible for the unparalleled resistance that followed in 1774 and 1775. First, colonists in Massachusetts assumed the Act was temporary; it was in no one’s interest permanently to ruin the largest port city in New England. As James Bowdoin told Benjamin Franklin, “it will some time or other have an end.”¹¹ Moreover, when colonists complained that the Port Act revealed the inherent inequity of Parliament’s actions, “punish[ing] forty or fifty thousand Person for what was done in all Probability by only forty or fifty,” they also implicitly acknowledged that some among them doubted the propriety and expedience of destroying what had been, after all, private property.¹²

The Massachusetts Government Act constituted the more serious and enduring issue for colonists. Word of its possible provisions trickled into Massachusetts throughout the spring of

⁸ Boston Committee of Correspondence, 12 May 1774, PIR, Doc. 14, 86.

⁹ *Ibid.*

¹⁰ Breen, *American Insurgents, American Patriots: The Revolution of the People* (New York: Hill and Wang, 2010), 111-28.

¹¹ James Bowdoin to Benjamin Franklin, 6 September 1774, quoted in Boesen, “From Charter to Constitution,” 31.

¹² “Boston Committee of Correspondence to Friends of Liberty in Montreal and Quebec,” 21 February 1775, PIR, Doc. 776, 2126.

1774, with full copies of the proposed bill arriving in Marblehead on June 2.¹³ The Government Act, first, revoked in the Massachusetts charter of 1691 “all and every Clause, Matter, and Thing, therein contained, which related to the Time and Manner of Electing the Assistants or Counsellors...and made [them] void and of none Effect.” Diverging from the charter-prescribed practice of having the members of the province’s House of Representatives together and in one body with the members of the current 28-member Council elect the new councilors, the Government Act mandated that councilors would now be “nominated and appointed by His Majesty,...with the Advice of the Privy Council.” Next, the Government Act proscribed town selectmen from calling town meetings “without the Leave of the Governor,...in writing, expressing the special Business of the said Meeting.” Only the annual meetings held to elect selectmen, constables, and other town officials were permitted. Finally, the Act announced that juries for all courts would heretofore “not be elected, nominated, or appointed, by the Freeholders and Inhabitants of the several Towns” but instead would be “summoned and returned” by sheriffs appointed by the royal governor, “any Law, Custom, or Usage, to the Contrary notwithstanding.”¹⁴

The ministry considered the Government Act necessary because radical Whigs in Massachusetts had taken control of the province’s government and thereby thrown the (already too popular) constitution out of balance. Because the charter did not explicitly mention town meetings, colonists could appeal only to long-established custom when protesting that provision of the Government Act. But the provision making the membership of the council by appointment did in fact comprise an explicit textual change in the charter. The ministry and its Tory defenders openly acknowledged this to be the case. Daniel Leonard, who elaborated the

¹³ North Yarmouth to Boston Committee, 16 May 1774, PIR, Doc. 21, 448n.21.

¹⁴ Massachusetts Government Act, PIR, Doc. 148, 508-12.

Tory position in his “Massachusettensis” essays in late 1774 and early 1775, argued that the Whigs who formed a majority in the House of Representatives had been voting out any councilors they deemed insufficiently radical and “[t]hus the board, which was intended to moderate between the two extremes of prerogative and privilege, lost its weight in the scale, and the political balance of the province was destroyed.”¹⁵ Making the upper house of the Massachusetts legislature more like those of other provinces, where councils were appointed, would restore effective government and ensure that Massachusetts was more compliant with Parliamentary measures. Colonists, Tories believed, ought to embrace these changes. “That the new method of appointing the council, is an alteration of that part of our charter is true,” wrote the Tory lawyer Jonathan Sewall in early 1775, “and that the new regulation respecting jurors is different from that prescribed by our province law is also true, but that these are *grievances*, may well be questioned.” With an entirely appointed upper house, the Massachusetts constitution resembled more closely the English constitution, “the best form of government in the whole world,” and brought the province “nearer to *perfection*.”¹⁶

Whigs interpreted this Parliamentary policy of “perfecting” the Massachusetts constitution so that the council and juries would be “upon exactly the same footing as they are in New-Hampshire, New-York and all the southern government’s [*sic*]” as an attempt to destroy what distinguished Massachusetts from its neighboring provinces. The ministry understood, argued John Adams, that the very existence of colonies such as Massachusetts, with its particular reserve of corporate privileges, enabled Americans to resist Parliament’s assertions of sovereignty. “The present distinction of one government being more free or more popular than

¹⁵ *Massachusettensis*, 26 December 1774 in *Novanglus, and Massachusettensis, or, Political essays: published in the years 1774 and 1775, on the principal points of controversy, between Great Britain and her colonies* (Boston, 1819), 155. This edition erroneously identifies “Massachusettensis” as Johnathan Sewall.

¹⁶ [Jonathan Sewall], *A Cure for the Spleen* (Boston: n.p., 1775), 21. Sewall’s argument was a clever one because it played on the colonists’ own claim that their provincial legislatures were like miniature versions of Parliament.

another, tend to embarrass and to weaken the whole,” wrote Adams as he attempted to explain how officials such as Francis Bernard viewed the colonies and their potential to revolt. “[I]f the mode of government was every where the same, people would be more indifferent under what division they were ranged.” The colonies could then be “unite[d] and consolidate[d]” into fewer, large jurisdictions that could be governed consistent with the doctrine of Parliamentary unitary sovereignty and would be laid out according to “natural boundaries, instead of imaginary lines.”¹⁷ In this way, the alteration of the charter method of electing members of the provincial council, which Tories insisted would be beneficial, in reality suggested a profound threat to the integrity of the colonies as they had been historically constituted. If Parliament could change the charter on the subject of the council, it could change everything about the colony’s constitution—including the borders of the province itself. Massachusetts needed to retain its distinctive features and its corporate rights for its own good and for the good of all colonies.

Colonists claimed the Government Act violated their “natural and constitutional rights.” The right to consent to taxation and legislation and the right to serve on juries, for example, both fell under the rubric of the “rights of Englishmen” that colonists had been invoking against Parliament for years.¹⁸ Colonists believed the rights they possessed according to the principles of the English Constitution were consistent with natural rights in general, and the frequency with which Massachusetts colonists spoke of them in the same breath suggests they often elided fine distinctions between the two. Crucially, however, colonists also recognized that these natural and constitutional rights, in order to mean anything, depended ultimately upon the preservation of the charter rights of Massachusetts. One could not consent to taxation or serve on juries if the

¹⁷ Novanglus, 30 January 1775, *PJA* 2:241.

¹⁸ The town of Springfield understood these rights to be “that they shall not be Taxed but with their own consent, given in person; or by their Representatives, nor dissiez’d of their Property, or condemned to any Penalties, but by the Judgment of good and Lawfull men of the Vicinage.” Springfield to Boston Committee of Correspondence, 27 Jul 1774, PIR ,Doc. 204, 755.

constitution of the province effectively prohibited these actions. A typical statement issued by a meeting of Suffolk County towns in August 1774 illustrates the extent to which colonists combined all of these concepts: “the Parliament of great Britain, in Violation of the Faith of the Nation, have in direct Infraction of the Charter of this Province Contrary to Magna Charta, the Bill of Rights, and the Natural Constitutional claims of British Subjects, . . . with all the Parade and Ostentation of Law and Justice, attempted to Reduce this Colony to an unaparaleled [*sic*] State of Slavery.”¹⁹

In 1774 and 1775, everything for Massachusetts colonists hinged upon the novel threat to charter rights. In the Whig public discourse, all rights were “our” rights; all violations committed against “this province”; all outrages inflicted upon “us.” “[D]o not by aney means whatsoever either directly or indirectly Give up aney of our Charter rights and priveliges [*sic*]” the towns of Lunenburgh and Fitchburg instructed their representative to the General Court in May 1774.²⁰ The town of Douglas asserted that “Every Act of the British Parliament, which abridges, or tends to vacate the natural and Charter Rights of this Province, we esteem an arbitrary Exertion of Power; against which, in Duty to ourselves, Our Country, and Posterity, we think ourselves obliged to enter a Protest.”²¹ The response to the Government Act was so overwhelming, Timothy Hilliard explained in a sermon, because it was “levelled not against a particular town, but against this whole province. Our most valuable charter rights are wrested from us without our being offered an opportunity to make any defence.”²² With over a decade of experience resisting metropolitan policies, colonists took for granted that Parliament sought to abridge their “natural and constitutional” liberties by subverting the corporate rights of the

¹⁹ Suffolk County Meeting—Letter to the Towns of Suffolk County, 18 Aug 1774, Doc. 113, 874.

²⁰ Lunenburgh and Fitchburgh Instructions 20 May 1774, PIR, Doc. 37, 132.

²¹ Douglas Committee to the Boston Committee of Correspondence, 24 Jun 1774, PIR, Doc. 221, 720.

²² Timothy Hilliard, *The Duty of a People Under the Oppression of Man* (Boston: Greenleaf, 1774), 25.

province. Yet it now appeared that Parliament had shifted its focus from simply undermining those corporate rights to attacking them directly.

Massachusetts Whigs maintained that their charter was a “sacred compact” between the people of Massachusetts and the person of the king. It followed that, because Parliament had not been a party to this contract, Parliament could not alter the charter. When their ancestors had “entered into Society with the Crown of Great Britain,” argued the town of Wrentham, “they had no Such Idea of the Supremicy of that parlement but on the Contrary as by the Compact will appear they Considered themselves and posterity as having a right to injoy all the rights and privileges of nature and free born Subjects of Great Brittain.”²³ Indeed, Marblehead rejected “the assumed Rights of Parliament to alter or disannul the Charter of the Province” because that body possessed “no more Right of Authority over the Province than a Nuncio or Ambassador from the Pope of Rome.”²⁴ A “Solemn Covenant, between them and the King of England,” wrote the town of Manchester, had secured “original Rights, and Privileges” that were then “perpetuated by the Charter,” rights that had been “so repeatedly and daringly invaded, by the cruel Hand of oppression.”²⁵

Tories claimed, in contrast, that the charter had “most strongly and clearly implied” that the province was subject to the “supreme legislative authority,” that “it never was in the *power* of the king to put any British subjects out of the jurisdiction of parliament, and therefore, if he had given such a charter, it would be void.”²⁶ The current Massachusetts charter, after all, bore a date, 1691, three years after the Glorious Revolution in which Parliament had rejected one monarch and installed another sovereign. It was the “imperial crown” of Great Britain, then, that

²³ Wrentham to the Boston Committee of Correspondence, 3 Jun 1774, PIR, Doc. 128, 469.

²⁴ Marblehead Instructions to John Gallison, Esq. Representative of Marblehead, ca. 6 Jun 1774, PIR, Doc. 143, 496.

²⁵ Manchester, Essex to the Boston Committee of Correspondence, 4 Jun 1774, PIR, Doc. 129, 472.

²⁶ [Sewall], *A Cure for the Spleen*, 15, quote on 12.

had granted the charter, and the king-in-parliament could revoke or alter such a charter at pleasure.

But most colonists subscribed to John Adams's formulation in his *Novanglus* essays that the notion of an "imperial crown" was the creation of "court sycophants" and that "allegiance is due universally, both from Britons and Americans to the person of the king, not to his crown: to his natural, not his politic capacity."²⁷ True, Massachusetts colonists previously had possessed another charter, issued in 1629, before the Revolution. That charter had been, as the inhabitants of Martha's Vineyard put it, "unjustly Vacated" by the evil Stuarts and colonists "Unreasonably denied a Restoration" thereof.²⁸ Although colonists would have preferred the 1629 charter, they accepted the 1691 charter and denied that Parliament's role in asking William and Mary to take the throne in any way affected their charter's status. "It ought to be remembered," wrote Adams as *Novanglus*, "that there was a revolution here [in Massachusetts] as well as in England, and that we made an original, express contract with king William, as well as [i.e. just as did] the people of England."²⁹ It was with this understanding of the charter that Massachusetts colonists had operated for the better part of a century—or so they claimed.

The Massachusetts Whig case therefore rested on both custom and the text of the charter itself. The Massachusetts constitution did not rely solely on custom (though aspects of it did³⁰) and this differentiated Massachusetts from many other colonies that possessed constitutions, but not charters.³¹ The fact that Parliament sought to make textual alterations to the Massachusetts charter dispelled any potential ambiguity over Parliament's aims or intentions. Massachusetts

²⁷ *Novanglus*, 6 Mar 1775, PJA 2:321.

²⁸ County of Dukes County Convention—Resolve 9 Nov 1774, PIR, Doc. 400, 1318.

²⁹ *Novanglus*, 6 Mar 1774, PJA 2: 321.

³⁰ Adams's explanation of the role of the council as the upper house of the General Court. Middleborough Committee to Boston Committee of Correspondence, 17 Oct 1774, PIR, Doc. 381, 1281 on the "Parlement" provided for Massachusetts in the charter granted by William and Mary.

³¹ See, for example, Daniel Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (Chapel Hill: University of North Carolina Press, 2005), chp. 3.

colonists understood their charter rights. When Leonminster petitioned the General Court in the spring of 1774 to explain why it had not maintained a representative in previous years, for example, the town insisted that “the Neglect of Sending a Representative did not arise from an inattention to their Charter wrights but only from their [poverty].”³² The announcement of the Government Act further highlighted inhabitants’ familiarity with the charter’s provisions and with the consequences of altering them. Boston merchants Jonathan and John Amory noted that the colonists of Massachusetts were “a people among whome knowledge is...more generally diffused than among any people upon Earth.” While “the taking away our charter rights” and the deplorable Port Act and Administration of Justice Act “were too glaring attacks upon our political rights as well as our natural rights not to be felt by the most dull and stupid,” certainly the existence of schools in every town had helped colonists to understand “the Charter constitution which till of late we were under.”³³ However sensitive colonists were to violations of the unwritten principles of English constitutionalism, the direct violation of the province’s charter provoked an unprecedented response. Nothing about it required much interpretation, and hence colonists possessed a clear focus with respect to their goals. If Parliament could alter the charter method of electing councilors, it could change anything in the charter.

Indeed, so ardently did Massachusetts colonists defend their understanding of the charter as an inviolable compact between them and the king—the premise of the “dominion” conception of the empire—that Tories accused them of seeking independence from Britain. According to Massachusettensis, Whigs erred when they interpreted the passage in the charter guaranteeing inhabitants of Massachusetts all the rights and privileges of natural born subjects of England. “It is upon this, or a similar clause in the charter of William and Mary that our patriots have built up

³² Petition of Leonminster, n.d., PIR, Doc. 69, 358. See also Petition of Littleton, n.d., PIR, Doc. 71, 361-62.

³³ Jonathan and John Amory to Unknown, 17 Sep 1774, Amory Family Papers, Massachusetts Historical Society, Boston, Vol. 145: 18-22.

the stupendous fabric of American independence,” Massachusettensis wrote. “They argue from it a total exemption from parliamentary authority, because we are not represented in parliament.” The metropolitan position remained that “[t]here is no possible medium between absolute independence, and subjection to the authority of parliament.”³⁴

Massachusetts colonists denied that they sought independence by reaffirming their loyalty to the king, and the king alone. “[N]othing can be more wicked, or a greater slander on the whigs,” wrote John Adams, than the accusation that colonists wished to make themselves “independent of the crown of Great-Britain” or to set up “an independent republic in America, or a confederation of independent republics,” for “there is not a man in the province among the whigs, nor ever was, who harbours a wish of that sort.”³⁵ In July of 1774 the town of Hopkinton wrote that it could “by no means let skip so fair an Opportunity Expressly to Recognize our Allegiance and Loyalty to our most Gracious Sovereign King George the third.”³⁶ Massachusetts Whigs found incomprehensible the claim that they desired independence because, as a group of Salem merchants put it, their province “has ever been foremost in loyalty to the kings of Britain, in its efforts to defend their territories and enlarge their dominions.”³⁷ Insisting they were British patriots through and through, colonists wanted to remain the subjects of the king.

Official word that the king had given his royal assent to the Coercive Acts initially perplexed Massachusetts colonists. In a sermon preached on July 14, Peter Whitney asserted that “if his majesty has given, or does speedily give his assent to those bills, we shall be deprived of

³⁴ Massachusettensis, 16 Jan 1775, *Novanglus, and Massachusettensis*, 177, 174.

³⁵ *Novanglus* 13 Feb 1775, PJA 2: 263.

³⁶ Hopkinton to the Boston Committee of Correspondence 14 Jul 1774, PIR, Doc. 237, 743. Hopkinton went on the “Acknowledge” and “boast in our Annexation to, and Dependance upon the Imperial Crown of Great Britain.” *Ibid.* Clearly, the town did not intend to imply its allegiance was to the king-in-parliament as the Tories insisted, but rather to the king in the sense John Adams would later explain.

³⁷ Address of Salem Merchants to Gage, 18 Jun 1774, PIR, Doc. 173, 556.

the greatest liberties and privileges granted to us, in our charter, and this province will by means of such an alternation[?], naturally be thrown into a state of anarchy and confusion.”³⁸ Less than a month later, on August 8, the *Boston Gazette* published news that the king had in fact granted his assent.³⁹ Rather than conclude that the king had forsaken them, however, colonists relied on the common convention of blaming the king’s advisors. The king, wrote the Boston Committee of Correspondence, “certainly has been deceived by his ministers,” “an inveterate faction” who by their “violent infractions made on our Charter and Laws” sought to “dissolve the connexion between the King and this people.”⁴⁰ The Quebec Act, passed around the same time as the Coercive Acts, seemed to confirm to the Middleborough Committee of Correspondence that a conspiracy was afoot against “the English [C]onstitution,” the “Prodestant Religion,” and therefore “the house of Hanover and...his Majesties Crown and Dignity.”⁴¹ Hence the king’s apparent acquiescence to the destruction of the Massachusetts constitution presented a troubling but not insurmountable hurdle for the Whig argument. Believing that their charter rights—on which exercise of all other rights depended—were under attack, Massachusetts colonists maintained the dominion conception of the empire in which their province, complete with its distinctive set of corporate rights and privileges, remained tied only to the king.

“That a Uniformity of Conduct may take place thro the province”

It was this conception of the crisis facing Massachusetts that informed the actions of colonists, for it is clear from how colonists chose to resist the implementation of the Coercive Acts that they perceived their actions to be in defense of all Massachusetts. Although resistance necessarily occurred in local contexts, the aims of resistance were provincial in scope.

³⁸ Peter Whitney, *The Transgression of a Land punished by a multitude of Rulers...* (Boston: John Boyle, 1774), 50.

³⁹ PIR, 794n.243.

⁴⁰ Boston Committee of Correspondence to the Berkshire Convention, 31 Jul 1774, PIR, Doc. 251, 768.

⁴¹ Middleborough Committee of Correspondence to the Boston Committee of Correspondence, 17 Oct 1774, PIR, Doc. 381, 1282.

According to Daniel Leonard's *Massachusettensis*, colonists' resistance to Parliamentary acts—or their “Sedition,” as the Tory Leonard saw it—had been following “its zigzag path” for more than a decade. Yet “[w]hen the statute for regulating the government arrived, a match was put to the train, and the mine, that had been long forming, sprung, and threw the whole province into confusion and anarchy.”⁴² Throughout the late spring and summer of 1774, colonists took initial steps in hopes of persuading the new governor Thomas Gage not to enforce the provisions of the Coercive Acts, especially those of the Government Act.

Gage, however, immediately demonstrated his intention to enforce the Acts. He rejected many of the councilors the General Court had chosen under the old method of election, which previewed his announcement later that summer of the new, “mandamus” councilors appointed by the crown according to the Government Act. Gage also attempted, without much success, to enforce the Government Act's prohibition on town meetings. When he confronted the Boston selectmen on this account in August, the selectmen informed him that the town continued to meet by adjournment, a procedural rule that allowed the freeholders to claim that they had not, in fact, called any new meeting without the governor's written permission. Upon learning this, according to the selectmen, Gage remarked ““that by thus doing we might keep the Meetings alive for ten Years.””⁴³ Although town meetings of this variety appeared outside of Gage's control, the meeting of the General Court, by charter, fell under the governor's discretion. Warned by Lord Dartmouth that the legislature may “create Difficulties and throw the Business into perplexity,” Gage prorogued it on June 17—though not before the representatives passed a resolution denouncing “the Design totally to alter the Free Constitutions of Civil Government in

⁴² *Massachusettensis*, 9 January 1775, *Novanglus, and Massachusettensis*, 168-69.

⁴³ Boston Selectmen's Records 13 Aug 1774, PIR, Doc. 212, 662. Whigs could not have been wholly satisfied with this method of resisting the Government's Acts provision concerning town meetings, for it could be construed as an acknowledgement of the Act's legitimacy.

British America.”⁴⁴ Colonists would have to find other institutions through which to coordinate resistance.

In the absence of the General Court, a network of committees of correspondence ensured that inhabitants would work together to prevent Gage from enforcing Parliament’s “unconstitutional” measures. The Boston Committee of Correspondence served as the central node that linked together towns from all parts of the province while also communicating with other colonies.⁴⁵ Colonists emphasized coordination. “The act affecting the Constitution of the province, breaking up Solemn Covenants [i.e. the charter], and annihilating in Government every principle of Justice, must work its own Dissolution,” asserted the Marblehead Committee of Correspondence. “It appears only necessary that a Uniformity of Conduct may take place thro the province with Respect to the Act” for “Surely no Government can proceed in its Measures, when the whole people oppose” it.⁴⁶ Not only would coordination make it more likely that Gage would give up trying to enforce the Acts, it would also prevent any one group within Massachusetts from taking rash actions that would hurt the general cause. Again, Marblehead’s committee put it succinctly when it wrote that “the People would do well to attend to military Discipline” when it came to coordinating their actions. By all means, inhabitants should treat those individuals engaged “in carrying into Execution the late Acts, as Vagabonds unfit for Society,” but at the same time they should be careful “not to proceed farther unless to defend themselves” lest they provoke outright hostilities.⁴⁷

One action to which the Marblehead committee was referring concerned the intimidation of the mandamus councilors by local committees. As one correspondent informed Gage, “the

⁴⁴ Dartmouth to Gage, 3 Jun 1774, PIR, Doc. 147, 504. Dartmouth also urged Gage to avoid dissolving the General Court if at all possible. Journal of the House of Representatives, 17 Jun 1774, PIR, Doc. 44, 231.

⁴⁵ Brown, *Revolutionary Politics*.

⁴⁶ Marblehead Committee to the Boston Committee of Correspondence, 28 Jul 1774, PIR, Doc. 246, 759.

⁴⁷ Marblehead Committee to the Boston Committee of Correspondence, 31 Aug 1774, PIR, Doc. 285, 825.

establishing...a Council” made up of individuals appointed by the crown “has so universally inflamed the minds of the people of the Province and excited such tumults and disorders in various parts of it, as threatens a Catastrophe greatly to be dreaded.”⁴⁸ Indeed, colonists demonstrated their awareness of the danger posed by the Government Act’s alteration of the charter method of electing the council when they forced numerous mandamus councilors to resign their offices in the summer of 1774, prior even to the meeting of a new General Court. Boston’s Joshua Loring reported that at midnight on August 19, five men “disguised, their faces black’d, hats flap’d, and with cutlasses in their hands” knocked on his door, informed him that “they came from a Mob,” and demanded that he resign his seat on the council.⁴⁹ A few days later, an assembly of five hundred club-wielding patriots surrounded Daniel Leonard’s house in Boston, at which they eventually fired small arms.⁵⁰ On the morning of August 27, “more than fifteen hundred men” surrounded mandamus councilor Timothy Paine’s Worcester home and forced him to sign a statement, clearly dictated by the Whig leaders, in which Paine pledged not to “take a Seat at the Board unless it is agreeable to the Charter of this Province.”⁵¹ Other such forced statements emphasized the violation of the charter as well. Lieutenant Governor Oliver’s resignation as mandamus councilor asserted that the Government Act represented “a manifest Infringement of the Charter Rights and Privileges of the People” and the council an “unconstitutional Board” formed according to a “novel and oppressive Plan of Government.”⁵²

Colonists throughout Massachusetts also resisted the Government Act by preventing county courts from meeting. On July 25, a committee from Berkshire County, the westernmost

⁴⁸ Joshua Lee to Gage, 1 Sep 1774, PIR, Doc. 161, 539.

⁴⁹ Joshua Loring to Gage, 31 Aug 1774, PIR, Doc. 160, 538. The disguised men gave Loring a day to consider the demand before the mob fired their guns in the air and dispersed.

⁵⁰ Daniel Leonard to Gage, 31 Aug 1774, PIR, Doc. 158, 535.

⁵¹ Timothy Paine to Gage, 27 Aug 1774; Timothy Paine to Gage, 28 Aug 1774, PIR, 529-30.

⁵² Declaration of Lieutenant Governor Oliver, 2 Sep 1774, PIR, Doc. 164, 543.

county in Massachusetts, wrote to the Boston Committee of Correspondence to explain that “people this way will by no Means submit to the New Regulations” respecting the composition of juries. With the Berkshire County court “the first in the province” scheduled to meet “after the taking place of those Acts,” the committee requested the “Advice and Opinion” of the Boston Committee so that the western inhabitants “may act in concert with the whole province as much as possible.” Berkshire announced its intention to close the courts whether or not it heard back from Boston in time, but the Boston Committee responded promptly with approval, writing that “nothing...could be better concerted...to prevent the Court’s sitting on an establishment so repugnant to the Charter and Laws of this Province.”⁵³ The Worcester County committee, echoing the need to coordinate resistance to the courts, believed “it highly necessary the Counties through the Province should adopt as near as possible one form of procedure.”⁵⁴ If the inhabitants in different counties all adopted different modes of opposition—or did not oppose the courts at all—then, Whigs realized, the actions of colonists in any one county would be meaningless.

Keeping town meetings active by adjournment, intimidating mandamus councilors into resigning, and preventing courts from convening all served to counter the implementation of the Government Act. Colonists also organized a province-wide non-importation and non-consumption movement to achieve the repeal of the Coercive Acts altogether. Two versions of a “Solemn League and Covenant”—one from Boston and one from Worcester—began circulating in June, 1774. Those who signed the Covenant pledged to “suspend all commercial intercourse with the said island of Great Britain, until the [Port] act for blocking up [Boston] harbour be

⁵³ Berkshire Committee to the Boston Committee of Correspondence, 25 Jul 1774, PIR, Doc. 243, 753; Boston Committee of Correspondence to Berkshire Committee, 31 Jul 1774, PIR, Doc. 251, 767.

⁵⁴ Worcester Committee to the BCC, 15 Aug 1774, PIR, Doc. 275, 808.

repealed, and a full restoration of our charter rights be obtained.”⁵⁵ Such boycotts, a staple of colonial resistance throughout the previous decade, took on perhaps a more desperate character than ever before. Colonists now viewed this form of economic warfare, aimed at convincing the ministry to abandon its attacks on the corporate rights of Massachusetts, as ultimately the only method of avoiding real warfare. The Boston Committee of Correspondence, for one, announced it was “conscious...of no alternative between the horrors of slavery, or the carnage and desolation of a civil war” except the non-consumption pact. The town of Acton wrote in August that “a General Agreement through the Colonies to Brake the Trade with Grate Britain is the only Method of Preserving our Land from Slavery without Drenching it in Blood.”⁵⁶ The Covenants, like all the other measures, needed to win the support of all inhabitants of Massachusetts—and, then, of the Continent as a whole—to possess any hope of placing enough pressure on Britain. Uncertain but optimistic in the efficacy of this movement, Massachusetts colonists made every effort at enforcement; the “alternative” was too frightening not to attempt it.

As the summer of 1774 wore on, colonists perceived that province-wide coordination required a truly provincial organizing body. In a series of one- and two-day county conventions in late July through September, colonists passed resolutions reaffirming yet again their opposition to the Coercive Acts. After stating their loyalty to the king, each of the conventions identified Parliament’s assault on the Massachusetts charter as the grievance at the heart of their resistance. Berkshire County’s convention met first, on July 6, and asserted “that the Inhabitants of this Province have many great and invaluable Franchises and Liberties granted to them by

⁵⁵ Solemn League and Covenant—Boston Version, 8 Jun 1774, PIR, 458. The Boston version of the Covenant differed from the Worcester version in that it banned the sale of imported goods after 31 Aug 1774. See Editor’s Note in PIR, 456n.37.

⁵⁶ Acton to the BCC, 10 Aug 1774, PIR, Doc. 268, 799. Acton was paraphrasing the circular letter the BCC sent to the towns. See the Circular Letter, 8 Jun 1774, PIR Doc. 121, 453-54.

Charter, which Franchises and Liberties have not been forfeited by said Inhabitants.” Those inhabitants comprised “a Corporation or Body politic.”⁵⁷ It was through the “Charter of this Province,” insisted the Worcester Convention on August 9, that the king guaranteed “to protect and defend us his American Subjects in the free and full Enjoyment of each and every Right and Liberty enjoyed by his Subjects in Great-Britain.”⁵⁸ Yet, as the Middlesex Convention noted on the last day of August, even though Parliament in the preamble to the Government Act “expressly acknowledges the Authority of the Charter, granted by their Majesties King William and Queen Mary,” it still determined to “deprive us of our Charter-Privileges; because it is inexpedient to a corrupt Administration for us to enjoy them.” By this logic, “a Debtor may as justly refuse to pay his Debts, because it is inexpedient for him.”⁵⁹ Conventions held in the counties of Essex, Suffolk, Cumberland, Hampshire, Plymouth, and finally Bristol on September 28-29 followed those of Berkshire, Worcester, and Middlesex, all of them articulating the same basic Whig position on the need to defend the charter against Parliamentary usurpations.

Perhaps the most novel development to occur at the county conventions lay in the conclusion that coordinated, armed resistance on the part of the people of Massachusetts as a whole might become necessary. In localities throughout Massachusetts, the people had proved able to close courts and scare individual mandamus councilors. But these acts might provoke Gage into using the troops at his disposal to enforce the Government Act. “[T]he dark and gloomy aspect of our publick affairs have thrown this Province into great convulsions and the minds of the inhabitants greatly agitated with a near view of impending ruin,” wrote the Worcester Convention.⁶⁰ The famous Suffolk Resolves described the situation even more

⁵⁷ Berkshire County Convention—Proceedings, 6 Jul 1774, PIR, Doc. 310, 874, 873.

⁵⁸ Worcester County Convention Resolves, 9 Aug 1774, PIR, Doc. 311, 879.

⁵⁹ Middlesex County Convention—Proceedings, 30-31 Aug 1774, PIR, Doc. 315, 891.

⁶⁰ Worcester County Convention—Resolves, 30-31 Aug 1774, PIR, Doc. 316, 898.

starkly, noting that “the Streets of Boston are thronged with military Executioners” and “our Coasts are lined, and Harbours crowded with Ships of War.”⁶¹ Citing an incident in which Gage had tried to prevent a Salem town meeting from electing delegates to the Essex County convention in late August, the Hampshire convention resolved that the governor “has also actually...by an armed Force endeavoured to execute” the Government Act.⁶²

With hostilities a real possibility, the conventions supported the formation of a provincial congress capable of mobilizing the populace. Middlesex became the first county to propose such a body when it resolved that “a Provincial Congress is absolutely necessary” given the “present unhappy Situation.”⁶³ Suffolk County urged inhabitants to “use their utmost Diligence to acquaint themselves with the Art of War as soon as possible” before also resolving that “the Exigencies of our public Affairs demand that a provincial Congress be called, to concert such Measures as may be adopted and vigorously executed by the whole People.”⁶⁴ One by one, subsequent county conventions adopted similar resolutions.⁶⁵

The Provincial Congress, the conventions determined, would meet in Salem in early October. On September 1, Gage had issued writs authorizing the towns to elect representatives for a General Court to meet in Salem on October 5. Colonists’ doubts that Gage intended actually to convene the General Court were confirmed on September 28 when the governor proclaimed he was canceling the writs due to “the present disorder’d, and unhappy State of the

⁶¹ Suffolk Resolves, 9 Sep 1774, PIR, Doc. 320, 915.

⁶² Hampshire County Congress—Proceedings, 22-23 Sep 1774, PIR, Doc. 325, 939. For the incident see Timothy Pickering to BCC, 25 Aug 1774, Timothy Pickering Papers, Massachusetts Historical Society, Boston, Reel 5, 12-12a.

⁶³ Middlesex County Convention—Proceedings, 30-31 Aug 1774, PIR, Doc. 315, 893.

⁶⁴ Suffolk Resolves, 9 Sep 1774, PIR, Doc. 320, 916, 919.

⁶⁵ Essex County Convention—Proceedings, 6-7 Sep 1774, PIR, Doc. 317, 903; Hampshire County Congress—Proceedings, 22-23 Sep 1774, PIR, Doc. 325, 940; Bristol County Convention—Proceedings, 28-29 Sep 1774, PIR, Doc. 329, 962.

Province.”⁶⁶ Still, towns had already elected representatives, determining that doing so did not constitute an acknowledgement of the Government Act.⁶⁷ The instructions that the town of Roxbury provided to its representative, William Heath, were typical. Roxbury told Heath to “adhere firmly to the Charter of this Province” and to do nothing “which can possibly be Constru’d into an acknowledgment [*sic*]” of the Government Act. The town knew that if Heath and his colleagues followed these instructions, Gage would dissolve the House, at which point the members were to form a Provincial Congress.⁶⁸ Indeed, the elected representatives met in Salem and on October 7 resolved that Gage had violated the charter by cancelling his election writs and by adjourning the General Court before it convened.⁶⁹ They then declared themselves a Provincial Congress.

The “State of Nature”

The formation of the Provincial Congress only underscored the uncertainty that surrounded the future of Massachusetts in this period. As colonists attempted to understand their situation in late 1774 and 1775, they drew upon those concepts available to them that also seemed to speak to their predicament. One of the most ubiquitous concepts in early modern European thought, and one that resonated with Massachusetts inhabitants, was that of the “state of nature.” A literary device used by all the great British and Continental political thinkers—including such figures as Hugo Grotius, Thomas Hobbes, Samuel Pufendorf, and John Locke—the “state of nature” allowed writers to imagine how “agents defined in minimal terms—that is, possessing an extremely narrow set of rights and duties—engage in dealings with one another

⁶⁶ Proclamation Dissolving the General Court, 28 Sep 1774, PIR, Doc. 172, 554-55.

⁶⁷ Committees of several towns to BCC, 26 Sep 1774, PIR, Doc. 297, 841. According to these towns, “[Gage’s] Precept on the present Occasion is conformable to Our Charter.”

⁶⁸ Roxbury’s Instructions to William Heath, [Sep 1774]. Heath Papers, Massachusetts Historical Society, Boston Reel 1, Doc. 2.

⁶⁹ Resolutions of Members attending the General Court, 7 Oct 1774, PIR, Doc. 335, 1075.

which lead to the creation of a civil society.”⁷⁰ The great authorities by no means agreed on how individuals would interact with one another in the state of nature. Yet the basic outlines of the concept were clearly familiar to educated Massachusetts leaders and to a large proportion of the Massachusetts population alike. As the Reverend Gad Hitchcock put it, “In a state of nature men are equal, exactly on par in regard to authority.” Government offered “a security of property and liberty” as well as “greater improvements in virtue and happiness than could be attained in a state of nature.”⁷¹ For colonists, the state of nature was a familiar concept.

Some in Massachusetts used the phrase in these months to describe what happened when the normal institutions of government were not in operation. The absence of a sitting legislature did not in itself necessarily strike observers as unusual, as the General Court adjourned periodically every year. Boston diarist John Andrews, however, highlighted the absence of a functioning court system. Since the people considered the Government Act “as a blank piece of paper and not more,” wrote Andrews in late August 1774, Massachusetts “shall be in a state of Nature for a season, as at present there don’t seem the least possibility that any court of justice will be suffer’d to act.”⁷² William Tudor, writing to John Adams in early September, made the same connection and also noted the loss of respect for crown-appointed officials. Resistance to the Parliamentary acts, he wrote, “involves in it an intire Stoppage of every Court of Law and a Dismission of all executive public Officers” and “may plunge Us in Anarchy and Confusion.” “Our last Charter is vacated and the Province reduced to a State of Nature,” Tudor concluded.⁷³ Mercy Otis Warren agreed. “[T]he bill of altering the Constitution has reduced the province to a

⁷⁰ Tuck, *Rights of War and Peace*, 6.

⁷¹ Gad Hitchcock, *A Sermon Preached Before His Excellency Thomas Gage...May 25th, 1774*, PIR, Doc. 46, 306, 310.

⁷² John Andrews Diary, 26 August 1774, in “Letters of John Andrews, Esq., of Boston. 1772-1776,” *Proceedings of the Massachusetts Historical Society* 8 (1864-1865): 348. Andrews again associates the absence of courts with a state of nature on 21 September 1774, p. 364.

⁷³ William Tudor to John Adams, 3 September 1774. *PJA* 2:140.

state of nature,” she wrote to the English historian Catharine Macauley. “The legislative body is prevented meeting; the executive offices rendered incapable of acting, and the Courts of Justice shut up.”⁷⁴ In this reading, any unwanted deviation from the normal operations of government might be thought to constitute a return to the state of nature.⁷⁵

Yet many inhabitants thought that it would be inaccurate to claim that Massachusetts had descended into a state of nature of this variety. Put simply, the people—at least from the Whig perspective—appeared to be behaving in too orderly a fashion. At its very first meeting, the Provincial Congress applauded the people for having “discovered upon all Occasions the greatest Aversion to Disorder and Tumult.” Governor Gage’s “Representations of the Province, as being in a tumultuous and disordered State,” the Congress continued, “are Reflections that the Inhabitants have by no Means merited.”⁷⁶ Towns across Massachusetts, meeting in defiance of the Government Act, passed resolves like those issued by the town of Middleborough that urged inhabitants to forswear “unwarrantable Combinations and Riots and Extravagancys and Endeavour to Live Quietly and Soberly and Peaceably, with all men.”⁷⁷ Gage and Tories scoffed

⁷⁴ Mercy Otis Warren to Catherine Macauley, 24 Sep 1774, Mercy Otis Warren Papers, Massachusetts Historical Society, Boston, Reel 1.

⁷⁵ The town of Worcester also noted in its instructions to its representative John Bigelow in October 1774 that the alterations to the charter regarding the council had “to all intents and purposes reduced [Massachusetts] to a state of nature.” Quoted in Bushman, *King and People*, 189. Bushman concludes on this basis that “The loss of the right to nominate councillors was sufficient to dissolve government and return people to a state of nature.” Ibid. One possible interpretation is that Massachusetts inhabitants such as Warren and Tudor had in mind Locke’s basic conception of the state of nature, in which individuals first make a social compact to form a society, and then subsequently establish a form of government. The disintegration of charter government in Massachusetts, this theory would posit, caused inhabitants to consider themselves back at the “society” stage, without a legitimate government. Yet even this conception would serve as a misleading description of the predominant understanding of Massachusetts’ situation in 1774 and 1775. Charter government itself remained legitimate; hence the Provincial Congress’ decision on April 1, 1775, that any election writs issued by Governor Gage in accordance with his charter-mandated duties ought to be complied with by the towns. See Journal of the Second Provincial Congress, 1 April 1775, PIR, Doc. 448, 1500. Moreover, even if all colonists in Massachusetts were “good Lockceans all,” as Ronald M. Peters, Jr., asserts, “the literature of revolutionary Massachusetts does not reveal that the distinction between the social and governmental compacts was much discussed.” Peters, Jr., *Massachusetts Constitution of 1780: A Social Compact* (Amherst: University of Massachusetts Press, 1978), 67.

⁷⁶ Resolutions of Members attending the General Court, 7 Oct 1774, PIR, Doc. 335, 1075-76.

⁷⁷ Middleborough Committee to BCC, 17 Oct 1774, PIR, Doc. 381, 1282. For another example of many, see Barnstable County Congress—Proceedings, 28 Nov 1774, PIR, Doc. 401, 1325. The persistence of town

at such statements and pointed to the mobs that had terrified mandamus councilors and prevented the courts from meeting. Still, the absence of true anarchy—Massachusetts was hardly “lawless”—led John Adams to qualify the identification of Massachusetts as a state of nature. “The state of this province is a great curiosity,” he wrote in January 1775. “Four hundred thousand people are in a state of nature, and yet as still and peaceable at present as ever they were when government was in full vigour.” Adams elaborated in *Novanglus* that “the history of mankind cannot parallel” the “patience and order, this people have exhibited in a state of nature.”⁷⁸

As these statements suggest, Whigs refused to believe that civil society in Massachusetts had collapsed into a state of nature. A central premise of their argument, after all, was that their ancestors had migrated long ago to the shores of Massachusetts where they, quite literally, had encountered nature and yet managed to create a flourishing society. “[O]ur worthy ancestors,” stated the town of Worcester in a typical formulation, had confronted an “unexplored uncultivated and inhospitable wilderness.”⁷⁹ Although in those days, noted a convention held on Martha’s Vineyard, Massachusetts had been “Inhabited only by wild Beasts and Savages in human form,” the ancestors “Amidst the greatest dangers” had brought the land under cultivation and exerted themselves in its defense—so much so that it soon became “a verey Vailluable Part of the Dominions of the British Monorch [*sic*].”⁸⁰ Indeed, colonists believed they were currently engaged in a struggle to maintain the rights and privileges the Fathers had won for them. To claim that the civil society the Fathers had created had been lost and Massachusetts returned to a state of nature would have required Whigs to admit that they had already failed to safeguard their

government is a theme of Boesen, “From Charter to Constitution” and of Zuckerman, *Peaceable Kingdoms: New England Towns in the Eighteenth Century* (New York: Norton, 1970).

⁷⁸ John Adams to a Friend in London, 21 Jan 1775, PJA 2: 215; *Novanglus*, 6 Feb 1775, PJA 2: 244-45.

⁷⁹ Worcester Instructions, 20 May 1774, PIR, Doc. 41, 138.

⁸⁰ County of Dukes County Convention—Resolve, 9 Nov 1774, PIR, Doc. 400, 1317.

inheritance. But no “plan” of the ministry, the town of Wrentham asserted in June 1774, could “reduce us to such difficulties as our forefathers were reduced to in peopling this once barren wilderness.”⁸¹ The ancestors had secured for posterity “invaluable Liberties and Privileges” and, as the inhabitants of Billerica wrote, “we are determined to use our utmost Exertions to maintain them, and not to part with them, at a cheaper Rate than they were at first obtained.”⁸² Threatened but not yet lost, Massachusetts civil society endured for the time being.

A more precise explanation of what Massachusetts colonists meant when they invoked the concept of the “state of nature” in these months connects it with their understanding of Parliament’s assault on the corporate rights of their province. For all the great writers from whom colonists learned about the concept, the “state of nature” referred just as frequently—perhaps more frequently—to the international state system. As historian Richard Tuck argues, in the early modern period “writers felt such confidence in using [the] mechanism” of the state of nature precisely because there existed “a real and imaginatively vivid example of...agents interacting with each other in the domain of international relations.”⁸³ Indeed, all the great works of natural jurisprudence that colonists could have consulted were premised upon the analogy between the state and the individual. Writers could cite precious few historical or contemporary examples of individuals living in something resembling a state of nature—certain groups of Native Americans being the traditional example cited, although even this was purely conjectural as well. The states of nature imagined by the great contract theorists were obviously speculative, as all individuals already lived in civil societies. But each of those same writers

⁸¹ Wrentham to BCC, 3 Jun 1774, PIR, Doc. 128, 470. For a discussion of the concept of the “migration contract,” see John Phillip Reid, *Constitutional History of the American Revolution, Abr. Ed.* (Madison: University of Wisconsin Press, 1995), 10-11; Craig Yurish, *Settlers, Liberty, and Empire: The Roots of Early American Political Theory, 1675-1775* (New York: Cambridge University Press, 2011); Michael Kammen, “The Meaning of Colonization in American Revolutionary Thought,” *Journal of the History of Ideas*, Vol. 1, 3 (1970): 337-58.

⁸² Billerica to BCC, 6 Jun 1774, PIR, Doc. 132, 477.

⁸³ Tuck, *Rights of War and Peace*, 8-9.

agreed that the relations between the states of the world, as the record of wars and other interactions proved, presented the clearest and most instructive example of a state of nature.

By the fall of 1774 every aspect of the Massachusetts Whig argument, encapsulated in the dominion theory of empire, effectively pointed toward just such a geopolitical understanding of the state of nature. Massachusetts had existed in such a state prior to the moment when the forefathers had “entered into Society [i.e. contracted a relationship] with the Crown of Great Britain” and it now appeared the province was being forced to return to that state.⁸⁴

Massachusetts’s charter and the charters issued to all the other provinces had “constituted them ‘separate common wealths,’” noted the Reverend John Lathrop; they were “by their charters *strictly* independent states” except for their reciprocal ties of allegiance and protection with the king.⁸⁵ By attempting to carry out Parliament’s illegal acts, Governor Gage, the crown’s representative, had severed the bond between Massachusetts and the king, thus casting the province adrift in a dangerous world. “[T]hey have sett us, a float, that is have thrown us into a State of Nature,” explained a resident of Dartmouth. In addition to “hav[ing] a fair Opportunity of Choosing what form of Government we think proper,” Massachusetts inhabitants, the same author predicted, would now proceed to “Contract, with any Nation, we pleas[e], for a King to Rule over us.”⁸⁶ “State of nature,” in this context, then, referred most directly to the status of Massachusetts’ relationship with the king—or potentially with any of his competitors among the European royalty. John Adams used the term in this sense in one of his *Novanglus* essays. “[I]f

⁸⁴ Wrentham to BCC, 3 Jun 1774, PIR, Doc. 128, 469.

⁸⁵ John Lathrop, *A Sermon Preached to the Ancient and Honorable Artillery-Company...June 6th 1774* (Boston: Kneeland and Davis), 33-34.

⁸⁶ Letter of Benjamin Akin accompanying Dartmouth Committee to BCC, 29 Jul 1774, PIR, Doc. 249, 764. Ideally, Akin concluded, “it Would be Best for us to form a New Charter for our Selves, that will be Most agreeable to us....”

the contract of state is broken,” he wrote, “the people and king of England, must recur to nature.”⁸⁷

It remained unclear to colonists whether they had been cast permanently into a state of nature with respect to Britain. Colonists’ main complaint against Gage focused on his complicity in Parliament’s attempts to “enslave” Massachusetts by enforcing the Coercive Acts. If Gage ceased to enforce the Acts or if the king escaped the sway of evil ministers and appointed a new governor, then the connection between the people and the king, via his proxy the governor, would be restored and the two would no longer be in a state of nature relative to one another. Since such a turn of events remained possible in 1774 and into 1775, the official Whig position defined the state of nature as temporary. If colonists ever determined the connection with the king to be permanently severed, then Massachusetts inhabitants would be under no obligation to retain their present charter constitution and would be “at Liberty to choose what way of Government [they] like best.” Certainly some during these months argued this point had already been reached.⁸⁸ Yet such assertions coexisted with and were ultimately drowned out by more frequent statements demanding simply the restoration of the charter rights Parliament sought to “annihilate.”

“Self-preservation”

At the same time that colonists turned to the “state of nature” to understand Massachusetts’ predicament, they also invoked the companion concept of “self-preservation” to

⁸⁷ Novanglus, 13 Mar 1775, PJA 2: 333.

⁸⁸ Quote from Unidentified Author to the BCC, September? 1774. PJA 2: 178. See also, for example, Worcester Instructions, 4 Oct 1774, PIR, Doc. 398, 1312-13. Worcester told its representative “That if all Infractions on our Right by acts of the British Parliament be not redressed and we Restored to the full Enjoyment of all our Priviledges Contained in the Charter of this Province Granted by their Late Majestys King William and Queen Mary To a Punctillio before the Day of our Meeting That then and in that Case you are to Consider the People of this Province as absolved on their Part from the obligation therein Contained and to all Intents and purposes reduced to a State of Nature and you are to Exert yourself in Divining ways and means To Raise from the Dissolution of the Old Constitution as from the Ashes of the Phenix [sic] a New form wherein all officers Shall be Dependent on the Suffrages of the People for their Existence....”

justify and explain their collective actions. If the state of nature served as the principal framing device for all the great writers' discussions of rights, "self-preservation" comprised for them "a paramount principle, and the basis for whatever universal morality there was." In a state of nature, all people possessed "the moral right to preserve themselves."⁸⁹ Because on the face of it such a statement seems utterly commonsensical, it is no surprise to find references to personal self-defense in this period. Yet Massachusetts colonists did in fact betray in their statements a deeper understanding and familiarity with more sophisticated notions of self-preservation. In February 1775, to take one indicative example, James Athearn wrote to Thomas Gage to resign his commission as a colonel of militia on Martha's Vineyard. Athearn explained that Whigs in the militia were harassing him and that his "not Complying with their Requests makes it altogether unsafe for me my family or Interest to Retain my Command." Athearn proceeded to ask Gage to dismiss him from service in the interests of "Self Preservation which your Excellency well knows is the first Law of Nature."⁹⁰ Athearn's prose and spelling did not single him out as a man of great learning, but his identification of self-preservation as the "first" law of nature suggests that his grasp on the concept was more than simply intuitive.⁹¹

Indeed, colonists knew "self-preservation" not only as the first law of nature, but also as the first law of nations. As all the great writers took for granted, self-preservation was no less a right of states in the state of nature that was the international system than it was a right of

⁸⁹ Tuck, *Rights of War and Peace*, 5.

⁹⁰ James Athearn to Gage, 6 Feb 1775, PIR, Doc. 727, 2035.

⁹¹ Breen, *American Insurgents, American Patriots*, chp. 9 emphasizes colonists' "appeal to heaven" to justify resistance, a concept they drew from Christianity and Locke. Pauline Maier notes that in the various state and local "declarations of independence" written in 1776, Americans invoked self-preservation as they "drew upon a politicized religious literature that equated the laws of God with the laws of nature..." According to Maier, self-preservation was a "justification...distinct from another that emphasized the contractual origins of government and the right of the people to judge their rulers..." although many Americans "obviously saw no conflict between them..." See Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York: Knopf, 1997), 87-88. The argument here does not dispute that colonists often wrote and spoke of self-preservation with religious overtones; however, it does stress that Massachusetts Whigs used the concept because it also referred to the first law of nations and thus helped them to assert their rights as a corporate body.

individuals. Based on how colonists invoked the term in these months, it appears that once again the more geopolitical meaning predominated; Whigs were asserting the right of Massachusetts to preserve itself.

Leading ministers spelled out the meaning of self-preservation for their listeners and readers, emphasizing the need for unity implicit in the concept. Speaking to the volunteer members of Boston's "Ancient and Honorable Artillery Company," John Lathrop explained that the "reasoning which every one sees the force of when applied to individuals in a state of nature, holds good with respect to the nations and kingdoms of the world." Asserting Massachusetts' corporate rights, Lathrop argued "that public Societies, Provinces and Kingdoms, confederated on any general plan for their safety and happiness, may and ought to defend themselves."⁹² The Reverend Elisha Fish, clearly no pacifist, argued in a sermon entitled *The Art of War Lawful, and Necessary for a Christian People* that "Christians see and feel the necessity of acquiring the art of war, in obedience to God's command, and out of regard to their natural, civil and religious rights, and for self-preservation, and for the preservation of their dearest friends and most important enjoyments."⁹³ Likewise, Gad Hitchcock told the representatives of the last General Court in May 1774 that "the plain law of self-preservation is necessarily the chief" and "only adequate check" the people retained in the face of the "ruinous conduct" perpetrated against them.⁹⁴

Individuals, town committees, county conventions, and the Provincial Congress all expounded upon the provincial dimensions of self-preservation. In so doing they further

⁹² Lathrop, *A Sermon Preached to the Ancient and Honorable Artillery-Company...*, 8, 12.

⁹³ Elisha Fish, *The Art of War Lawful, and Necessary for a Christian People, Considered and Enforced in A Discourse, The Substance of which was delivered in Upton, May 26, 1773 To a Company of Youth, voluntarily engaged in acquiring the Use of Arms* (Boston: Thomas and John Fleet, 1774), 12.

⁹⁴ Hitchcock, *A Sermon Preached Before His Excellency Thomas Gage*, PIR, Doc. 46, 312. See also, Jonathan Bascom, *A Sermon Preached at Eastham, on Thanksgiving-Day, December 15, 1774* (Boston: Edes and Gill, 1775), 18; Whitney, *The Transgressions of a Land punished by a multitude of Rulers*, 67-68.

elaborated the meaning of the Massachusetts corporate “self” whose charter rights they were trying to protect. As early as mid-May, 1774, the town of North Yarmouth noted that “Self Preservation” was “the first law of nature” and that “when attempts are made upon Communities or Bodies of men, to deprive them of any of their just rights and priviledges,...it is the duty of all the Parts of those communities or bodies, to unite together[,] and to exert themselves, according to their respective capacities, in support and defence of the Common Cause.”⁹⁵ The Suffolk County Convention, because the Continental Congress officially adopted its Resolves later in the fall of 1774, offered perhaps the most widely-circulated expression when it announced that inhabitants were “determined to act merely upon the Defensive, so long as such Conduct may be vindicated by Reason and the Principles of Self-preservation, but no longer.”⁹⁶ Just as revealing though are the contemporaneous statements in which the Essex County convention and the Suffolk convention both maintained that they were prepared to “appeal to the last resort of states.”⁹⁷ In the Massachusetts Whig lexicon, self-preservation therefore comprised both “the first law of nature” as well as “the last appeal of states.”

“Self-preservation” and colonists’ conception of the “state of nature” suggested the depths and danger of the crisis facing Massachusetts. Colonists feared violence that threatened the very existence of the province and all its inhabitants. The presence of “a large body of armed men” that had set up “a military Camp in the Very Bowels of” Boston remained always at the forefront of colonists’ consciousness.⁹⁸ As the Boston town meeting noted in late December 1774, “the Arrival of a British Army, with a profess’d Design of enforcing Acts of the British

⁹⁵ North Yarmouth to BCC, 16 May 1774, PIR, Doc. 21, 103.

⁹⁶ Suffolk Resolves, 9 Sep, 1774, PIR, Doc. 320, 919. As John Adams later wrote, “the law of nations,...is only the law of right reason, applied to the conduct of nations.” Novanglus, 6 March 1775, PJA 2: 311.

⁹⁷ Quote from Essex County Convention—Proceedings, 6-7 Sep 1774, PIR, Doc. 317, 903; Suffolk County Convention—Rough Draft, 6 Sep 1774, PIR, Doc. 319, 913. The “Draft” of the Suffolk Resolves refers to “the last reason of States.” See also Mercy Otis Warren to Catharine Macauley, 24 December 1774, Mercy Otis Warren Papers, MHS.

⁹⁸ Cambridge Committee to Boston Committee, 9 Aug 1774, PIR, Doc. 265, 796-96.

Parliament” along with Gage’s “Intention to employ Military Force against the Province” had “compelled” inhabitants “to turn their tho’ts and Attention to other Methods of preventing the impending Destruction.” They had been “roused...to think of defending themselves and their Property by Arms, if nothing less could save them from Violence and Rapine.”⁹⁹ Rhetoric of war—not to be confused with the methods of resistance that colonists had practiced in prior years—pervaded the public discourse. “[W]ar though connected with blood and carnage,” the Reverend Zabdiel Adams assured his audience in Lunenburg on January 2, 1775, “is legitimated. The principles of self-preservation prove it lawful; the voice of reason proclaims it expedient, and the law of God demands it as a duty.”¹⁰⁰ Massachusetts colonists thus legitimized armed resistance and asserted themselves as a distinct “people” at the same time; indeed, the one depended upon the other and vice versa.

The Threat of War

As soon as it convened in October 1774, the Provincial Congress set about organizing province-wide defense. In an address it sent to Gage on October 13, the members of the Congress explained that they were merely “preventing impending ruin, and providing for the Public Safety,” measures made necessary by Gage’s “Hostile Preparations which have spread such Alarm throughout this Province and the whole Continent.”¹⁰¹ James Warren called the Provincial Congress “a very large Body [of] about 300...Indeed the most respectable Assembly I ever saw.” The members, Warren wrote, “are distinguished by Fortune or Abilities or both” and were “determined to serve their Country or perish in the Attempt.”¹⁰² Consequently, the

⁹⁹ Boston Town Meetings, 30 Dec 1774, PIR, Doc. 423, 1379.

¹⁰⁰ Zabdiel Adams, *The Grounds of Confidence and Success in War, represented. A Sermon Preached at a Lecture, in Lunenburg, New-England, on Monday, January 2d, 1775. To a Detached Company of Militia there* (Boston: Mills and Hicks, 1775), 5.

¹⁰¹ Journal of the First Provincial Congress, 13 Aug 1774, PIR, Doc. 336, 1094.

¹⁰² James Warren to Mercy Otis Warren, 14 Oct 1774, Warren-Adams Letters, Massachusetts Historical Society, Boston.

Congress soon thereafter urged inhabitants throughout the province to “use their utmost Diligence to perfect themselves in Military Skill” and told selectmen to make sure that their towns possessed adequate supplies of weapons and ammunition.¹⁰³

The Congress made these recommendations knowing that inhabitants had already demonstrated the potential to mobilize rapidly in response to a perceived threat. On September 1, a rumor had spread throughout Massachusetts and neighboring colonies that Gage had ordered British warships to bombard Boston. The rumor proved false, but Gage’s conduct both before and after the incident was such that the rumor seemed credible enough for thousands of armed colonists to march toward the city.¹⁰⁴ Yet the Provincial Congress did not interpret the Powder Alarm as proof that the people would be able to sustain such a level of participation over an extended period; an encouraging sign, it did not obviate the need to put in place a more organized defense infrastructure. “The Maxim in time of peace prepar for war, (if this may be call’d a time of peace) resounds throughout the Country,” wrote Abigail Adams from Braintree.¹⁰⁵ The Provincial Congress recommended that militia companies appoint officers and also form units of rapid-response minute men. To coordinate the militia and to organize necessary materiel it also created standing committees of Safety and Supplies. The Committee of Safety, consisting of nine members—three from Boston and six from the rest of the province—was given the authority to mobilize and direct the militia.¹⁰⁶

In so doing, the Provincial Congress never claimed to be exercising the powers of civil government. The Congress existed to coordinate defense against Gage’s forceful attempts to

¹⁰³ Journal of the First Provincial Congress, 26 Oct, 1774, PIR, Doc. 336, 1120.

¹⁰⁴ Breen, *American Insurgents*, 129-59 ; Fisher, *Paul Revere’s Ride* (New York: Oxford University Press, 1995), 44-50.

¹⁰⁵ Abigail Adams to John Adams, 22 Sep 1774, Butterfield et al eds., *Adams Family Correspondence* 1:161.

¹⁰⁶ Journal of the First Provincial Congress, 26 Oct 1774, PIR, Doc. 336, 1118-22. See also, Journal of the Second Provincial Congress, 9 Feb 1775, PIR, Doc. 448, 1464-65.

implement the Government Act, and also to achieve the restoration of charter government. Thus it issued not orders but “recommendations” to the towns to comply with its resolves concerning the militia and supplies. The Congress also “strongly Recommended” that town constables and collectors deliver tax money to its receiver general Henry Gardiner of Stow instead of the crown-appointed Harrison Gray “for Reasons most obvious.” These funds, voted by previous General Courts, were “Necessary for the immediate defence of the inhabitants of this Province” and therefore could legitimately be redirected into the coffers of the Provincial Congress.¹⁰⁷

But to Gage and Tories, the Provincial Congress was an illegal assembly composed of traitors, demagogues, and criminals whose actions had thrown the province into anarchy. Gage attacked the Provincial Congress’ legitimacy on constitutional grounds. “Whilst you complain of Acts of Parliament that make Alterations in your Charter, and put you in some degree on the same footing with many other provinces,” Gage wrote in response to the Congress’ address, “you will not forget that by your Assembling you are yourselves subverting that Charter, and now acting in direct Violation of your own Constitution.”¹⁰⁸ Gage condemned the Congress’ “unlawful Proceedings” and its “unconstitutional Regulation of the Militia, in high Derogation of his Majesty’s royal Prerogative.” It was the duty of all inhabitants “to discountenance, discourage and prevent a Compliance with” the Congress’ “dangerous Resolves.”¹⁰⁹ Gage

¹⁰⁷ Journal of the First Provincial Congress, 13 Oct 1774, PIR, Doc. 336, 1097; *Ibid.*, 28 October 1774, PIR, Doc. 336, 1126.

¹⁰⁸ Journal of the First Provincial Congress, 17 Oct 1774, PIR, Doc. 336, 1099-1100.

¹⁰⁹ Proclamation against the Provincial Congress, 10 Nov 1774, PIR, Doc. 353, 1211. On 14 November 1774 the *Boston Gazette* published a satirical poem, written from Gage’s point-of-view, that mocked the 10 November proclamation:

“Since an Assembly most unlawful
At Cambridge met in Congress awful,
October last, did then presume,
The Powers of Government t’assume;
And fighting British Administration,
Dar’d rashly seek their own Salvation;
By ordering every sturdy Farmer,
To be prepar’d with proper Armour.

believed that the radical “hot Leaders” in the Congress sought to raise an army and, once they succeeded in getting more radicals elected to the second Provincial Congress in February, 1775, would “try to usurp the Government...and...resume their first Charter.”¹¹⁰

Tories accused the Whig leaders of fostering lawlessness in Massachusetts so they could more easily impose their despotic rule. Rebellion, wrote Daniel Leonard as *Massachusettensis*, “dissolves the social band, annihilates the security resulting from law and government; introduces fraud, violence, rapine, murder, sacrilege, and the long train of evils, that riot, uncontroled, in a state of nature.” Although *Massachusettensis* had “once thought it chimerical,” this kind of “state of nature” was equivalent to “a state of war, of all against all.” In this state, “might overcomes right; innocence itself has no security, unless the individual sequesters himself from his fellowmen, inhabits his own cave, and seeks his own prey.”¹¹¹ Like the individuals inhabiting Hobbes’s state of nature, Massachusetts colonists would turn in desperation to those who guaranteed a restoration of peace at whatever the cost to their freedom. As Leonard’s fellow Tory Jonathan Sewall explained, “The [Whig] leaders aim at an independency on Great-Britain, in order to become themselves the tyrants of the Colonies.” These “swarms of *petty princes* like those of Germany,...would trample on the liberties, and tread on the necks of this infatuated people.” Eventually, after “a long scene of war and bloodshed,...some fortunate villain, would rise superior to his comrades, and become...the lordly tyrant over this now free people.”¹¹² By invoking this competing conception of the “state

(‘Tis what indeed the Law requires,
But different quite from our Desires...”

It seems possible or even probable that “the Law” referred to in the penultimate line of this excerpt is “the Law of self-preservation.” Poem printed in PIR, 1209-10n.7.

¹¹⁰ Gage to Dartmouth, 15 Dec 1774, PIR 1180n.222.

¹¹¹ *Massachusettensis*, 6 Feb 1775, *Novanglus, and Massachusettensis*, 187-88.

¹¹² [Sewall], *A Cure for the Spleen*, 28.

of nature,” Tories hoped to capitalize on colonists’ familiarity with the notion and persuade them to renounce their erstwhile leaders and embrace British administration.

Tory writers in Massachusetts certainly made learned rebuttals to Whig constitutional arguments, but they bookended all their pleas with emotional and dramatic appeals they believed colonists would find most persuasive. In many ways, the central Tory argument focused on the Provincial Congress’ claim to being an instrument for “self-preservation.” Rather than ensuring self-preservation, Tories argued, the Provincial Congress was leading the people headlong toward self-destruction. The Congress’ attempts to prepare inhabitants to fight the British war machine constituted the greatest proof of its illegitimacy. “[C]an any of you, that think soberly upon the matter,” asked Massachusettensis in mid-December, 1774, “be so deluded as to believe that Great Britain, who so lately carried her arms with Success to every part of the globe, triumphed over the united powers of France and Spain, and whose fleets give law to the ocean, is unable to conquer us?”¹¹³ On the contrary, Leonard bluntly stated, “The twentieth part of the strength that Great Britain could exert, were it necessary, is more than sufficient to crush this defenceless province to atoms, notwithstanding all the vapouring of the disaffected here and elsewhere.”¹¹⁴ Nothing could be more absurd, Sewall wrote, than the expectation the Provincial Congress nurtured that “the veteran troops of that potent kingdom [of Britain] will fly before an undisciplined multitude of New-England squirrel-hunters.”¹¹⁵

In graphic and evocative passages, the two leading Tory writers described the calamities that would befall all Massachusetts colonists if they continued to support the Provincial Congress and the Whig movement. No part of the province would escape destruction. In an “Inconceivably shocking...scene,” the far western region of Massachusetts would fall “prey to

¹¹³ Massachusettensis, 12 Dec 1774, *Novanglus, and Massachusettensis* 144.

¹¹⁴ Massachusettensis, 23 Jan 1775, *ibid.*, 182.

¹¹⁵ [Sewall], *A Cure for the Spleen*, 29.

our ancient enemy, the Canadians, whose wounds received from us in the late war, will bleed afresh at the prospect of revenge, and to the numerous savages, whose tender mercies are cruelties.” Colonists would be surrounded on all sides “with the British navy in the front, Canadians and savages in the rear, a regular army in the midst.”¹¹⁶ Sewall became even more descriptive when he focused on the consequences of rebellion for individuals and families:

Suppose a battle, and numbers slain and the rest put to flight, what multitudes must be sacrificed in the subsequent pursuit; what numbers taken prisoners, impaled and gibbeted from unavoidable necessity; and what then becomes of their wives and helpless innocent children; and of the aged and infirm; for then it will be impossible to make those distinctions which humanity would wish for, but one general calamity must involve the innocent, if such there are, with the guilty... imagine to yourselves, an individual head of a family, mortally wounded in battle, but lingering in the pangs of death[.]¹¹⁷

Although Leonard insisted that he took “no pleasure in painting these scenes of distress,” he and other Tories could not resist doing so, considering them the most effective means of convincing wayward colonists to return to the British fold.¹¹⁸

Yet this Tory tactic proved counterproductive, as it implied that British authority rested solely upon power. It also rather recklessly suggested that the British were both willing and eager to attack—even to massacre—colonists. John Adams pointed out this weakness in the Tory logic. “A navy might burn our sea port towns. What then?” he asked. “Will the minister be nearer his mark after he has burnt a beautiful town and murdered 30,000 innocent people?”¹¹⁹ Adams also objected to Massachusettensis’s confident assertion that Oliver Cromwell, were he still alive and in charge, already would have “levell’d” Boston for its insolence. “Is it any breach

¹¹⁶ Massachusettensis, 12 Dec 1774, *Novanglus, and Massachusettensis*, 145.

¹¹⁷ [Sewall], *A Cure for the Spleen*, 26.

¹¹⁸ Massachusettensis, 3 Apr, 1775, *Novanglus, and Massachusettensis*, 227.

¹¹⁹ *Novanglus*, 6 Feb 1775, PJA 2: 253-54.

of charity to suppose that such an event as this,” Adams countered, “would have been a gratification to this writer? Can we otherwise account for his indulging himself in a thought so diabolical?”¹²⁰ Intended to undermine the Provincial Congress’ claim to represent self-preservation for Massachusetts colonists, Tory rhetoric just as often reinforced and strengthened the Congress’ legitimacy in this regard.

Indeed, in early 1775, individuals and towns voiced their support for and dependence on the Provincial Congress only more loudly. The more vulnerable frontier settlements, the impending destruction of which Tories described in especially vivid detail, reached out to the Congress for protection. The Reverend Joseph Lyman, preaching in the Hampshire county town of Hatfield in late 1774 informed his listeners, “Nay we cannot doubt of a design of letting loose our natural and inveterate enemies against us.” Lyman worried that “Indians and Canadians” would descend upon the inhabitants and renew their practice “of dashing our little ones and ripping up the women with child.” Far from being a fanciful invention of Tory propagandists, “This is no *imaginary Fear*,” Lyman concluded.¹²¹ Another minister, Samuel Webster, mentioned how Tories were “publishing for certain the speedy arrival of foreign troops, seconded by Canadians and Indians.” Webster urged his Groton audience to be ready “to act in the service of your Country” and to conduct themselves “agreeable to the plan of the Provincial Council.”¹²² A few days later, a joint petition from the western Berkshire and Hampshire counties asked the Provincial Congress to supply inhabitants with weapons “as the enemies of these colonies frequently throw out, that [the] administration have conceived a bloody plan of mustering great numbers of the French Canadians, and remote tribes of Savages, and to bring

¹²⁰ *Ibid.*, 300.

¹²¹ Joseph Lyman, *A Sermon Preached at Hatfield December 15th, 1774, Being the Day Recommended By the late Provincial Congress; To be observed as A Day of Thanksgiving* (Boston: Edes and Gill, 1775), 24-25.

¹²² Samuel Webster, *Rabshakeh’s Proposals Considered, In a Sermon, Delivered at Groton February 21, 1775. At the Desire of the Officers of the Companies of Minute Men in that Town* (Boston: Edes and Gill, 1775), 26, 29.

them against this province.” The petitioners reminded the Congress that “it [was] highly probable that the first attacks...will fall upon them.”¹²³

As the rhetoric from both sides indicates, colonists in this period were contemplating a fundamentally different kind of violence than that encountered previously in Massachusetts. The Provincial Congress and inhabitants in general understood that all-encompassing war loomed on the horizon. The Congress sought to turn the province into an armed camp, urging colonists “that they at all Times keep themselves in a State of actual Defence, against every Invasion or Depredation.”¹²⁴ Whigs often referred to the possibility of a “civil war” breaking out. Yet because Whigs maintained that Tories who complied with Gage—or even those who did not actively oppose the Coercive Acts—singled themselves out as “enemies of their country,” the impending “civil war” was rarely conceived as an internal struggle. Tories “in effect...declare[d] War against the people of this province”; they were no longer part of Massachusetts, but “Rebels against the State.”¹²⁵ Tories themselves were even swept up by the terms in which Whigs were conceptualizing the conflict, as was evident when the Tory Timothy Ruggles cited loyalists’ right of “recourse to the natural law of Retaliation”—a transparent response to Whig invocations of “self-preservation.”¹²⁶ Conceptually, the civil war Massachusetts Whigs contemplated bore a greater resemblance to the American Civil War than to the one that wracked the British Isles in the mid seventeenth century.

¹²³ Petition of Hampshire and Berkshire Counties, 8? Feb 1775, PIR, Doc. 450, 1547. Boston and neighboring towns also reached out to the Provincial Congress in March, urging the Congress to “secure us the Inhabitants of this Province in the peaceable Enjoyment of Life and Property which are hourly exposed to the Inroads of these Murther breathing Enemies.” The petition also concluded that “in future we shall be compel’d to the last appeal, as an uncertain Existence, and a precarious Enjoyment of Right and Property is no longer supportable.” Boston and Neighboring Committees to Provincial Congress, 31 Mar 1775, PIR, Doc. 780, 2131.

¹²⁴ Resolution Urging Continued Vigilance, 24 Mar 1775, PIR, Doc. 452, 1550.

¹²⁵ Bristol County Convention—Proceedings, 28-29 Sep 1774, PIR, Doc. 329, 961; Journal of the First Provincial Congress, 21 Oct 1774, PIR, Doc. 336, 1105.

¹²⁶ Timothy Ruggles’ Loyal Association, 9 Dec 1774, PIR, Doc. 347, 1202.

Massachusetts Whigs thus encountered one of the great dilemmas and paradoxes identified by the writers on natural jurisprudence and the law of nations. Starting from the premise of the dominion theory of the imperial constitution, Whigs had concluded that Massachusetts existed in a state of nature defined in geopolitical terms. To ensure self-preservation they had created a Provincial Congress to coordinate defense. But in so doing, however, the Provincial Congress effectively guaranteed that any conflict that occurred between colonists and British troops would quickly escalate in terms of both scale and destructiveness. As the great writers that followed Hobbes pointed out, individuals in a state of nature contracted with one another to form civil societies and escape violence. Yet that state they created immediately entered a world of states—states that were intermittently at war with one another. Because wars between states were far more destructive than the acts of violence committed by individuals, the average individual was, perhaps, ultimately no safer living in civil society.¹²⁷ Colonists' persistent appeal to concepts drawn from the law of nations to justify their actions indicates that they did not, for instance, seriously consider the possibility of relying solely upon guerilla-type resistance against the British.¹²⁸

Massachusetts Whigs accepted the possible consequences of their actions as the price of defending their rights. John Adams thought “the Lives of 5 or 10 thousand Men,” including his own, would “be very Profitably Spent, in obtaining a Restoration of our Liberties.” Writing two months later, in February 1775, he asserted that fifty thousand Massachusetts lives lost would not be excessive.¹²⁹ Deaths on this scale, Adams implied, were not considered uncommon when one

¹²⁷ Tuck, *Rights of War and Peace*, 202-4. Tuck traces this insight to Rousseau.

¹²⁸ That Americans strove to create a conventional army while also continuing to depend upon state militias is the theme of John Shy, “The Military Conflict Considered as a Revolutionary War” republished in *A People Numerous and Armed: Reflections on the Military Struggle for American Independence* Rev. Ed. (Ann Arbor: University of Michigan Press, 1990), 213-44. Breen, *American Insurgents, American Patriots* stresses the aspects of resistance that resemble an insurgency.

¹²⁹ John Adams to James Burgh, 28 Dec 1774, PJA 2:206; Novanglus, 6 Feb 1775, PJA 2:254.

belligerent “drove” another “to the last distress of nations.”¹³⁰ The Provincial Congress’ dilemma in the early months of 1775 concerned adequately preparing inhabitants for such a war and also shielding them from the worst of its effects.

“A Pretence to...our being left to the Mercy of our Enemies”

Even before the war began, however, it became clear that the demands of defense preparations outstripped the Provincial Congress’ capacity and resources. In late March, the Congress redoubled its efforts to obtain the tax money already collected and being held in towns. Inhabitants, the Congress asserted, “are desirous of compelling the preparations so essentially necessary to the public safety, without calling on them for other monies, than such as are now due to the Colony.” The Congress resolved “that the constables and collectors..., ought by no means to be longer indulged in their unreasonable neglect of complying with the most important plans of this Colony.”¹³¹ Delays characterized tax collection in Massachusetts during the best of times in the colonial period, but the problem was especially acute for the Provincial Congress because, unlike the General Court, it did not possess any funds from previous years or established credit against which to borrow. Nor could it levy new taxes if such became necessary.

The Provincial Congress’ repeated affirmations that it was not exercising the powers of civil government created uncertainty even among the large swath of the populace inclined to support it. “[W]e are in a most Lamentable Scituation for want of a Sanction of Government on our Establishments,” wrote militia officer Ephraim Doolittle to John Hancock in late March. As Doolittle continued, “our Tory Enemies [are] using all their Secret machinations to divide us and Break us to pieces.” Problems maintaining order in the militia could also be traced to “the

¹³⁰ Remonstrance of the Selectmen of Billerica, 16 Mar 1775, PIR, Doc. 668, 1965.

¹³¹ Journal of the Second Provincial Congress, 31 Mar 1775, PIR, Doc. 448, 1496.

Deficulties which we Labour under for want of a Civil Constitution,” Doolittle wrote.¹³² Clearly, the Provincial Congress’ current arrangement was proving unsustainable and this raised the question of when and how it might exercise all the powers of a normal General Court.

Colonists in Massachusetts knew that in the event of war they would require the assistance of the other colonies. Certainly there existed much evidence that such help would be forthcoming. Aside from the history of colonial cooperation during the Imperial Crisis years, more recent examples of support included the donations for Boston in the wake of the Port Act and the militia turnout from neighboring colonies during the Powder Alarm of September 1.¹³³ The Reverend Isaac Story expressed a common sentiment in these months when he celebrated “the bond of union that has taken place from colony to colony through the continent.”¹³⁴ The support of Boston in its hour of need, the Provincial Congress resolved, served “as convincing proofs of the firm Atteachment [*sic*] of All the Colonies, to the Glorious cause of American Liberty.”¹³⁵

Inter-colonial cooperation manifested itself most clearly in the form of the Continental Congress, which first met in Philadelphia in September 1774. Massachusetts Whigs held a high opinion of the Continental Congress and frequently passed resolves in their town, county, and provincial meetings urging compliance with its recommendations.¹³⁶ From the perspective of colonists in Massachusetts, however, the key question went far beyond whether they appreciated or were encouraged by statements of support from the Continental Congress. Rather, the key

¹³² Ephraim Doolittle to John Hancock, 21 Mar 1775, PIR, Doc. 458, 1555.

¹³³ Breen, *American Insurgents, American Patriots*, 111-59; David Hackett Fischer, *Paul Revere's Ride*.

¹³⁴ Isaac Story, *The Love of Our Country Recommended and Enforced. In a Sermon From Psalm CXXII. 7. Delivered on a Day of Public Thanksgiving, December 15, 1774* (Boston: John Boyle, 1775), 17.

¹³⁵ Journal of the Provincial Congress, 1 Dec 1774, PIR, Doc. 336, 1153.

¹³⁶ For example, Barnstable County Congress—Proceedings, 28 Nov 1774, PIR, Doc. 401, 1325.

questions for their purposes concerned what the Continental Congress could actually promise and accomplish in support of Massachusetts.

The issue of the non-importation/non-consumption agreements of 1774-1775 help reveal how Massachusetts Whigs understood their relationship to the Continental Congress. When the Boston- and Worcester-originated “Solemn League and Covenants” first began to circulate in the summer of 1774, a large proportion of Massachusetts towns signed on to them. Other towns, however, delayed. “Although we approve of the sentiments and spirit of their Covenant presented to us...,” wrote the town of Granville, “yet we are of the Opinion the same is rather Premature and too precipitate.” Afraid that uneven levels of subscription to the covenant throughout the continent “will breed a discord among the Inhabitants,” Granville preferred “to wait the Determination of the American Congress” and to learn what was “published by them as a General rule of Observance of all the Colonies.”¹³⁷ In late October, the Provincial Congress still had not obtained any word of the Continental Congress’ decision. “[T]his province have not, as yet, received from the continental Congress such explicit directions, respecting non importation and Non Consumption Agreements, as are expected,” it noted. Yet since “the greatest part of the Inhabitants of this Colony” had already signed such agreements, “the good effects of which are very conspicuous,” the Provincial Congress recommended that inhabitants continue to “conform” to the Massachusetts versions “untill the farther sense of the Continental, or this Provincial Congress is made Public.”¹³⁸

In fact, unbeknownst to Provincial Congress, the Continental Congress had just adopted its “Continental Association,” a non-importation and non-consumption agreement intended to standardize the economic boycott throughout the colonies. The Eleventh Article of the

¹³⁷ Granville Proceedings, 3 Aug 1774, PIR, Doc. 253, 775. For a similar town resolve see Harpswell Proceedings, 11 Aug 1774, PIR, Doc. 269, 800.

¹³⁸ Journal of the First Provincial Congress, 28 Oct 1774, PIR, Doc. 336, 1129.

Association recommended that “a committee be chosen in every county, city, and town” to ensure that inhabitants complied with the agreement.¹³⁹ But Massachusetts Whigs, of course, had already implemented such a system of enforcement for their provincial agreements. The value in the Continental Congress’ resolve from the perspective of Massachusetts towns such as Granville, therefore, lay in the assurance it offered that neither their town nor even Massachusetts as a whole would be left isolated, enforcing a self-imposed economic boycott while other colonies pursued business as usual. The residents of towns like Granville hesitated to adopt Massachusetts non-importation/non-consumption agreements not because they believed only the Continental Congress possessed the authority to adopt such agreements; their claim—one to which most Massachusetts Whigs did not even subscribe—was simply that it would be irrational for them to act before receiving some guarantee of support from other colonies. Massachusetts Whigs thus viewed the Continental Congress not as a quasi-sovereign proto-legislature but as a convenient assemblage of delegates from the various colonies who might agree on how best to coordinate their colonies’ actions to the greatest effect. Whenever John Adams described the Congress he inevitably resorted to metaphors that revealed this latter conception. He compared his fellow delegates—favorably—to “Ambassadors from a dozen belligerant [*sic*] Powers of Europe, . . . a Conclave of Cardinals at the Election of a Pope, or . . . the Princes of Germany at the Choice of an Emperor.”¹⁴⁰ The delegates all exhibited great talents but there also existed among them “a Diversity of Religions Educations, Manners, [and] Interests, Such as it would Seem almost impossible to unite in any one Plan of Conduct.”¹⁴¹ Indeed, while attending the Congress in Philadelphia Adams confided to a correspondent in Massachusetts that he thought people were relying too heavily “upon the Result of the

¹³⁹ Continental Congress—Continental Association, 20 Oct 1774, PIR, Doc. 345, 1192.

¹⁴⁰ John Adams to Abigail Adams, 29 Sep 1774, AFC 1: 163.

¹⁴¹ John Adams to William Tudor, 29 Sep 1774, PJA 2: 176.

Deliberations of the [Continental] Congress.” Adams worried that “the operations of the Continent will be too Slow, to afford immediate Relief to Boston.” No one in Philadelphia, Adams continued, truly understood the current situation in Massachusetts. “[W]e who come from you can scarcely form an Adequate Idea of your State,” he wrote, “much less can Strangers, to whom Words and Descriptions can convey but very Imperfect Notions.”¹⁴²

The lawyer and Whig leader Joseph Hawley was currently residing in Massachusetts, however—in Northampton, in Hampshire County—and he harbored grave doubts about both the willingness and the capacity of other colonies, in conjunction with the Continental Congress, to support Massachusetts should the need arise. Writing to the Boston Whig leader Thomas Cushing in February, 1775, Hawley expressed his fear that the Provincial Committee of Safety overseeing defense preparations and the militia would take some action that would bring on war. In such a war, Hawley noted, “we must have a vigorous & persevering assistance of the other Colonies, or must sink under them.” But Hawley placed little faith in the Continental Congress’ previous statements in this regard. “Suffer me then to ask,” he continued,

whether it will not be the height of presumption to enter upon such a scene [of war] with no other assurance or security of such effectual & continued aids as will be absolutely necessary, than what is [contained] in a resolution of about six lines, and they consisting of terms & expressions not the most definite, or of certain & precise meaning.

The Continental Congress’ resolution, Hawley pointed out, stated that “all America ought to support” Massachusetts if hostilities commenced, “not that they will actually support them”; on the contrary, the resolution suggested only “that it would be reasonable & just that such support should be afforded.” Hawley asked several pointed questions. First, would such an agreement “make us secure of the effectual aid of the other colonies in a war with Great Britain”? Second,

¹⁴² John Adams to William Tudor, 7 Oct 1774, PJA 2: 187.

was this “declaration or engagement” made “By Delegates specially Authorized and instructed to make an engagement of this sort?” In addition, Hawley inquired, “Who knows whether the respective constituent bodies will avow this declaration?”¹⁴³ By asking these questions, Hawley correctly noted that the Continental Congress could “act” only through the voluntary agreement of each of the participating colonies—and it was by no means guaranteed that those colonies would make good on their promises.

Moreover, Hawley doubted whether any of the colonies currently possessed the governmental infrastructure needed to sustain the level of mobilization required to wage war against the British. Even if the other colonies desired to support Massachusetts, “it ought to be well considered, with regard to all the other Colonies excepting Connecticut and Rhode Island what situation they are in, to fulfill an engagement of this sort In case they were ever generally distressed to come into it,” he wrote. Few believed that Massachusetts itself could “levy, subsist, & pay an army sufficient to afford us any hope of present resistance, without a legislature which the people will chearfully submit to”—and this was “precisely the case in all the other colonies” as well. Like Massachusetts, each of the colonies would need to “assume a new government” capable of both commanding the people’s compliance and of furnishing the necessary quotas of men and supplies. Indeed, if anything it was more imperative that other colonies possess strong, legitimate governments because people at a more distant remove lacked the same urgency that motivated Massachusetts inhabitants. “Are they oppressed and affected with the new measures as we are?” Hawley asked. Hawley concluded that it would be nothing “short of madness” for Massachusetts to provoke a conflict at the present moment before the colonies had adopted “new forms of Government.” On the one hand, Hawley’s caution against initiating the war might be interpreted as a mark of reluctance, moderation, or “conservatism.” On the other hand, his

¹⁴³ Joseph Hawley to Thomas Cushing, 22 Feb 1775, Mass. Arch. 193: 33-38.

recommendation appears far more radical if placed in the proper context, for he was not conceiving of the approaching conflict as a struggle that would be carried out by small groups of self-directed colonists. Rather, Hawley conceived of it in the same terms that Whigs and Tories throughout Massachusetts were imagining it in this period: as a full-scale war that would encompass the entire province and that would last “untill we have conquered or are ourselves vanquished.”¹⁴⁴ Hawley’s plea was simply that colonists ensure that they could win such a war before entering into it.

Hawley and the other Massachusetts Whig leaders therefore faced a profound dilemma. Common sense and the imperatives of “self-preservation” dictated that the province assume the authority of civil government in order to prepare for war. But at the same time, the inherent instability of the inter-colonial alliance demanded that Massachusetts restrain itself from doing anything that could potentially cause the other colonies to refuse to send support when war came. Unfortunately for the members assembled in the Provincial Congress, reports continued to arrive that the other colonies remained staunchly opposed to any announcement from Massachusetts pertaining to its assumption of civil government. Partly this opposition stemmed from the perception of many that Massachusetts had always acted too brazenly—too rashly—during the Imperial Crisis, however correct Massachusetts colonists had been about the issues. In July 1774, Hawley had told John Adams that “Now there is an Opinion which does in some degree Obtain in the other Colonies, That the Massachusetts Gentlemen and especially [those] of the Town of Boston do affect to dictate and take the lead in Continental Measures.” Other colonists, Hawley continued, believed “That we are apt from our inward Vanity and Self conceit to assume

¹⁴⁴ Ibid. See also Joseph Hawley to John Adams—“Broken Hints to be Communicated to the Committee of Congress for the Massachusetts,” August? 1774, PJA 2: 135-37.

bigg and haughty Airs.”¹⁴⁵ Massachusetts’ reputation for radicalism and belligerence made many colonists wary of its motives.

Moreover, many colonists believed that if Massachusetts Whigs announced the assumption of civil government, then all of America would immediately become embroiled in war; the British would consider Massachusetts’ announcement as tantamount to a declaration of independence and all hope of a peaceful settlement would be lost. John Adams repeatedly reported on such sentiments expressed by the delegates in Philadelphia. “They answer Stand Still,—bear, with Patience, if you come to a Rupture with the [British] Troops all is lost,” he wrote, describing the delegates’ advice to Massachusetts. “Resuming the first Charter, absolute Independency &c are ideas which Startle People here.” If Massachusetts militia engaged British forces, the result “would certainly involve the Whole Continent in a War.”¹⁴⁶ Despite the Massachusetts delegation’s attempts to convince representatives from other colonies of “the Utter Impossibility” inherent in their suggestion that the province “Stand Stock Still, and live without Government, or Law,” the colonies participating in the Continental Congress did not alter their viewpoints from the fall of 1774 through the spring of 1775.¹⁴⁷

Leaders in Massachusetts learned of these sentiments and knew their options were limited. “It can be no longer A question whether any People ever subsisted in A State of Nature,” wrote James Warren. He continued:

We have been and still remain in that Situation, with this Additional Misfortune, that we dare not Attempt to Form A Civil Constitution or redress our Inconveniencies, least [*sic*] our Attempts

¹⁴⁵ Joseph Hawley to John Adams, 25 Jul 1774, PJA 2: 119-20.

¹⁴⁶ John Adams to Joseph Palmer, 26 Sep 1774, PJA 2: 173. See also John Adams to Richard Cranch, 18 Sep 1774, AFC 1:160.

¹⁴⁷ John Adams to William Tudor, 29 Sep 1774, PJA 2: 177. See also John Adams to William Tudor, 7 Oct 1774, PJA 2: 187-88: “I have taken great Pains to inform the Gentlemen, and to know their Sentiments. The Proposal of Some among you of reassuming the old Charter, is not approved of here, at all. The Proposal of Setting up a new Form of Government of our own, is less approved Still...If it is a secret Hope of any [in Massachusetts], as I suspect it is, that the [Continental] Congress will advise to offensive Measures, they will be mistaken.”

should be disapproved of at Philadelphia and that perhaps made A Pretence to...our being left to the Mercy of our Enemies...We are all Sensible of the necessity of A Military Force to Oppose the Encroachments and Insults of our Enemies and that to Form support and Controul them, A Civil Government is necessary. But how the first is to be Established or the last Formed is a question which is left to Ourselves.¹⁴⁸

The Provincial Congress subsequently tabled a committee report “relatives to Assuming Civil Government” in December 1774.¹⁴⁹ The immense stresses that resulted from its efforts to mobilize the populace meant that the Provincial Congress continued to ponder the possibility of civil government throughout the early months of 1775. But the concern caused by the other colonies’ likely reaction remained an unavoidable stumbling block. In early March, one of Gage’s well-connected informants reported to the governor that the members of the Provincial Congress had been once again debating plans of civil government that would enable them to coordinate war preparations more efficiently. Every proposal had “been urged and rejected,” the informant wrote,

1st. Because it would amount to a declaration of independency and revolt and thereby preclude the possibility of a peaceable accommodation. 2dly. Because not warranted by the resolves of the Continental Congress and if adopted without their express consent might produce a scism [*sic*] or rather give encouragement to some lukewarm brethren in the other Provinces to detach themselves from the present combination.¹⁵⁰

The prospect of a splintered union of the colonies before war even commenced thus served as a deterrent.

Indeed, the Provincial Congress’ attempts in early April, 1775, to secure definitive promises of troops from the other colonies served to remind Massachusetts leaders of the

¹⁴⁸ James Warren to John Adams, 16 Oct 1774, PJA 2: 191. See also Thomas Cushing to Samuel Purviance, Jr., 13 Feb 1775, Paul H. Smith, ed., *Letters of Delegates to Congress, 1774-1789* (Washington, D.C: Library of Congress, 1976-) 1:313. Hereafter LDC.

¹⁴⁹ Journal of the First Provincial Congress, 10 Dec 1774, PIR, Doc. 336, 1176.

¹⁵⁰ Report of Mar 3, 1775, PIR, Doc. 674, 1971.

precariousness of their situation. On April 8, the Provincial Congress resolved “that the present dangerous and alarming situation of our public affairs, render it necessary for this Colony to make preparations for their security and defence, by raising and establishing an army.” The Congress appointed delegates to travel to Connecticut, Rhode Island, and New Hampshire and “to request them, to cooperate with us by furnishing their respective Quotas for general defence.”¹⁵¹ The next day, a high-placed informant provided Gage with a gloss on the Congress’ secret deliberations. Everyone agreed, the informant wrote, “that it would be imprudent to enter into any decisive measure with out the concurrence of the other New England Colonies.” Prudence for the Congress meant not being swept up with the whims of “[t]he people without doors” who were “clamorous for an immediate commencement of hostilities.” Instead, explained the informant, the Congress desired to wait “till hostilities shall commence on the part of [Gage’s] Government.” Doing so “would prevent [Massachusetts leaders] being censured for their rashness by the other Colonies and that made a pretence for deserting them.”¹⁵² Furthermore, according to an informant report Gage received on April 18, the Provincial Congress also decided it would not even mobilize an army consisting only of Massachusetts militia “without the hearty concurrence of the other N. England Colonies.” The Provincial Congress needed “an incontestable proof of their confederacy thro’ every hazard,” proof that “could be no other way manifested than by [those colonies] supplying their respective quotas” of men. Gage’s spy noted that the members expressed confidence that Rhode Island and

¹⁵¹ Journal of the Second Provincial Congress, 8 Apr 1775, PIR, Doc. 448, 1528.

¹⁵² Report Received, 9 Apr 1775, PIR, Doc. 682, 1980. Because these are the words of Gage’s spy recounting secret deliberations, there is no reason to suspect that the members of the Provincial Congress were attempting to hide their real motivations for trying to restrain the populace from igniting a war at this time. They were not advocating a more hesitant approach because, as conservative elites, they feared the supposed democratic ideas animating the “people with out doors”; rather, they truly did not know for certain if or to what extent the other colonies would support Massachusetts when war occurred. If anything, the Provincial Congress was preparing for a much larger conflict than the “people” could organize on their own in local contexts. Designations such as “radical” and “moderate,” then, can in this context obscure as much as they reveal.

Connecticut, whose legislatures were then meeting, “will readily embark in the common cause and cheerfully furnish proportionable supplies.” Yet “until this proposed Union is brought about” Massachusetts would not take any actions that would risk offending the other colonies.¹⁵³ The Massachusetts Provincial Congress’ decision not to resume exercising the powers of civil government in the fall, winter, and early spring of 1774-1775 was motivated, then, by pragmatic considerations. Whig leaders considered the issue amongst themselves for months because they knew the province desperately needed a more efficient way of mobilizing men and resources. The goal of resuming civil government was not to create an independent Massachusetts; rather, it was to restore the Massachusetts constitution to its pre-Government Act status—something many believed could be accomplished, somewhat paradoxically, only if a legislature existed to pass legally-binding laws and levy taxes.¹⁵⁴ Despite the accusations of Tories, Whigs did not believe their taking up civil government at this time would comprise a declaration of independence. They did not reject the notion of the province having a crown-appointed governor, for instance. Whigs also betrayed no understanding that they required the sanction of any higher authority to resume civil government. Indeed, it was by no means clear that the Continental Congress, which did not meet from October 26, 1774, to May 10, 1775, in fact constituted an “authority” in and of itself.

In other words, what the developments of late 1774 and early 1775 communicated to Massachusetts inhabitants was that their province existed in a de facto “state of nature” with respect not just to Britain but to all the other colonies as well. To be sure, the colonies professed to be united “in the common cause” and this unity manifested itself in various forms. Yet as all

¹⁵³ Report of April 18, 1775, PIR, Doc. 684, 1982.

¹⁵⁴ It should be noted that the Provincial Congress attempted to make its resolves binding in fact if not in law. Although it did not claim to be a legislature per se, in April 12, 1775, it passed a resolution urging the creation of county committees that would report on compliance and non-compliance with “Continental and provincial measures.” Journal of the Second Provincial Congress, 12 Apr 1775, PIR, Doc. 448, 1532-33.

the writers on the law of nature and nations recognized, what defined the state of nature was not the *absence* or impossibility of contracts between parties, but rather the total *insecurity* of any agreements that did exist or that were contracted between those ultimately free agents.¹⁵⁵

Massachusetts Whig leaders knew that the promises of support they received from other colonies were just that—promises. No overarching authority existed among the colonies that could guarantee those pledges; the authority and the enactment of the Continental Congress’ resolves depended wholly upon the voluntary compliance of the individual provinces. Thus the Massachusetts Provincial Congress conducted its business on the premise that it could not take inter-colonial union for granted. These Whig leaders feared that one misstep on their part would alienate their fellow colonists and leave Massachusetts at the mercy of the British war machine that the Tory writers lauded as invincible. “[I]f we consider coolly upon the matter, we shall find no reason to expect any assistance out of New-England;...,” Daniel Leonard’s *Massachusettensis* had warned. “New England, or perhaps this self-devoted province will fall alone the unpitied victim of its own folly, and furnish the world with one more instance of the fatal consequences of rebellion.”¹⁵⁶ Deny it as they might when combating Tories in print, Massachusetts Whigs took the possibilities they described seriously.

Hence the Provincial Congress fell back on self-preservation, a concept and right that the Continental Congress had officially endorsed and that by the conventions of the time no individual or people could deny to another individual or people. On March 30, it passed a resolution announcing that whenever five hundred or more British troops marched out of Boston,

¹⁵⁵ For example Tuck, *Rights of War and Peace*, 140. See also John Adams’s account of Joseph Galloway’s speech in the Continental Congress, 28 Sep 1774, *Adams Diary and Autobiography*, 2: 143: “I know of no American Constitution. A Virginia Constituiton, a Pensylvanian [*sic*] Constitution We have. We are totally independent of each other.”

¹⁵⁶ *Massachusettensis*, 12 Dec 1774, *Novanglus, and Massachusettensis*, 145.

inhabitants would immediately raise “an Army of Observation” to combat them. Such an army would be justified because colonists believed

it utterly inconsistent [*sic*] with the great Law of Nature and self Preservation for a People thus threatened with the total Deprivation of every Thing valuable to be tame and inactive Spectators until their Enemies shall gain such Advantages as will render it impracticable for them to make any Resistance...¹⁵⁷

Cast into a “state of nature” defined by uncertainty, Massachusetts inhabitants turned to internationally-accepted standards for nations that were forced to make “the last appeal.”

“The certainty of their firing first”

For Massachusetts inhabitants, the period that followed the outbreak of fighting at Lexington and Concord on April 19, 1775 remained one defined by uncertainty, instability, and fear. Not only did the geopolitical “state of nature” endure as an apt characterization of the American union, “self-preservation” continued to resonate and in many ways serves as an appropriate lens through which to view the decisions of Massachusetts Whig leaders.

Developments in the spring and summer of 1775 influenced Massachusetts’ course for years to come.

Gage, whose effective authority had been confined to Boston, made the decision that initiated hostilities. On April 14, Gage received a letter from Dartmouth in which the Colonial Secretary urged him to use the troops at his disposal to reassert British sovereignty in Massachusetts. The first order of business would involve arresting the leaders of the Provincial Congress before the colonists adopted “a more regular plan” and became better able to resist British arms—which, of course, is precisely what Massachusetts leaders had been contemplating for months. Dartmouth even noted that the Massachusetts charter granted the governor the

¹⁵⁷ Resolution Regulating Use of the Militia Against British Troops, 30 Mar 1775, PIR, Doc. 454, 1552-53, quote on 1552.

authority to declare martial law in times of rebellion and suggested that Gage make use of this provision.¹⁵⁸ From his informants in the Provincial Congress, Gage knew that any troops he ordered to march out of Boston would encounter vigorous and organized resistance, especially in light of the Congress' March 30 resolution.¹⁵⁹ Nevertheless, he chose to act on intelligence and attempt to capture Samuel Adams and John Hancock. On April 19, British troops marching toward Concord were confronted and overwhelmed by large numbers of militia from throughout the province who responded to an alarm, just as the Provincial Congress had recommended they should. Killing or wounding over 200 of the king's troops, the militia pursued the British back to Boston, which they immediately besieged.¹⁶⁰

The Provincial Congress' main tasks in the weeks and months after Lexington and Concord centered on raising, financing, and supplying the army surrounding the capital. On April 23, it called for the creation of a force of 30,000 men: 13,600 to be raised in Massachusetts and the rest in the neighboring New England colonies.¹⁶¹ Inevitably, this massive new responsibility strained the Provincial Congress' financial capacity for the remainder of its existence. On April 24, when the Congress asked its receiver general, Henry Gardiner, how much money the treasury held, Gardiner responded that he currently possessed only £5,000 of the last £20,000 tax levied by the General Court in 1773. The Congress declined to investigate which towns were delinquent.¹⁶² In May, it concluded that its only means of paying the troops' wages and purchasing supplies was to make an appeal for a £100,000 loan. The Congress exhorted inhabitants who possessed money they could "spare" to purchase interest-bearing notes

¹⁵⁸ Dartmouth to Gage, 27 Jan 1775 [Recd. 14 April 1775], PIR, Doc. 661, 1950-51, 1953-54.

¹⁵⁹ Report of Mar 3, 1775, PIR, Doc. 674, 1971; Report of April 3, 1775, PIR, Doc. 676, 1977.

¹⁶⁰ For an account of Lexington and Concord, see Robert Middlekauf, *The Glorious Cause: The American Revolution, 1763-1789*. 2nd ed. (New York: Oxford University Press, 2005), 272-79.

¹⁶¹ Journal of the Second Provincial Congress, 23 Apr 1775, PIR, Doc. 462, 1561-62.

¹⁶² Journal of the Second Provincial Congress, 24 Apr 1775, PIR, Doc. 462, 1566.

payable in 1777. Achieving a full subscription was necessary, explained the Provincial Congress, so “that the public credit may not suffer.”¹⁶³ The Congress’ most pressing concern related to paying the men in the army, who could not afford to serve for free while away from their families and farms.¹⁶⁴ The Provincial Congress also coordinated a complicated effort to supply the army with provisions and other needed equipment; its plan of assigning each town a quota for producing the 13,000 coats needed for the troops proved especially time-consuming.¹⁶⁵

At the same time that it engaged in the detailed planning, logistical, and administrative tasks mobilization on this scale required, the Provincial Congress also focused on shaping the narrative of the outbreak of the war. That Massachusetts Whigs recognized the necessity of offering their interpretation of events is hardly surprising given their perception that the other colonies had been reluctant to offer unconditional support in previous months. The narratives the Provincial Congress produced therefore depicted a violent and unprovoked attack on peaceful colonists. After sending a brief initial message to Connecticut, New Hampshire, and Rhode Island on April 23, the Congress produced a more elaborate “Address to the Inhabitants of Great Britain” on April 26, followed by an address to Massachusetts towns on April 30, and finally “A Narrative of the Excursion and Ravages of the King’s Troops...” on May 22.¹⁶⁶

The grisly details included in the narratives were carefully curated to make several important points; their presentation was not random. First, the narratives’ almost-pornographic descriptions of violence echoed the Tory prognostications and the Whig rebuttals that had been

¹⁶³ Address to the Inhabitants of Massachusetts Bay, 24 May 1775, PIR, Doc. 582, 1788.

¹⁶⁴ See for example, Journal of the Third Provincial Congress, 3 Jun 1775, PIR, Doc. 803, 2212.

¹⁶⁵ Address to the Inhabitants of Massachusetts Bay, 24 May 1775, PIR, Doc. 582, 1788; Journal of the Third Provincial Congress, 5 Jul 1775, PIR, Doc. 803, 2391-92; Journal of the Third Provincial Congress, 9 Jul 1775, PIR, Doc. 803, 2413-14.

¹⁶⁶ Massachusetts Provincial Congress to Connecticut, New Hampshire, and Rhode Island, 23 Apr 1775, PIR, Doc. 506, 1726-27; Address to the Inhabitants of Great Britain, 26 April 1775, PIR, Doc. 509, 1729-32; Address to the Towns of Massachusetts, 30 Apr 1775, PIR, Doc. 510, 1732-33; A Narrative of the Excursion and Ravages of the King’s Troops..., 22 May 1775, PIR, Doc. 591, 1805-27.

published over the past year. According to the Provincial Congress, for instance, on April 19 “a great number of the Houses on the Road were plundered and rendered unfit for Use, several were burnt, Women in Child Bed were driven by the Soldiery naked into the Streets, old Men peaceably in their Houses were shot dead...”¹⁶⁷ Likewise, inhabitants were urged “to defend our Wives and our Children from the butchering Hands of an inhuman Soldiery.”¹⁶⁸ The Massachusetts audience for these narratives, at least, would have found such rhetoric familiar. But these descriptions also functioned to portray British actions as fundamentally illegitimate by universally recognized standards of conduct. Each narrative contained some variation of the claim that Gage’s troops had “marked their savage rout with depredations, ruins and butcheries hardly to be matched by the armies of any civilized nation on the globe” or, similarly, that the horrid “Scenes exhibited” on that fateful day “would disgrace the Annals of the most uncivilized Nations.”¹⁶⁹ Meanwhile, numerous depositions by supposed eyewitnesses to events acquitted colonists of committing any war crimes of their own. Nathaniel Gorham, a leading Whig who had commanded militia on the 19th, rejected the accusation that the bodies of the two British soldiers killed at Concord’s North Bridge had been mutilated, asserting “that neither of those persons were scalped, nor their ears cut off, as has been represented.”¹⁷⁰ In sum, Massachusetts Whigs chose to present their story using the same law of nations idiom upon which they had been drawing to explain their province’s situation and rights.

Indeed, the Provincial Congress took dozens of depositions in the immediate aftermath of Lexington and Concord to establish one essential fact: that Massachusetts colonists had acted

¹⁶⁷ Address to the Inhabitants of Great Britain, 26 Apr 1775, PIR, Doc. 509, 1731.

¹⁶⁸ Address to the Towns of Massachusetts, 30 Apr 1775, PIR, Doc. 510, 1732.

¹⁶⁹ Massachusetts Provincial Congress to Connecticut, New Hampshire, and Rhode Island, 23 Apr 1775, PIR, Doc. 506, 1727; Address to the Inhabitants of Great Britain, 26 Apr 1775, PIR, Doc. 509, 1731. Also A Narrative of the Excursion and Ravages of the King’s Troops...22 May 1775, PIR, Doc. 591, 1806-7: “Such scenes of desolation would be a reproach to the perpetrators, even if committed by the most barbarous nations...”

¹⁷⁰ Nathaniel Gorham Deposition, PIR, Doc. 591, 1825.

only in self-defense—in accordance with the “law of self-preservation”—after the British fired first. Judging from the texts of the depositions, the same group of justices of the peace who conducted all the interviews asked leading questions designed to produce statements identifying redcoats as invariably the instigators. Nor were Whig leaders embarrassed to admit to such manipulation. On April 24, John Hancock wrote to the Committee of Safety while travelling toward Pennsylvania to ask if the committee could “furnish [him] with Depositions of the Conduct of the Troops, the certainty of their firing first, and every Circumstance relative to the Conduct of the Troops from the 19th instant to this time.” The Congress intended to annex the depositions to the various narratives and disseminate them widely. Thus Hancock hoped that he and others “may be able to give some Accounts of matters as we proceed and especially at Philadelphia.”¹⁷¹ Thomas Pickering wrote to the Provincial Congress from Salem a day later offering “very willingly [to] set up all the ensuing night” copying depositions so they could be loaded onto a vessel about to depart for Britain.¹⁷² By means of these narratives and depositions, Massachusetts hoped to make an appeal to a candid world.

That world of course included the other colonies, and the Provincial Congress’ narrative-making efforts are best viewed as yet another attempt to strengthen the inter-colonial alliance by offering all Americans an unquestionable foundation for the legitimacy of armed resistance. For even after Lexington and Concord, the Whig leaders assembled in the Provincial Congress still viewed the support from other colonies as uncertain; Massachusetts’ relationship with those colonies remained one characterized by—at least potential—fluidity.

“To Quiet the Minds of the People” of Massachusetts: Connecticut’s Embassy to Gage

¹⁷¹ John Hancock to the Committee of Safety, 24 Apr 1775, PIR, Doc. 609, 1902.

¹⁷² Thomas Pickering to the Provincial Congress, 25 Apr 1775, PIR, Doc. 489, 1710.

A controversy that erupted as a result of the Connecticut government's actions served to reinforce this perception. Just after the Provincial Congress disseminated its narrative and depositions, it learned that Connecticut had sent Oliver Wolcott Jr. and Samuel Johnson to meet with Gage and to give him a letter bearing the name of Connecticut Governor Trumbull. In the letter, dated April 28, Trumbull expressed his colony's concern at the "alarming Situation of public Affairs" and emphasized that Connecticut colonists "esteem[ed] themselves bound by the strongest ties of Friendship as well as of common interest" with the people of Massachusetts. The inhabitants of Connecticut, Trumbull continued, like those of Massachusetts, "Apprehend themselves justified by the Principle of Self Defence" and would not "be restrained from giving Aid to their Brethren, if an unjustifiable Attack is made upon them." Massachusetts Whig leaders found none of these statements objectionable. The key passage in Trumbull's letter, however, came near the end when the governor asked Gage if "it not be consistent with your Duty, to Suspend the Operations of War on your part, and enable us on ours to Quiet the Minds of the People [i.e. of Massachusetts], at least, till the result of some further Deliberations may be known?"¹⁷³

The Provincial Congress erupted in indignation over Connecticut's unilateral proposal to Gage. After noting that they possessed "not the smallest doubt of the Attachment of the General Assembly of [Connecticut] to the glorious Cause of Freedom," the Massachusetts Whigs proceeded to scold their neighbors for supposing they could intercede without Massachusetts' cooperation and for condescendingly implying that Massachusetts inhabitants needed time to cool down and think rationally.¹⁷⁴ "[Y]ou will allow us to express our Uneasiness on Account of one Paragraph in your Letter in which A Cessation of Hostilities is proposed," the Committee of

¹⁷³ Governor Trumbull of Connecticut to Gage, 28 Apr 1775, PIR, Doc. 755, 2063-64.

¹⁷⁴ Journal of the Second Provincial Congress, 2 May 1775, PIR, Doc. 462, 1602.

Safety began before quickly shifting to a sterner tone: “We fear that our Brethren in Connecticut are not even yet convinced of the cruel Designs of Administration against America nor thoroughly sensible of the Miseries to which General Gages Army have reduced this wretched Colony.” The time for negotiating with the governor had passed. “No Business but that of War is either done or thought of in this Colony[,] no Agreement or Compact with General Gage will in the least alleviate our Distress [sic] as no Confidence can possibly be placed in any Assurances He can give...”¹⁷⁵ And while the suggestion of an armistice elicited the most pointed outrage, Massachusetts, the Provincial Congress made clear, still would have objected to the Connecticut mission even if it had not made such a proposal. “Any Interruptions of that happy Union of the Colonies which has taken place, wou’d prove of the most fatal Tendency,” it wrote, “and we cant but view every kind of Negotiation between any Colony and the Chief Instrument of Ministerial Vengeance here, as being likely to operate towards such an Interruption.” The Provincial Congress concluded by reiterating its “Fears respecting the Effect of this Embassy” by which “the Common Cause may be endager’d.”¹⁷⁶ Hence Massachusetts Whigs invoked “the common cause” at this moment and throughout this period not because they believed it to be ironclad but because they considered the union it implied to be inherently fragile, an ideal not yet secured.

“Embassies” such as the one undertaken by Connecticut, the Provincial Congress understood, offered the British the opportunity to drive a wedge between the colonies. Certainly Gage himself interpreted Trumbull’s letter in this way. In his lengthy response to Trumbull, he urged Connecticut to use its “intimate Connection, and strong Ties of Friendship” with “the deluded People” of Massachusetts “to convince the latter of the Impropriety of their past

¹⁷⁵ Committee of Safety to the Governor of Connecticut, 2 May 1775, PIR, Doc. 646, 1935.

¹⁷⁶ Journal of the Second Provincial Congress, 2 May 1775, PIR, Doc. 462, 1603.

Conduct, and to persuade them to return to their Allegiance, and to seek redress of any supposed Grievances, in those decent, and Constitutional methods, in which alone they can hope to be successful.” Gage further sought to erode the ties between the colonies by denying the Provincial Congress’ version of events on April 19. He, not the colonists, Gage claimed, pursued a policy of self-defense. Moreover, Whigs had stopped the mail to prevent any alternative narratives from leaking out and “by these means the most injurious and inflammatory accounts have been Spread throughout the Continent, which has served to deceive and inflame the minds of the People.”¹⁷⁷ Simply put, Gage questioned the validity of Massachusetts Whigs’ claims that it acted according to the dictates of “self-preservation.” In so doing, he hoped to rekindle the skepticism he knew to be prevalent among many Americans who had long viewed Massachusetts as belligerent and irresponsible.

Addresses to the Continental Congress

Given the difficulties of wartime mobilization, the Provincial Congress possessed even more motivation to resume civil government. Moreover, given the continued uncertainty surrounding the long-term support of neighboring colonies at a time when a British army eager for revenge was occupying Boston and when the Royal Navy was hovering just off the coast, the Provincial Congress also recognized that it was more imperative than ever that they appear to solicit the wishes of the Continent prior to acting. With the Second Continental Congress scheduled to convene in Philadelphia on May 10, the Provincial Congress saw its opportunity to secure the assent of each of the colonies—in one fell swoop, as it were.

¹⁷⁷ Gage’s Reply to Governor Trumbull, 3 May 1775, PIR, Doc. 759, 2067-70. See also the Provincial Congress’ subsequent message to Connecticut in reply to Gage in Journal of the Second Provincial Congress, 5 May 1775, PIR, Doc. 462, 1618-19: “We are greatly alarmed at the unparallel’d Wickedness of our unnatural Enemies, in endeavouring to persuade our Sister Colony, that the Inhabitants of this, first commended Hostilities; a Suggestion, which we cannot but think, will appear absurd....”

Before broaching the topic of civil government, however, the Provincial Congress sent a preliminary address to Philadelphia on May 3. First, the Massachusetts Whigs clearly intended to explain their actions to date with the hope of allaying lingering fears about their province's conduct. To this end, the Provincial Congress noted that it had passed a unanimous resolve in favor of raising an army of 30,000 men and had sent "proposals...to the Congress of New-hampshire, and Governments of Rhode Island, and Connecticut Colonies" asking them to contribute troops in proportion to Massachusetts' quota of 13,600. "The sudden Exigency of our public Affairs," the Provincial Congress explained, "precluded the possibility of waiting for your Direction in these important Measures." Massachusetts asked the Continental Congress to approve of this army and also to coordinate its supply. In addition, Massachusetts asked the other colonies assembled in the Continental Congress to take the crucial step of recognizing as "currency thro the Continent" the £100,000 in "Notes" the Provincial Congress had just borrowed to finance its wartime expenditures. In so doing, the Continental Congress would be "supporting our Forces" as well as demonstrating reciprocity, for Massachusetts had just declared the paper currency carried by Rhode Island and Connecticut militiamen acceptable for payment in Massachusetts.¹⁷⁸

After laying the groundwork in its May 3 address, the Provincial Congress moved to request that the Continental Congress advise Massachusetts to resume civil government. John Adams expressed cautious optimism that such a measure would receive a sympathetic hearing. "Our Prospect of a Union of the Colonies, is promising indeed," he wrote to his wife from Philadelphia. "Our province is nowhere blamed," he added. If anything, "The Accounts of the

¹⁷⁸ Journal of the Second Provincial Congress, 3 May 1775, PIR, Doc. 462, 1611-12; Journal of the Committee of Safety, 1 May 1775, PIR, Doc. 592, 1854.

Battle [of Lexington and Concord] are exaggerated in our favour.”¹⁷⁹ Back in Massachusetts, after voting on May 12 that a committee be formed for writing “an Application to the Continental Congress for obtaining their recommendation for this Colony, to take up, and exercise Civil Government, as soon as may be, . . . ground[ing] the application on the necessity of the Case,” the Provincial Congress adopted an address to send to Philadelphia on May 16. For Massachusetts Whigs, the May 16 address represented the culmination of several months’ worth of deliberations; in many ways, it reflected their assessment of the geopolitical and wartime quandary facing the province. The address emphasized “The Principles of Self defence” that had guided colonists over the previous year and noted that “a Corrupt administration” had “deprived” Massachusetts inhabitants “of those powers of Government without which, a people can be neither Rich, happy, or Secure.” The address also explained that the Provincial Congress had been loath “to assume the Reins of Civil Government without [the] Advice and Consent” of Massachusetts’ “Sister Colonies” because it knew that those colonies would be “equally affected” by the outbreak of hostilities with Britain. A restoration of the powers of civil government was necessary to ameliorate the many “difficulties and distressing Embarrassments” that Massachusetts inhabitants had “hitherto patiently borne” and also to provide “for the People’s necessary defence.” Accordingly, the Provincial Congress assured the Continental Congress that Massachusetts “shall readily submit to such a general plan as you may direct for the Colonies: or make it our great study, to Establish such a Form of Government here as shall not only most promote our advantage, but the Union, and Interest of all America.”¹⁸⁰

¹⁷⁹ John Adams to Abigail Adams, 8 May 1775, AFC 1: 196.

¹⁸⁰ Journal of the Second Provincial Congress, 16 May 1775, PIR, Doc. 462, 1665-66. Some historians have emphasized one passage in the Provincial Congress’ address that states “But as the Sword shou’d in all Free States be subservient to the Civil Powers, and as it is the duty of the Magistrate to support it for the People’s necessary defense, We Tremble at having an Army (altho consisting of our own Country Men) estalish’d [*sic*] here without a Civil power to provide for and controul them.” These historians highlight this passage as illustrative of the Massachusetts Whigs’ preoccupation with republican ideology and point to it as a manifestation of colonists’

Massachusetts Whigs thus carefully phrased their request so as to increase the chances that the assembled delegates would view it as non-threatening and reasonable, and would grant it their collective blessing. This was Massachusetts Whigs' goal in applying for the Continental Congress' "Advice": a guarantee from the other colonies that their resuming civil government would not be misinterpreted and used as a reason to abandon Massachusetts to its own devices as it confronted Gage and the British military.

Anxiety pervaded Massachusetts throughout May and early June as it awaited news of the Continental Congress' decision. At a moment when Massachusetts needed to maintain the best possible relations with the other colonies, the Provincial Congress found itself attempting to alleviate potential concerns over the actions of its Committee of Safety. On May 3, one day after it had berated Connecticut for daring to send a delegation to negotiate with Gage, the nine-member Committee of Safety that served as the quasi-executive arm of the Provincial Congress had issued a commission to Benedict Arnold, a Connecticut militia officer, and instructed him to march west, enlist up to 400 men, capture Fort Ticonderoga on the southern end of Lake Champlain, and send as many of the fort's cannon as he could spare back to Boston.¹⁸¹ Arnold, with the help of Ethan Allen, captured Ticonderoga in short order. Unfortunately, in the interest of "secrecy," the Committee of Safety had not informed the Provincial Congress of the expedition beforehand.¹⁸² It was left to the larger body to explain to the other colonies why it had commissioned a Connecticut officer to capture a fort in New York and transport its artillery to the coast of Massachusetts.

persistent fear of "standing armies"—a hallmark of republic rhetoric. Yet concern about the power of the military and its potential to overthrow civilian rulers in Revolutionary Massachusetts ought not to be exaggerated. It seems clear from statements made throughout 1774 and 1775 that the primary factor motivating Massachusetts Whigs to seek the powers of civil government was the desire to increase the revolutionary government's ability to raise, supply, organize, and maintain the Massachusetts forces deployed against the British. See Jack N. Rakove, *The Beginnings of National Politics: An Interpretive History of the Continental Congress* (New York: Knopf, 1979), 76.

¹⁸¹ Journal of the Committee of Safety, 3 May 1775, PIR, Doc. 592, 1857-58.

¹⁸² Committee of Safety to Benedict Arnold, 28 May 1775, PIR, Doc. 658, 1945.

Predictably, the Provincial Congress defended its role in the expedition by invoking the essential concepts of self-preservation. It admitted that, ideally, the Committee of Safety would have exercised more tact and notified Connecticut and New York sooner. And yet, the Provincial Congress told its counterpart in New York, “we trust you will Candidly overlook such a mistake (if it is one) being made in the hurry and Confusion of War.” It had not been Massachusetts’ intent “to make any the least infraction upon or usurpation of the Jurisdiction of any of our Sister Colonys.” Although the Committee of Safety had expressly ordered Arnold to ship Ticonderoga’s armaments to Boston, the Provincial Congress disingenuously muddled the issue by assuring New York and the Continental Congress that “if any of those Cannon...Should happen through the Exertions of Enterprising Spirits to be brought within the allowed Limits of this Colony and Come to our use we shall hold ourselves accountable for them to the Representatives of the Continent...”¹⁸³ Ultimately, of course, Massachusetts simply needed the cannon, “without which” Massachusetts forces “can neither annoy Genl. Gage, if it shou’d become necessary, nor defend [them]selves against him.”¹⁸⁴ The members of the Provincial Congress thus wagered that their fellow colonists would recognize all of these tropes of self-preservation and excuse any improprieties committed by a corporate body engaged in a struggle for its very existence. Any other colony would take the same drastic measures: “Could you See and Realize these Scenes of Distress,” the Provincial Congress wrote to New York, “you Could not refrain one moment from doing every thing in Your power to prevent the like Distress from happening to your metropolis.”¹⁸⁵ No less than its May 16 address to the Continental Congress, these letters addressing Massachusetts’ role in the Ticonderoga expedition, along with the

¹⁸³ Provincial Congress to the Provincial Congress of New York, 26 May 1775, PIR, Doc. 583, 1789-90. See also Provincial Congress to the Continental Congress, 26? May 1775, PIR, Doc. 586, 1793.

¹⁸⁴ Journal of the Second Provincial Congress, 17 May 1775, PIR, Doc. 462, 1671.

¹⁸⁵ Provincial Congress to the Provincial Congress of New York, 26 May 1775, PIR, Doc. 583, 1790.

narratives and depositions describing events on April 19, all formed part of the Massachusetts Whig proposal to be allowed to restore constitutional order in the province.

Despite the Provincial Congress' concerns, Massachusetts' conduct with respect to Ticonderoga does not appear to have influenced the Continental Congress' deliberations on the question of the province resuming civil government.¹⁸⁶ When the Provincial Congress failed to receive any word from Philadelphia by June 11, it sent off another address to the Continental Congress reiterating the arguments it had presented on May 16. "The embarrassments, delays, disappointments, and obstructions in executing every undertaking necessary for the preservation of our lives," the Provincial Congress emphasized, demanded "a settled Civil Polity, or Government." While the "difficulty of maintaining the public peace" threatened to become even more acute, the Provincial Congress reported that, all things considered, the people had remained more orderly "[than] it was natural to expect, from the contemplation of such a state as we have been cast into."¹⁸⁷ This June 11 address proved superfluous, however, for the Continental Congress had already read Massachusetts' May 16 letter on June 2 and had adopted a resolve endorsing the resumption of civil government one week later, on June 9.

"Let us sit in our council house": The Plan to Resume Charter Government

The precise wording of the Continental Congress' resolve demands analysis. It began by declaring that Massachusetts inhabitants owed "no Obedience...to the Act of Parliament for altering the Charter of the Colony of Massachusetts-Bay" and that Gage had effectively vacated his position as governor by his conduct. Next, "in Order to conform as near as may be to the spirit, and substance of the Charter," the Continental Congress "recommended" that the

¹⁸⁶ The *Journal of the Continental Congress* reported the reading of "sundry letters...from the conventions of Massachusetts bay and New York" on June 19, after the Congress had already advised Massachusetts to resume civil government. 19 Jun 1775, in Worthington Chauncey Ford, ed., *Journals of the Continental Congress, 1774-1789* (Washington, D.C.: U.S. Government Printing Office, 1904), 2: 97-98. Hereafter JCC.

¹⁸⁷ Journal of the Third Provincial Congress, 11 Jun 1775, PIR, Doc. 803, 2238-39.

Provincial Congress “write letters” instructing inhabitants to hold elections for a House of Representatives. This House of Representatives would then elect a new council, and in turn the “Assembly and Council should exercise the Powers of Government, untill [*sic*] a Governor of his Majesty’s Appointment will consent to govern the Colony according to its Charter.”¹⁸⁸ A high degree of specificity and an almost-surgical approach thus characterized the Continental Congress’ recommendations respecting how Massachusetts was to resume civil government. The question turns to the Continental Congress’ reasons for adopting this particular solution.

In fact, the Continental Congress did not “advise” Massachusetts in this matter as much as it simply endorsed a series of decisions the Provincial Congress had already made. Massachusetts Whigs had of course disavowed for over a year any obligation on their part to recognize the validity of the Massachusetts Government Act. The notion that Gage had “vacated” his office as governor originated in Massachusetts as well. Through April, 1775, colonists had maintained that Gage’s actions enforcing the Government Act were illegal; however, they had not questioned Gage’s right to carry out his charter-mandated duties. On April 1, 1775, the Provincial Congress had even resolved that, if Gage issued writs for the towns to hold elections for a General Court—as the governor of the province did every year—then the towns ought to acknowledge the writs and elect representatives. By issuing such writs, Gage would be committing no violation of the charter. If Gage did not issue writs for the current year, then, the Provincial Congress stated, the towns ought to hold elections anyway and the individuals elected would simply sit in another Provincial Congress.¹⁸⁹

¹⁸⁸ The Continental Congress’ resolve is published in Journal of the Third Provincial Congress, 20 Jun 1775, PIR, Doc. 803, 2284. See also 9 June 1775, JCC, 2: 83-84.

¹⁸⁹ Journal of the Second Provincial Congress, 1 Apr 1775, PIR, Doc. 448, 1500. See also Petition of Worcester Selectmen, April ? 1775, PIR, Doc. 471, 1697: “We also beg your [i.e. the Provincial Congress’] Direction what Regard we shall pay to Governor Gage’s Precept for Calling a General Assembly to be held in Boston on the 31st Day of May Next. We think a Simmelarity of Conduct of Every Town in the Province best and know not how to Obtain it, but by your Direction.”

After Lexington and Concord, the Provincial Congress reconsidered its position. On May 4, “After a long and serious debate,” it resolved that towns should not obey any election writs Gage issued.¹⁹⁰ In this momentous decision, Massachusetts Whigs took the step of denying that Gage was capable of exercising even what they considered to be constitutional authority. Adhering to a fiction similar to the one by which Parliament had removed James II from the throne, the Congress asserted that “General Gage hath, . . . utterly disqualified himself, to serve this Colony as Governor.” Gage’s orders had led to “a Number of respectable Inhabitants of the Colony” being “illegally, wantonly, and inhumanly slaughter’d by the Troops” under his command. Therefore colonists were to disregard not only Gage’s “Writs for calling an Assembly,” but also “his proclamations” and “any other of his Acts and Doings.”¹⁹¹ Declaring the governorship vacant appeared to Whigs the most expedient, logical, and agreeable mode of resuming civil government in the province. It offered the most direct path toward restoring the Massachusetts charter, which had always been—and continued to be—Whigs’ main preoccupation. Some of Gage’s informants intimated that at least some leaders of the rebellion in Massachusetts hoped to take the opportunity hostilities afforded to declare independence. But even these reports also noted, as did the one Benjamin Thompson sent to Gage on May 6, that “this . . . plan is by no means commonly known or suspected by the People in general, but they are still fed up the old story that ‘their invaluable rights and priviledges are invaded,’ and are taught to believe that the military preparations which are now making are in defence of them and to obtain redress.”¹⁹² In fact, the preponderance of evidence demonstrates that even the Whig

¹⁹⁰ Journal of the Second Provincial Congress, 4 May 1775, PIR, Doc. 462. The Journal states that 94 out of 107 members voted in favor of the resolution.

¹⁹¹ Journal of the Second Provincial Congress, 5 May 1775, PIR, Doc. 462, 1617-18.

¹⁹² Benjamin Thompson to Gage, 6 May 1775, PIR, Doc. 760, 2072. See also Benjamin Church’s Report of May 24, 1775, PIR, Doc. 693, 1992-93.

leaders considered charter restoration to be the preeminent and, in many respects, the only truly conceivable goal.

In a sermon preached to the third and last Provincial Congress on May 31, 1775, the Reverend Samuel Langdon expressed many of the common assumptions and aims of the newly-elected members and clearly anticipated an imminent return to charter government. Langdon cited the “*law of nature*” by which “any body of people” could come together to “provide for the common safety and advantage.” He praised the Continental Congress as well as the fact that “so many provinces of so large a country” were united “in one mode of self preservation, . . . unexampled in history.” He applauded the work of the Provincial Congress and the compliance of the people with its efforts. Yet, plainly, it was not “proper or sage for the colony to continue much longer in such imperfect order[.]” Langdon stated that “every branch of the legislative and executive authority” needed to be “restored to that order and vigour on which the life and health of the body politic depend” and, in a revealing passage, he prayed that “God may in mercy restore to us our Judges as at the first, and our Counsellors as at the beginning.” Indeed, Langdon equated the return of a constitutional council—something denied by the Massachusetts Government Act—with a restoration of civil government itself. (As the title of his sermon made a point to emphasize, May 31st was “*the Anniversary fixed by Charter For the Election of Counsellors.*”) ¹⁹³

Langdon’s audience evidently listened to his message or had already internalized it. Just over a week later, in an appeal to the Stockbridge Indians that featured a strained attempt to mimic Native American idioms, the Provincial Congress explained that colonists would fight the British “till they shall take their hands out of our Pouches, and let us sit in our council house, as

¹⁹³ Samuel Langdon, *A Sermon Preached Before the Honorable Congress of the Colony of the Massachusetts-Bay in New-England, Assembled at Watertown, On Wednesday the 31st Day of May, 1775. Being the Anniversary fixed by Charter For the Election of Counsellors* (Watertown: Benjamin Edes, 1775), 23-26.

we used to do, and as our fathers did in old times.”¹⁹⁴ In obsessing over the restoration of a constitutional council, Whigs demonstrated consistency in their argument. The Government Act’s alteration of the charter’s provisions for electing councilors had, in their view, comprised the most flagrant and serious violation of their corporate rights, and had motivated them in their resistance to Gage for the better part of a year. Moreover, now that Whigs had declared that Gage had “vacated” the office of governor and commanded no allegiance among inhabitants, restoration of the council would in fact constitute a restoration of the charter.

Massachusetts Whigs equated restoration of the council with a return to civil government because the Massachusetts charter provided for executive rule by the council anytime the governor and lieutenant governor were either dead, “displaced,” or otherwise “absent” from the colony. In such cases, the charter stated, “the Council...shall have full power and Authority...to doe and execute all and every such Acts matters and things which the said Governour or Lei[u]tenant [or] Deputy Governour...might or could lawfully doe or exercise if they or either of them were personally present.” By charter, the council would continue to exercise these powers until either the governor or the lieutenant governor returned from absence, or until a new governor appointed by the king arrived in the province.¹⁹⁵

¹⁹⁴ Journal of the Third Provincial Congress, 8 Jun 1775, PIR, Doc. 803, 2231.

¹⁹⁵ The Charter of Massachusetts Bay – 1691. Avalon Project. http://avalon.law.yale.edu/17th_century/mass07.asp The “Instructions” issued by the Privy Council to each governor, including to Gage in 1774, elaborated and slightly qualified this provision. It was the Privy Council’s “Will and Pleasure” that the council, when exercising executive powers, “shall forbear to pass any Acts, but what are immediately necessary for the Peace and Welfare of our said Province without [the Privy Council’s] particular order for that purpose.” See Gage’s Instructions, 5 Apr 1774, PIR, Doc. 3, 42-43. This passage had been included in the Massachusetts governors’ instructions beginning in 1701. See *Ibid.* 43n.72. This caveat, of course, proved no obstacle at all to Massachusetts Whigs who maintained that what they were doing was absolutely “necessary for the Peace and Welfare” of the province.

Aware of this provision as it crafted the Massachusetts Government Act, the ministry had hoped to modify this aspect of the charter as well. Writing to Gage on June 3, 1774, Dartmouth expressed his view “that in case of the Death or Absence of both Governor and Lieutenant Governor, the Administration of Justice should have devolved upon the Senior Counsellor, as in other [colonial] Governments.” Unfortunately, from Dartmouth’s perspective, this change had not been possible because the Government Act had mandated that “the new Council” to be appointed by the Privy Council for the province, would possess “all the Liberties, Privileges and Immunities

Under normal circumstances, then, the (admittedly radical) act of declaring the governor's chair "vacant" would have caused executive power to revert to the council; theoretically, there would have been no interruption in the exercise of civil authority. Whigs encountered a slightly more complicated situation in 1775 because the Government Act had specifically altered the mode of composing the council, forcing Whigs to reject the legitimacy of the councilors appointed by mandamus in 1774. By the logic of the Whigs' argument, the council as a charter-sanctioned institution still existed; at present, however, there existed no legitimate councilors on which executive authority could devolve. Resuming civil government, therefore, would require the election of a new council according to the method outlined in the charter. Yet even this requirement did not necessarily pose that significant of a dilemma, for the charter called for the entire General Court—House of Representatives and the previous year's council voting together—to elect the new council. Since the council currently contained no legitimate members, then the selection of the new council would simply fall to any newly-elected representatives. And since the Provincial Congress demonstrated no reluctance in its April 1 resolution to recommend that towns hold elections for "Delegates for a Provincial Congress" in spite of the absence of governor's writs, all the Provincial Congress needed to do to resume civil government was to announce a new election—this time for members of a House of Representatives.¹⁹⁶

Seen in this light, then, the Continental Congress' June 9 resolution merely echoed what Massachusetts Whigs had already determined upon. Massachusetts delegate Thomas Cushing reported that the only debate in the Continental Congress prior to its approving the resolve concerned the desirability of expediting the return of civil government in Massachusetts by

enjoyed by the other, except in the Cases provided for [i.e. in the mode of its election]." Dartmouth to Gage, 3 Jun 1774, PIR, Doc. 147, 503.

¹⁹⁶ Journal of the Second Provincial Congress, 1 Apr 1775, PIR, Doc. 448, 1500.

having the current Provincial Congress elect the councilors. In contrast, the majority opinion maintained that the towns ought first to elect members for a House of Representatives, who would then vote for councilors. The delegate who proposed the expedited plan was quickly answered and defeated by another delegate who reminded him that “it was best to adhere as near to the Charter as possible & not to vary from it but in Case of Absolute Necessity.” In other words, the plan proposing that the Provincial Congress elect councilors did not conform closely enough to the argument Massachusetts Whigs had set forth, and it was rejected on those grounds. Indeed, as Cushing told Joseph Hawley back in Massachusetts with regards to the Continental Congress’ resolution: “I apprehend [it] will Correspond with y[ou]r Sentiments.”¹⁹⁷ Subsequently, on June 20, the Provincial Congress adopted a resolve praising the Continental Congress for the “Compassion, seasonable Exertion and Abundant Wisdom Evidenced in” its recommendation to resume civil government. In many ways, it was an exercise in self-flattery for Massachusetts Whigs fully aware that the Continental Congress had simply rubberstamped the plan delivered to them.

Massachusetts Whigs’ success serves only to underscore why they had sought the approval of the Continental Congress in the first place. Neither expecting nor desiring that the Continental Congress would recommend anything innovative or novel, the Whigs in the Provincial Congress had wanted to guarantee as best they could that the other colonies would not

¹⁹⁷ Thomas Cushing to Joseph Hawley, 10 Jun 1775, LDC 1: 471. Cushing did not name either of the delegates who debated this issue. The delegate who proposed the “expedited” plan also expressed concern that the newly-elected House of Representatives would not include sufficient representation for Boston, due to the city being currently occupied and besieged. This objection was countered by the assurance that “either the present Provincial Congress, or the New Assembly could easily make some provision for their being Represented.”

John Adams offered an account of the proceedings of the Continental Congress that reiterates the same themes Massachusetts Whigs had been articulating for months: “I have found this Congress like the last. When we first came together, I found a strong Jealousy of Us, from New England, and the Massachusetts [*sic*] in Particular. Suspicions were entertained of Designs of Independency—an American Republic—Presbyterian Principles—and twenty other Things. Our Sentiments were heard in Congress, with great Caution—and seemed to make but little impression: but the longer We sat, the more clearly they saw the Necessity of pursuing vigorous Measures...” John Adams to Abigail Adams, 11 Jun 1775, AFC 1: 215.

misconstrue Massachusetts' resumption of civil government as rash and unnecessary.

Massachusetts needed to eliminate any pretexts other colonies might discover for abandoning the province in the hour of its greatest need. Such a fear had influenced the Provincial Congress' actions for months, even before Lexington and Concord. Moreover, Massachusetts Whigs betrayed no signs that they believed they "required" the official approval of any specific "higher authority" before resuming civil government. Had Massachusetts received guarantees of the other New England colonies' unconditional support in April, 1775, the Provincial Congress likely would have voted to resume civil government then, at a time when the Continental Congress was not convened. What mattered ultimately to Massachusetts Whigs was not the approval of the Continental Congress as such, since no consensus existed that it did in fact constitute a higher authority to which Massachusetts owed deference.¹⁹⁸ Rather, what mattered was the concurrence of the delegates assembled at the Congress who were empowered to speak for their individual colonies. For it was these colonies and their governments, Massachusetts Whigs knew, that would ultimately be providing or withholding support in the conflict with the British.

Massachusetts Whigs considered the Continental Congress a convenient and important forum for allaying the existing suspicions of the other colonies and for reducing potential sources of friction between Massachusetts and its neighbors in the future. It is therefore no coincidence that in its May 16 address to the Continental Congress, the Provincial Congress promoted "the propriety" of that body "taking the regulation and general direction of" the inter-colonial army

¹⁹⁸Jerrilyn Greene Marston, *King and Congress: The Transfer of Political Legitimacy, 1774-1776* (Princeton, N.J.: Princeton University Press, 1987) argues that the Continental Congress *qua* Congress possessed a greater degree of political legitimacy. It is difficult to maintain that, by recommending in this particular fashion that Massachusetts resume civil government under the auspices of its charter, the Continental Congress was playing the role of the sovereign. If this was the case, the Continental Congress' June 9 resolution should have referred to issuing election writs for the towns to hold elections. Instead it mentioned merely that the Provincial Congress was to "write letters" to the towns.

currently besieging Boston. That the army existed “for the general defence of the Rights of America” comprised the Provincial Congress’ ostensible motive for its suggestion.¹⁹⁹ Yet the practical imperative behind the proposal was just as important: namely, that if Massachusetts, the colony supplying the most troops, attempted to coordinate the actions of the entire army, the province’s leaders would almost certainly be roundly criticized throughout the Continent in the event of even a minor setback. The resulting tensions might rend the alliance and leave Massachusetts to shift for itself.

A similar impulse and attitude toward the Continental Congress is evident in the Provincial Congress’ June 11 address. Here, Massachusetts Whigs informed the delegates in Philadelphia that they would “consider it as a happy Event” if the Continental Congress decided to adjourn and reconvene in a location closer to “the Seat of War” in Massachusetts. Through these means, the Provincial Congress noted, “the advice and aid of the Continent, may be more expeditiously afforded upon any Emergency.”²⁰⁰ By tacking this suggestion onto its follow-up address respecting civil government, the Provincial Congress hoped to avoid long delays whenever Massachusetts felt it needed a mandate prior to taking a potentially controversial action in the future.

The Continental Congress remained in Philadelphia, but it did “adopt” the New England army around Boston. Eager to reassure delegates from other colonies that Massachusetts did not deserve its stereotype as domineering, obsessed with control, and belligerent, John Adams proposed the Virginian George Washington to command the army.²⁰¹ In so doing, Adams demonstrated that he shared the concerns of his fellow Massachusetts Whigs sitting in the

¹⁹⁹ Journal of the Second Provincial Congress, 16 May 1775, PIR, Doc. 462, 1666.

²⁰⁰ Journal of the Third Provincial Congress, 11 Jun 1775, PIR, Doc. 803, 2240.

²⁰¹ *Massachusettensis*, the nemesis of Adams’s *Novanglus*, had asserted that “the colonies south of Pennsylvania would be unable to furnish any men” in the event of war with Britain. *Massachusettensis*, 12 December 1774, *Novanglus, and Massachusettensis*, 144.

Provincial Congress who, in late April, had themselves acknowledged that “the southern Colonies are not a little jealous of the restless and turbulent spirit of the people of New England least [*sic*] at some future period they should subject them to their yoke.”²⁰² Time and again, Massachusetts Whigs thus sought to preempt any development or prejudice that might place at risk the military support of the other colonies. The Continental Congress offered one means to this end, though it did not yet necessarily constitute an end in itself.

**“The Guardians of this extensive and wealthy Province”:
Creating the Massachusetts
“Self”**

The Provincial Congress’ most immediate and important goals in the spring and early summer of 1775 included both protecting Massachusetts inhabitants from the threats they feared and sustaining the military mobilization that had occurred so suddenly in April. From all parts of Massachusetts, the Congress received letters and petitions desperately urging the government to protect inhabitants from violence, hunger, or both. Such pleas would become ubiquitous during the years that followed, but at this early stage they served to cast in stark relief the extent of the provincial government’s newfound responsibilities. Some requests originated nearby. In early May the selectmen of Cohasset, a town south of Boston, explained that “they are in a Defenceless state and...exposed to be Ravaged by the Crews of every [British] Ship or Vessel whose Inclination leads them to Plunder...” They requested they be allowed to raise men (for whom the province would have to pay) to protect the sea coast.²⁰³ Coastal Plymouth expressed similar concerns and requested similar protection.²⁰⁴

From the frontier regions of the province—the western counties and, especially, the three Maine counties—inhabitants prayed for assistance against perceived threats from both the British

²⁰² Report of Apr 18, 1775, PIR, Doc. 683, 1983. This conversation was witnessed by one of Gage’s spies.

²⁰³ Petition of Cohasset Selectmen [to the Committee of Safety], 8 May 1775, PIR, Doc. 595, 1891.

²⁰⁴ Selectmen of Plymouth to Committee of Safety, 27 May 1775, PIR, Doc. 606, 1899.

navy along the coast and from the British-agitated Indians possibly lurking inland. The violent scenarios depicted in Tory writings before Lexington and Concord seemed imminent and real to many colonists. As a petition from Gorham, in Maine's Cumberland County, explained, people were "in great fear lest they shou'd suddenly be beset on their back settlements by their Enemies in Canada." Inhabitants shuddered at the prospect of experiencing "the utmost distress in the ravages of the Indians, who in time past have muder'd some of their Friends, and put others in the greatest Perils and exposed them to hardships almost intolerable."²⁰⁵ Another group of Maine petitioners passed along a rumor "that the Governor of Halafax has hired the Indins to come a Long Shore and Kill us and our family." The petitioners reasoned that since they possessed "Nothing to Defand our selves with but our Hands," the Provincial Congress ought to supply food, weapons, gunpowder, and ammunition so they "may have where with all to Defend our selvs and fight for our Livs and Liburties..."²⁰⁶ Indeed, these petitioners possessed valid concerns, for Gage was actively trying to harness the Indian threat to British advantage. "[A] Number of Canadians and Indians, would be of great use on the Frontiers of the Province of Massachusetts Bay," the governor wrote to Canada's governor Guy Carleton two days after Lexington and Concord. Gage repeated his suggestion to Carleton in June.²⁰⁷

Through their petitions, inhabitants of these frontier settlements served further to articulate a conception of Massachusetts as a corporate whole. Because they too had resisted Gage and Parliament's attempts to destroy the corporate rights of the province, they too were facing British retribution. Indeed, they were more at risk as a result of their exposed location. It is hardly surprising, then, that they expressed their reliance upon the leaders of the province.

²⁰⁵ Petition of Samuel Whittemore and Cary McLellan, 27 Apr 1775, PIR, Doc. 470, 1696.

²⁰⁶ Petition of Samuel Hale, et al., 12 May 1775, PIR, Doc. 514, 1737-38.

²⁰⁷ Gage to General Guy Carleton, 21 Apr 1775, PIR, Doc. 749, 2059; Gage to General Carleton, 3 Jun 1775, PIR, Doc. 1108, 2789.

“With the highest Satisfaction we now consider you, as the Guardians of this extensive and wealthy Province,” the inhabitants of the Lincoln County town of Machias wrote to the Provincial Congress in late May. “Permit us again to Say, you are our Guardians, and we rejoice in being Subject...you are all our dependence, and if you Neglect us, we are ruined.”²⁰⁸ The inhabitants of the port town of Falmouth also appealed to the Provincial Congress for protection from the British in these months. Falmouth’s plea, however, was unusual in that it was a request for the Provincial Congress to prevent the over-zealous Whig leader Colonel Thompson of nearby Harpswell from agitating the British man-of-war at anchor in Falmouth’s Harbor. Inhabitants feared that the British would retaliate by firing on the town—which, unfortunately for Falmouth, actually occurred later in 1775.²⁰⁹

The appeals from Falmouth, Machias, and numerous other towns throughout Massachusetts thus reinforced inhabitants’ dedication to a specific understanding of “self-preservation.” The self they imagined transcended localities but by and large remained fixed on the provincial. When the Cohasset selectmen reported in May that “they find...the Idea of Counties, Towns and Districts are in a great Measure lost in a General Conference for the safety of the whole,” they were referring to Massachusetts.²¹⁰ Unlike Cohasset, Machias did, at least, mention “the wisdom of the Continental Congress.”²¹¹ Many towns and individuals made

²⁰⁸ Petition of Machias Inhabitants, 25 May 1775, PIR, Doc. 831, 2465-66. The petition also states: “And, relying on your wisdom, the wisdom of the Continental Congress, the Justice of our Cause, and the tender mercy of our Father’s God, We promise ourselves, in due time a happy deliverance from the Iron chains of tyranny, which were forming for us, and from Servitude equal to Egyptian Bondage.” *Ibid.*, 2465. For similar statements from other towns, see Petition of Cumberland County’s Committees of Correspondence, 25? May 1775, PIR, Doc. 813, 2447-48; Petition of Egemagan [No. 4, i.e. Eggemoggin] Reach, 11 Jun 1775, PIR, Doc. 815, 2449-50; Petition of Frenchman’s Bay Inhabitants, 26 Jun 1775, PIR, Doc. 816, 2451.

²⁰⁹ The exchange between Falmouth and the Provincial Congress can be tracked in the following documents: William Tyng to Gage, 18 Mar 1775, PIR, Doc. 735, 2043-44; Extract of a Letter from Enoch Freeman to Samuel Freeman, 10 May 1775, PIR, Doc. 502, 1721-22; Falmouth Committee of Correspondence to the President of the Provincial Congress, 14 May 1775, PIR, Doc. 503, 1724; Falmouth Committee of Correspondence to the Committee of Safety, 15 May 1775, PIR, Doc. 628, 1918-20.

²¹⁰ Petition of Cohasset Selectmen [to the Committee of Safety], 8 May 1775, PIR, Doc. 595, 1890.

²¹¹ Petition of Machias Inhabitants, 25 May 1775, PIR, Doc. 831, 2465.

similar statements about the gathering in Philadelphia. Yet when inhabitants in Machias or anywhere else in Massachusetts sought protection or supplies or guidance, they did not turn to the Continental Congress. Rather, they petitioned the provincial government—for the sound reason that it was the only authority legally obligated—and likely—to respond to them. These petitions and addresses from Massachusetts inhabitants legitimized the restoration of charter government more directly than did the resolve of the Continental Congress.

When Massachusetts officially resumed civil government on July 19, 1775, the new General Court inherited all the expectations and responsibilities that had burdened the Provincial Congress. While the number of Massachusetts troops outside Boston never had reached the quota of 13,600 the Provincial Congress had set in the days after Lexington and Concord, they still numbered around 9,000 and their supply still required a large-scale logistical effort. In May one group of soldiers had petitioned the Provincial Congress complaining that they had received for rations “Such Roten Stinkin meat that the Smell is Sufficient to make us lothe the Same.” The petitioners had implored the Provincial Congress not to allow their “Case be parilel to the Case of the Isarelites [*sic*] when in bondage to the Egyptianes, who Required the tale of brick, but gave no Straw.”²¹² Although, clearly, the colonial army had not been adequately supplied at all times, that the army still existed and had proven adept enough to inflict heavy casualties on the British at Bunker Hill on June 19 was a testament to the Provincial Congress’ efforts. Nevertheless, upon Washington’s arrival in early July, the Provincial Congress apologized to the General for the condition of the army he came to command. Massachusetts Whigs cited “The Hurry with which it was necessarily collected, and the many disadvantages arising from a

²¹² Petition of Eliphalet Barns, et al., 23 May 1775, PIR, Doc. 513, 1736.

Suspension of Government, under which we have raised, and endeavoured to regulate the Forces of this Colony.”²¹³

The newly-installed members of the General Court hoped that, with constitutional authority now accompanying their decisions, the Massachusetts provincial government would be able to sustain wartime mobilization for the entirety of the conflict with Britain. In the terms of the Biblical metaphor hungry Massachusetts soldiers had used in their petition to the Provincial Congress, the General Court might provide the “straw” needed for inhabitants to make “brick.” (The figure of speech would appear frequently in appeals written by towns and individuals throughout Massachusetts in the years to come.) The most important benefits of a return to civil government related to the confidence and credit that would accrue to the province now that it possessed the capacity to raise money and enforce compliance. The Provincial Congress had borrowed £100,000 to pay for the initial mobilization of men after Lexington and Concord. Because the Provincial Congress did not possess the power to levy taxes to finance debt—it empowered its receiver general, Henry Gardiner, to collect only those taxes levied by General Courts in previous years—this loan likely would have been its last. As it turned out, during the ensuing half-decade the General Court would continue to rely on loans to finance Massachusetts’ war effort, levying or even collecting few provincial taxes. Yet what mattered was that the General Court possessed the authority to levy taxes if it so chose, and the expectation that it would do so as soon as circumstances permitted enabled it to gain enough confidence with potential lenders.²¹⁴ Just as important, resumption of charter government meant the

²¹³ Address of the Provincial Congress to George Washington, 2 Jul 1775, PIR, Doc. 1012, 2644. For Washington’s address to the Provincial Congress, including his estimate of there being fewer than 9,000 Massachusetts troops, see General Washington to the President of the Provincial Congress, 10 Jul 1775, PIR, Doc. 999, 2630.

²¹⁴ For a summary of Massachusetts taxation and borrowing in the 1770s and 1780s, see Whitney K. Bates, “The State Finances of Massachusetts, 1780-1789 (Unpublished Thesis, University of Wisconsin, 1948). Massachusetts’ efforts to collect delinquent provincial taxes was very sporadic until 1778. See Sheriff’s Tax Execution Warrants,

reestablishment of the courts, the absence of which for nearly a year Whigs had lamented and pointed to as evidence that Gage and the ministry were attempting, albeit unsuccessfully, to return Massachusetts society to a “state of nature.”

Ironies and an Uncertain Future

Yet a profound irony now confronted Massachusetts inhabitants. Seeking to defend the corporate rights of their province within the empire, their goal from the beginning had been the restoration of constitutional government according to the Massachusetts charter. They premised the current resumption of charter government on the notion that the crown-appointed governor, Thomas Gage, had vacated his position as governor by his actions, leaving the council (which could be easily reconstituted) to exercise executive authority in the meantime. They declared that they awaited the appointment by the king of a governor who would respect the charter and not stoop to serving as the tool of a corrupt ministry. Given the success of colonial arms against the British troops in the province, such a prospect of British conciliation appeared possible at the time.

The fraught process of resuming civil government on this plan was already in motion and ultimately brought to a head before any news from Britain definitively undermined the central premise that the king might yet intervene on behalf of Massachusetts corporate rights. Massachusetts Whigs had, of course, wrestled with the problem of the king’s apparent acquiescence to Parliamentary tyranny before. News of the king’s assent to the Coercive Acts had caused them to reaffirm their faith in the old notion that the king’s ministers were manipulating the sovereign against his will. Another troubling piece of evidence had arrived in the form of a speech the king had delivered to Parliament on November 30, 1774, in which he

Mass. Arch. Volume 321. Massachusetts inhabitants would bear large tax burdens on the local level, however, as towns strained to provide bounties for army recruits.

endorsed the doctrine of Parliamentary supremacy. The text of the speech “greatly alarmed” a joint meeting of various committees of correspondence in early February, 1775.²¹⁵ Indeed, enough ambiguity existed in Massachusetts on the issue that, in his election sermon on May 31, Samuel Langdon could note that “our King, as if impelled by some strange fatality, is resolved to reason with us only by the roar of his Cannon, and the pointed arguments of musquets and bayonets.” According to Langdon, “Because we refuse submission to the despotic power of a ministerial Parliament, our own Sovereign,...has given us up to the rage of his Ministers...”²¹⁶

Yet the majority of Massachusetts Whigs did not embrace such a full-throated rejection of the king’s authority at this time; inertia and sentiment still favored resuming charter government and leaving an opening for the king. It was only with the hindsight of impending developments that the constitutional arrangement offered by the resumed charter came to appear as something of an anachronism. Events and additional news from across the Atlantic would soon make it increasingly more difficult to sustain the fiction of the king’s good intentions. The New England Restraining Act, to which the king had granted his assent on March 30, 1775, cast further doubt on the likelihood that he would ever see fit to appoint a constitutional governor.²¹⁷ The arrival of more troops in the colonies in the coming months implied that the king assented to the policy. Although Massachusetts Whigs had frequently referred in past months to the “ravages of the king’s troops,” for instance at Lexington and Concord, their official position held that those troops had been instruments used by the ministry, via its pawn Gage, to carry out various depredations. Over time, the confusion in references by Whigs to both the “king’s

²¹⁵ Proceedings of a Joint Meeting of Boston Committee and Other Committees, 2 Feb 1775, PIR, Doc. 774, 2120. See also the editor’s note in PIR, 2120n.22.

²¹⁶ Langdon, *A Sermon Preached Before the Honorable Congress*, 9-10.

²¹⁷ “New England Restraining Act,” in William MacDonald, ed., *Select Charters and Other Documents Illustrative of American History, 1606-1775* (New York: Macmillan, 1910), Doc. 75, 368-74.

troops” and the “ministerial army” would be settled in favor of the former; that is, it would become widely accepted that the king’s troops did in fact act according to the king’s wishes. A product of the circumstances and conceptions that characterized Massachusetts and its inhabitants in 1774 and 1775, the constitutional arrangement Whigs embraced thus established the baseline for future constitutional developments. The means by which Whigs arrived at this version of charter government must be considered the first stage in the story of constitution-making in revolutionary Massachusetts. Many of the issues that loomed large in years to come either originated or were shaped in the tumult of 1774-1775. Indeed, the reasons for Massachusetts’ relatively late adoption of a new state constitution—and for the process by which that constitution was written and ratified—cannot be fully grasped without an appreciation for the distinctiveness of its experience in this early period. One issue among many that would emerge, for example, concerned the executive. With the council serving as both the executive and the upper house of the legislature during much of the war (a result of the decision to resume charter government in 1775), debates came to focus on the necessity of adopting a new constitution that would separate these functions and relieve the tensions evident in the operations of the government.

Writing a new constitution would be conceivable in the future because Massachusetts existed in a “state of nature,” subordinate to no other power. Although in 1774-1775 Massachusetts Whigs had hoped that the ties binding their province to the king were severed only temporarily, the break proved permanent. Moreover, as events had already shown, the relationship between Massachusetts and Britain was not the only one that could be characterized as a “state of nature.” The American inter-colonial union itself also comprised such a “state of nature,” defined geopolitically. The fact that the colonies possessed no formal political union did

not preclude them from forming an alliance or from agreeing to cooperate in defense of the liberties all Americans possessed in the context of their separate colonies. Yet as Massachusetts Whigs were keenly aware, there also existed no guarantee that such a union would endure. Given the fortunes and vicissitudes of war—especially one featuring a formerly affectionate and still powerful mother country—the possibility was hardly far-fetched that a change of circumstances might lead one or more of the colonies to reassess their options and determine that reconciliation with the British offered the best course. All the colonies, including Massachusetts, retained the right to invoke the “great law of self-preservation,” which would easily override any loose confederation the Continental Congress might establish.

Massachusetts Whigs realized that the path to their own self-preservation necessarily took on continental dimensions. To defeat the British, Americans needed to aggregate their collective efforts “in one mode of self-preservation” while also ensuring that, in the process, no colony or colonies would be either driven or allured back into the British fold. In describing the difficulties such a task would entail, *Massachusettensis*, the Tory “scribbler,” had once again hit uncomfortably close to the mark. “Before [the colonies] can defend themselves against foreign invasions,” he had written in January, 1775, “they must unite into one empire.” *Massachusettensis* doubted the possibility. In his view, “There is perhaps as great a diversity between the tempers and habits of the inhabitants of this province [of Massachusetts], and the tempers and habits of the Carolinians, as there subsists between some different nations;...It is apparent that so many discordant, heterogeneous particles could not suddenly unite and consolidate into one body.”²¹⁸ Six months later, *Massachusettensis*’s nemesis John Adams

²¹⁸ *Massachusettensis*, 30 Jan 1775, *Novanglus, and Massachusettensis*, 184, 185. The need to reconstitute something resembling an American empire is a main theme in Eliga H. Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge, Mass.: Harvard University Press, 2012) and also in Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in*

offered a similar assessment of the challenge. “America is a great, unwieldy Body...” he wrote: “It is like a large Fleet sailing under Convoy. The fleetest Sailors must wait for the dullest and slowest. Like a Coach and six—the swiftest Horses must be slackened and the slowest quickened, that all may keep an even Pace.”²¹⁹ Although they viewed the question from different perspectives, both rivals captured the essence of the “state of nature” into which Massachusetts and its inhabitants had been cast.

the Atlantic World, 1664-1830 (Chapel Hill: University of North Carolina Press, 2005). The international character and fragility of the American union is the theme of David C. Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence: Kansas University Press, 2003). While Hendrickson focuses on the Confederation era that preceded the writing of the United States Constitution, this study has argued that the period surrounding the outbreak of the War of Independence was also characterized by a fragile union and by geopolitical conceptions premised on enduring corporate provincial identities.. See also D.W. Meinig, *The Shaping of America: A Geographical Perspective on 500 Years of History: Volume 1 Atlantic America, 1492-1800* (New Haven: Yale University Press, 1986), 385-407, 438-54.

²¹⁹ John Adams to Abigail Adams, 11 Jun 1775, AFC 1:215.

Chapter 3

The Rule of Equity: Governance and Mobilization, 1775-1780

“We rely on the Justice of the Honourable Court who have given us a Rule to be our guide in Town Affairs...,” wrote the inhabitants of Gloucester, a relatively large and formerly prosperous seaport town in Essex County, in 1779: “If any Individual is overtaxed in the Town Assessment—upon Application to the Assessors, with a state of their Circumstances, they are to be Abated.” The men of Gloucester were confident that, “when the General Court weigh our Situation they will follow so equitable a Rule,” for “if ye above Rule holds good respecting an Individual in a Town, by A parity of reason, it holds good in respect to a Town in a State.” By demanding “strict equity” in all aspects of the war effort, including in the number of men it was called upon to contribute to the frequent militia and Continental levies, Gloucester articulated nothing less than a foundational tenet of popular constitutional thought in Massachusetts.¹

Gloucester’s inhabitants, like the Massachusetts populace generally, spent much of their time and focused much of their attention between 1775 and 1780 on the distribution of war-related burdens. The war vastly increased the number and variety of interactions between inhabitants and authorities at all levels. Each interaction represented an opportunity for inhabitants to consider what made for legitimate and effective governance. Perhaps no task strained them more or affected as many aspects of their lives as the need to raise soldiers. While Massachusetts drew on a long history of mobilizing men for war, the new geopolitical context in which the state now operated changed the process dramatically. Congress directed the war effort, assigning quotas of troops that, in the abstract, were proportional to states’ capacities. Yet this mode of conducting mobilization on a continental scale could not take into account any

¹ Town of Gloucester, detailed account of losses by land and sea..., 17 Aug 1779, Massachusetts Archives, Boston, 185: 254, 251.

number of important circumstances and contingencies. Congress' inability to ensure that some states contributed their quotas of men increased the challenges facing others. Unlike during the French and Indian War, states such as Massachusetts lay directly exposed to the enemy. Formidable British forces either occupied Massachusetts territory or could descend on some part of it at any time. Massachusetts needed troops in the field, and a disproportionate burden of supplying those troops fell to the state's own populace.

The state's government needed to apportion the burden of supplying men in a way that would ensure inhabitants' continued compliance throughout the protracted struggle against the British. Massachusetts' complex political geography made this task more difficult. The General Court relied on approximately 275 towns of varying sizes and circumstances to raise the men, ultimately through voluntary compliance, and it needed to convey to their inhabitants that these requests were fair. Through painstaking effort, it designed its initial requests for troops with this goal in mind. However scrupulous the state's authorities, however, inhabitants inevitably found flaws in these requests and made their views known in an ongoing conversation about governance carried on through petitions such as Gloucester's.

The widespread invocation of equity did not necessarily follow from people's knowledge of or adherence to a specific body of political thought, though sometimes they might cite passages from a particular work or, more commonly, the Bible. Rather, its force and persuasiveness derived mainly from an engagement with the context of governance and the challenges of the day. As a concept, equity could not be extracted from the gritty and constantly changing reality of the world inhabitants were experiencing. Therefore its definition was not—and never could be—fixed. In short, inhabitants demanded that government acknowledge and factor into its requests the “peculiar circumstances” facing each part of the political community.

To formulate policy as though all towns and all inhabitants were equally capable of producing in the same measure, inhabitants maintained, was in fact to thrust upon them profound and counterproductive burdens. If government failed to demonstrate an adequate degree of responsiveness in light of these circumstances, then the legitimacy of its demands would diminish in proportion. In context, then, this dialog about equity, in which all Massachusetts inhabitants participated, functioned as a technology for mobilizing power, inextricably linked to the larger meaning and purpose of constitutional government.

The Revolutionary Charter-Constitution in Massachusetts

With a few important exceptions, the institutional arrangements and practices that comprised the Massachusetts constitution remained largely unchanged after the resumption of the charter in 1775. The Council's dual role as executive and upper chamber of the assembly briefly caused tensions at the top of the state's government before officials defined the Council's authority in the controversial area of appointing militia officers. Meanwhile, the basic framework of town government endured intact and was augmented by Committees of Correspondence, Inspection, and Safety. Finally, the practice of petitioning that connected inhabitants and towns to the General Court and vice versa remained essential to governance. Examining the context in which governance occurred in Massachusetts helps reveal the strains Continent-wide war placed on the system and suggests the lens through which inhabitants understood constitutional matters.

The House and Council continued to fill their charter-prescribed roles, with the Council exercising full executive powers in the governor's absence. In many respects, the Council's duties did not change markedly. Its legislative function remained the same. If the Council (or

“Board,” as it was frequently referred to) disapproved of a piece of legislation, it simply voted against it; exercising the governor’s veto power would have been redundant. At any rate, the preponderance of the assembly’s daily business had always been carried out “by the name of Order or Resolve” to avoid the charter’s stipulation that acts “be sent home for allowance or disallowance.”² Thus aside from no longer fearing the governor’s negative on acts, the Council did not need to alter its legislative habits. As for executive matters, the Council had always met with the governor in executive council sessions and, by charter, had needed to consent to a number of the governor’s orders, such as issuing warrants on the treasury and confirming appointments. Now, the Council would simply issue warrants and appoint officials on its own authority.

The Council resisted what it saw as dangerous infringements on its charter powers by the House. Its vigorous assertions of its constitutional authority are remarkable given that the first set of councilors chosen by the representatives in July 1775—the selections no longer conditional upon the governor’s approval—included a majority who had never before served in the upper chamber. Only eight of the twenty-eight men had served at least one term on the Council prior to 1775. Of the remaining twenty, eighteen had previously served as representatives. Only two men had no experience in formal provincial government: Charles Chauncey, a merchant from Kittery (York County) who also happened to be the nephew of Massachusetts war hero Sir William Pepperrell, and Moses Gill of Princeton (Worcester County), who had been a member of the Provincial Congress. The councilors included Massachusetts’ five delegates to the Continental Congress: John Hancock, John Adams, Samuel Adams, Thomas Cushing, and Robert Treat Paine. All were new to the Board and since their

² William Douglass, *A Summary, Historical and Political, of the First Planting, Progressive Improvements, and Present State of the British Settlements in North-America* (London: R. Baldwin, 1755) 1: 495.

duties in Philadelphia prevented them from attending regularly, the Council for 1775-1776 usually comprised eight members with Council experience and thirteen without.³ Throughout the coming years, the Council generally advocated more cautious, conservative positions, an inclination that followed at least in part from the institution's traditional role within Massachusetts' constitution. The Council was also naturally protective of its newly gained executive authority.

In fall, 1775, the House began to assert its right to a voice in the appointment of militia officers.⁴ The representatives staked their claim at the moment when an unprecedented number of vacancies appeared. In August, out of a desire to remove lingering tory officials from their positions, the General Court had mandated that all commissions issued by any royal governor or lieutenant governor would expire on September 19.⁵ No sooner had the assembly done this than the two houses immediately became deadlocked over a new militia bill that would spell out precisely how new militia officers would be selected and commissioned. As debate continued, the matter took on greater urgency in early November when news of the British destruction of Falmouth arrived in Boston. Citing the pressing need to defend Cumberland County from further depredations, the Council unilaterally appointed Joseph Frye as brigadier general of militia and empowered him, using the phrasing found in the charter, "to encounter, repel and resist by force of Arms, all and every person or persons, that shall attempt the enterprize, destruction, invasion or annoyance" of Massachusetts territory.⁶

³ For the councilors and their backgrounds, see John A. Schutz, *Legislators of the Massachusetts General Court, 1691-1780: A Biographical Dictionary* (Boston: Northeastern University Press, 1997), 146, 147, 169, 184, 187, 198, 199, 216, 218, 222, 224, 230, 231, 236, 241, 254, 275, 299, 300, 302, 303, 313, 317, 336, 354, 355, 356, 388.

⁴ For an account of the controversy that views it as a product of internal divisions, see Stephen E. Patterson, *Political Parties in Revolutionary Massachusetts* (Madison: University of Wisconsin Press, 1973), 131-32.

⁵ *Acts and Resolves* 5: 420-21.

⁶ Message from the Council, 7 Nov 1775, Mass. Arch. 158: 2.

The House objected that by appointing Frye or any other militia officers without consultation, the Board was violating the intent of the Continental Congress' July 18th resolution "That all officers above the Rank of a captain, be appointed by their respective provincial assemblies or conventions." That is, the Congress had recommended officers be appointed by the *entire* assemblies—which in Massachusetts included both the House and Council—in each of "the united English Colonies in North America."⁷ "Recollect[ing] that this Colony has hitherto considered herself as one of [those colonies], ever since that union took place," the House contended, "the...exclusive Claim of the Honorable Council is altogether indefensible."⁸ Did not Massachusetts "deserve as large privileges as any People" and exist "on an equal footing with the other Colonies[?]" Speaker of the House James Warren asked.⁹ If so, Elbridge Gerry argued, then the people's representatives justly condemned "the Conduct of the Council" for defending the right of "a detestable Governor" to appoint militia officers, "this precious Jewel with which he has heretofore gained such advantage over us."¹⁰

Since Cumberland County urgently needed a commander to oversee defense, the Council acquiesced to join with the House in formally appointing Frye as long as this method would not become a "precedent for the future." The Board first pointed to "our present constitution" whereby it legally exercised the governor's powers.¹¹ It discredited the House's appeal to the Continental Congress' July 18th resolution on the grounds that Congress' June 9th resolution recommending Massachusetts resume government "as near as may be to the Spirit & Substance of the Charter" comprised the definitive ruling on the issue. After all, Congress' June 9th resolution "specially respected this Colony, & this only" while "the other was a general Resolve,

⁷ JCC 2: 188, 187.

⁸ Message from the House, 9 Nov 1775, Mass. Arch. 158: 7.

⁹ James Warrant to John Adams, 5 Nov 1775, PJA 3: 282.

¹⁰ Elbridge Gerry to John Adams, 11 Nov 1775, PJA 3: 290.

¹¹ Message from the Council, 10 Nov 1775, Mass. Arch. 158: 9, 8.

& did not mention this Colony.” The councilors dismissed as ridiculous the House’s claim that they sought to deprive inhabitants of their “natural rights,” noting that “if there is an incompatibility between those rights & the Charter-Constitution of this Colony, the Council can only lament their being bound to the observation of such a Constitution.” By “religiously” following the charter the Council helped “to preserve the Union of the Colonies.”¹²

In fact, while both sides found it advantageous to assert Congress’ clear sanction for their arguments, Congress’ opinion remained far more flexible—indeed, noncommittal—than anyone in Boston willingly acknowledged. News of the controversy exasperated John Adams in Philadelphia, who hoped to keep it quiet lest it further bias delegates against his home colony. After reviewing the two resolutions, Adams noted the passage in Congress’ July 18th resolution leaving the matter of militia appointments “to the discretion of” any annually elected assembly “either to adopt the foregoing regulations in the whole or in part, or to continue their former, as they, on consideration of all circumstances, shall think best.”¹³ Thus Congress was not positively mandating that Massachusetts allow the House a voice in choosing officers, as the representatives argued. But neither did it seek to prohibit the Council from granting the House such a role “if, in their Discretion they think fit.”¹⁴ John Adams and Samuel Adams, both councilors, believed it in Massachusetts’ best interests for the Board to give up its exclusive right to appoint. Doing so would please the House and also the people at large, who greatly preferred Congress’ recommendation that militia companies elect their own captains.¹⁵ By late November, even the Adams’ fellow delegates and councilors Thomas Cushing and John Hancock, both

¹² Message from the Council, 10 Nov 1775, Mass. Arch. 158: 10.

¹³ JCC 2: 190.

¹⁴ John Adams to James Otis, Sr., 23 Nov 1775, LDC 2: 373.

¹⁵ See Elbridge Gerry to John Adams, 11 Nov 1775, PJA 3: 289; Joseph Hawley to John Adams, 14 Nov 1775, PJA 3: 297-98; James Warren to John Adams, 14 Nov 1775, PJA 3: 303; Samuel Adams to James Otis, Sr., 23 Nov 1775, LDC 2: 374-75; John Adams to Joseph Hawley, 25 Nov 1775, PJA 3: 386; John Adams to Mercy Warren, 25 Nov 1775, PJA 3: 387-88.

strident defenders of the Board's charter rights, backed off their hardline position and agreed "to gratify the House of Representatives" as long as Massachusetts government did not "further...deviate from the Charter."¹⁶ The militia act that finally passed the General Court in January 1776 provided for the nomination of field officers by either the House or Council, the candidates then to be confirmed by the other chamber. The House reserved the right to recall any militia units operating outside the limits of the province on the orders of the Council. In addition, members of militia companies received the right to elect their captains and subalterns.¹⁷

The militia controversy revealed that the Continental Congress did not impose its authority on Massachusetts as much as people of all stripes in Massachusetts actively sought to embrace and build up Congress' authority when doing so served their own interests and visions of the colony's future. Each time inhabitants invoked Congress they enhanced its legitimacy, binding themselves more strongly to implement its resolutions and grant its requests. At the same time, the militia controversy suggested that Massachusetts government would resist drastic institutional innovations. Hewing close to the charter resonated widely among inhabitants since doing so promised order amidst the chaos of war. The dispute between the Council and House did not lead to a series of structural changes at the top of Massachusetts government. Although tensions would occasionally flare up thereafter, and although the Council's dual executive and legislative roles would remain a point of concern, the two chambers maintained a functional, productive relationship throughout the war.

In October 1776, apparently at the suggestion of the Council in response to a recommendation of Congress, the General Court created a Board of War whose nine members were elected by joint ballot. The Board of War's initial commission granted it wide authority "to

¹⁶ [Thomas Cushing and John Hancock] to the Massachusetts Council, 29 Nov 1775, LDC 2: 409.

¹⁷ *Acts and Resolves* 5: 446-47.

order, & direct the operations of the Forces in the pay of this State, both by Sea, and Land”— provided it did not send the forces out of Massachusetts.¹⁸ The following July the General Court revised the Board of War’s commission to emphasize its logistical duties: procuring, purchasing, and supplying the state’s forces and fortifications. It could also equip and, with the consent of the assembly, direct the operations of armed vessels.¹⁹ The membership of the Board of War saw frequent turnover, but the House and Council eventually found a coterie of men, many of them merchants such as Samuel Phillips Savage who did not hold seats in the assembly, willing to sift through the endless logistical tasks that the war effort churned out.²⁰ This freed the representatives and councilors from some of the minutiae of mobilization without diminishing their authority.

The Political Geography of Massachusetts: Towns

These central institutions in Boston interacted with a population distributed across a complex political geography. In 1776, Massachusetts contained—according to a census taken in that year—333,418 white inhabitants in addition to 5,249 black inhabitants. The total population was certainly several thousand higher due to underreporting from the more remote areas of the state.²¹ About half the population concentrated in the more easterly counties that had long been extensively settled: Essex (50,923 white inhabitants in 1776), Suffolk (27,419), Middlesex (40,121), Plymouth (26,906), and Bristol (24,916). Since 1765, these counties had experienced steady population growth: Essex (19 percent increase in white inhabitants), Middlesex (23

¹⁸ Resolves Relating to the Appointment of a Board of War, 29 Oct 1776, *Acts and Resolves* 19: 626. The *House Journal* for 23 Oct 1776 refers to a committee formed to consider a message of the Council evidently proposing a Board of War. *House Journal* 52: 132.

¹⁹ Resolve Providing for the Establishment of a Board of War and Defining Powers and Duties, 7 July 1777, *Acts and Resolves*, 20: 78-80.

²⁰ For turnover in the membership of the Board of War, especially in the first months of its existence, see e.g. *House Journal* 52, 139, 153, 155, 159. For Savage, Schutz, ed., *Legislators of the Massachusetts General Court*, 334.

²¹ Evarts B. Greene and Virginia D. Harrington, *American Population Before the Federal Census of 1790* (New York: Columbia University Press, 1932), 17. Greene and Harrington note that sources other than the 1776 census place the population around 349,000.

percent increase), Plymouth (30 percent increase), and Bristol (19 percent increase). As a result of the British occupation and the American siege of Boston, Suffolk County's population saw an anomalous 22 percent decrease between 1765 and the number reported in 1776. The inland counties of Worcester (45,031 white inhabitants in 1776), Hampshire (32,701), and Berkshire (17,592) experienced significant to dramatic growth between 1765 and 1776: 44 percent for Worcester; 77 percent for Hampshire; and 617 percent for Berkshire. The three Maine counties also saw large increases in population. York County's 1776 population of 17,623 represented a 68 percent increase; Cumberland's population of 14,110 a 92 percent increase; and remote Lincoln's population of 15,546 a 592 percent increase. The peripheral maritime counties contained the remaining white population. 12,936 whites reportedly lived in Barnstable County in 1776, good for a modest 11 percent increase from 1765. The populations of Duke's County on Martha's Vineyard (2,822, a 29 percent increase) and Nantucket (4,412, a 56 percent increase) remained largely isolated and often out of contact with the mainland during the war.²²

By the end of 1780, Massachusetts had no fewer than 276 incorporated towns and a number of other unincorporated settlements and plantations, each varying in population, geographical situation, and state of development.²³ Historian Edward M. Cook, Jr. identifies five

²² 1776 county population totals are taken from *ibid.*, 31-40. Counties such as Hampshire, Barnstable, Bristol, and Lincoln are missing returns from towns with significant populations. Population increases are calculated using county figures—which again include only the white inhabitants—for the 1765 census in the “Dana MS.” in *ibid.*, 21. For the development of particular counties, see Gregory H. Nobles, *Divisions throughout the Whole: Politics and Society in Hampshire County, Massachusetts, 1740-1775* (New York: Cambridge University Press, 1983); John L. Brooke, *The Heart of the Commonwealth: Society and Political Culture in Worcester County, Massachusetts, 1713-1861* (Amherst: The University of Massachusetts Press, 1992 [orig. 1989]), 1-65. On the Maine counties, see Alan Taylor, *Liberty Men and Great Proprietors: The Revolutionary Settlement on the Maine Frontier, 1760-1820* (Chapel Hill: University of North Carolina Press, 1990), 12-21; James S. Leamon, *Revolution Downeast: The War for American Independence in Maine* (Amherst: The University of Massachusetts Press, 1993), 3-39; and Elizabeth Mancke, *The Fault Lines of Empire: Political Differentiation in Massachusetts and Nova Scotia, ca. 1760-1830* (New York: Routledge, 2005).

²³ The number of 276 incorporated towns is arrived at by consulting the list of towns and dates of incorporation in Oscar Handlin and Mary Handlin, *The Popular Sources of Political Authority* (Cambridge, MA: Belknap Press of Harvard University Press, 1966), 933-42. Van Beck Hall counts 343 towns, districts, and plantations as of 1784. Hall, *Politics Without Parties: Massachusetts, 1780-1791* (Pittsburgh: University of Pittsburgh Press, 1970), 3.

categories of towns. Cities or urban centers such as Boston and Salem possessed vibrant commercial activity, concentrated wealth, and a large number of political leaders who nonetheless composed a relatively small proportion of the overall population. Major county towns such as Worcester, Springfield, Cambridge, and Barnstable dominated their respective hinterlands and contributed a disproportionate number of their county's provincial or state officials. They featured a stratified social structure and limited political mobility due to the influence of a select number of families who consistently held major offices. Suburbs and secondary rural centers were located near larger towns but boasted significantly less commercial activity. They often contained a half dozen or so moderately prosperous families that contributed men to the town's leadership class, though suburbs sometimes elected aspiring elites from nearby urban centers who settled in the town in search of political opportunities denied them elsewhere—especially if the individual agreed to serve for free.²⁴

Farming villages comprised a fourth category of towns. Often remote and relatively poor, these communities contained a more egalitarian social order as well as a more equal distribution of property. As a result, town leadership fell to a wider cross-section of the inhabitants, with few dominant families. Although certainly interested in the issues affecting the province or state as a whole, farming villages had often neglected to send representatives to Boston. Frontier towns represented the final category of communities present in Massachusetts. Founded relatively recently—1750 or after serves as a useful and revealing benchmark for a

My depiction of Massachusetts' political geography departs from that offered by scholars such as Hall, who explain it in terms of a discernable split between towns along a "commercial-cosmopolitan" spectrum. In this view, more commercial-cosmopolitan towns lay predominantly in the eastern parts of the state while the less commercial-cosmopolitan towns were in the western parts. For this interpretation, see *ibid.*, 3-62; Patterson, *Political Parties in Revolutionary Massachusetts*, 33-62; Jackson Turner Main, *Political Parties Before the Constitution* (New York: Norton, 1973), 83-119. A similar analysis is presented in Marc Egnal, *A Mighty Empire: The Origins of the American Revolution* (Ithaca: Cornell University Press, 1988), 20-50, 150-67.

²⁴ For cities and urban centers, see Edward M. Cook, Jr., *Fathers of the Towns: Leadership and Community Structure in Eighteenth-Century New England* (Baltimore: The Johns Hopkins University Press, 1976), 172-74; for county towns, *ibid.*, 174-77.

study of the Revolutionary period—these towns existed in a protean state of development that would eventually pass, leaving them as one of the other types of town depending on their local situations. At their early stage, frontier towns usually had not existed for long enough to develop a clear social or political hierarchy and town leadership positions were, by necessity, shared among a large swath of the eligible inhabitants.²⁵

The diversity amongst the towns and the differences in how each type of town functioned in the larger social, economic, and political contexts of Massachusetts militates against simplistic generalizations about the existence of stable “parties” or interest groups. Each county possessed or, clearly, would eventually possess towns of varying types. Date of incorporation probably comprises the most relevant variable for the study of towns during Revolutionary war mobilization. An astounding 118 of the 276 towns incorporated in 1780 had been incorporated after mid-century. Between them Suffolk, Essex, Middlesex, Plymouth, Bristol, Barnstable, Dukes County, and Nantucket contained only twelve towns incorporated in 1750 or after. In contrast, 35 of Hampshire County’s 46 towns were newly incorporated. In Worcester, the proportion was twenty-one of 44 towns. Only two of Berkshire’s twenty-four towns had been incorporated prior to 1750. The Maine counties followed a similar pattern: York (five of twelve towns incorporated after mid-century), Cumberland (five of nine), and Lincoln (eighteen of nineteen).²⁶ The relative youth of a large proportion of the towns in these counties certainly affected how inhabitants living in them experienced the demands of mobilization. Lacking the same degree of social stratification and political stability as long-established towns, local authorities undoubtedly faced great challenges during the war. Yet while they dealt with

²⁵ For farming villages, see *ibid.*, 179-81; Michael Zuckerman, *Peaceable Kingdoms: New England Towns in the Eighteenth Century* (New York: Norton, 1970). On frontier settlements, Cook, *Fathers of the Towns*, 181-82. Mancke, *Fault Lines of Empire* traces in detail the frontier settlement of Machias (Lincoln County), which would be incorporated in 1784.

²⁶ Handlin and Handlin, *Popular Sources*, 933-42.

hardships in the present inhabitants also knew their towns were destined to evolve, and would with time take their places within the interconnected network of towns that ultimately composed the state. The concern for many in these years revolved around whether their particular town would be able to survive long enough to realize its destiny.

The structure of town government remained largely the same during the Revolution. The onset of war initially roused many towns throughout Massachusetts to elect representatives to serve in the General Court. During the provincial period the House usually numbered between 90 and 125—though many representatives did not linger long in Boston. Whether towns proved unwilling to raise money to pay a man to serve or unable to find one to serve for free, often fewer than 60 percent of eligible towns bothered to send a representative. Incorporated towns with fewer than 80 legal voters were not subject to fines for nonattendance. Yet in 1775 towns sent 218 representatives; only 60 towns declined. In 1776, after the General Court changed the number of representatives towns were permitted to elect relative to their populations, the House numbered nearly 300, 90 percent of eligible towns sending at least one man. Although the number of representatives declined in subsequent years, even among towns in Suffolk and Essex counties, more communities than ever were sending men to Boston.²⁷

In most towns, representatives were respected leaders who had previously served in one of the major town offices.²⁸ The choice was not always unanimous and some elections caused controversy. In July, 1775, twenty-six inhabitants of Waltham discovered to their chagrin that the war presented opportunities for unscrupulous candidates. They claimed that Jonas Dix, who had served the town in Boston since 1764, had teamed up with the town's selectmen to disqualify some eligible voters. In addition, since a number of Waltham inhabitants were

²⁷ Schutz, *Legislators of the Massachusetts General Court*, 21, 51, 112, 119, 121; Cook, *Fathers of the Towns*, 85; Douglass, *A Summary, Historical and Political*, 1: 488-517.

²⁸ Cook, *Fathers of the Towns*, 11.

currently serving in the forces besieging Boston, Dix had allegedly arranged with the men's captain to grant leave to those who would return to town to vote for Dix while detaining those who planned to vote for Dix's opponent. The captain detained seven men and Dix won the election by four votes.²⁹ The House ultimately dismissed the accusations against Dix and allowed him to retain his seat, which he also won the following year.³⁰ Most towns did not experience such difficulties in electing a representative, but the Waltham inhabitants' complaint reveals that towns took their choice seriously. When Reading's representative contracted a debilitating illness in early 1776, the selectmen requested they be allowed to call an election for a replacement. Since "Representation and Taxation are so twisted together in our happy Constitution," they wrote, Reading's inhabitants desired "a Share in Planning as well as prosecuting Planns [sic] for our Defence Safety and Deliverance."³¹

Towns elected representatives only after they had chosen a slate of between twenty and forty men to serve as town officers for the ensuing year. The spectacularly dysfunctional election that took place in the Bristol County town of Swansea in March, 1776, though hardly representative of the orderly procedures most towns enjoyed, serves to illustrate key aspects of local governance. Upon convening, the town's first order of business was to elect a moderator who would oversee all its meetings for that year. An important officer, moderators usually came from the ranks of prominent men who had served the town in other major offices.³² According to one collection of disgruntled inhabitants, Swansea's 1776 meeting began to go awry when "a Large Number of Fre[e]holders...Insisted to have a Legal Meeting" in which all voters met the £20 ratable property requirement as determined by "the last [tax] Valuation." The town

²⁹ Petition of Inhabitants of Waltham (against election of Jonas Dix), 28 Jul 1775, Mass. Arch. 180: 113.

³⁰ For Dix, see Schutz, *Legislators of the Massachusetts General Court*, 207.

³¹ Selectmen of Reading for leave to elect a replacement representative, 24 Jan 1776, Mass. Arch. 180: 291.

³² Cook, *Fathers of the Towns*, 18.

constable held a hat and began to collect the votes for moderator written on pieces of paper, as was customary in town elections.³³

At this point, Jerathmeel Bowers, a militia colonel who had been the town's representative from 1759 to 1774, claimed "that every man had a right to Vote for a Moderator that paid a Poll Rate."³⁴ Even if a relatively large proportion of men possessed £20 ratable property, making payment of the poll tax (£0 5s 5d as stated in the tax act of October 31, 1775) would have broadened the pool of qualified voters.³⁵ "Polls" were males over the age of sixteen eligible to pay taxes. In 1777, Swansea possessed 447 while Massachusetts as a whole reported 75,689—slightly under one-fourth of the aggregate white population.³⁶ Because voters needed to be at least twenty-one years old, however, only about one-fifth of the total population of a town could qualify as its "inhabitants."³⁷ Property qualifications in turn further reduced the number of voters.

When Bowers appointed a rival vote collector to follow through on his poll tax qualification, "a Respectable Freeholder, being Displeas'd at such Conduct over sett the Hatt." "Enraged," Bowers retaliated by ripping the votes out of the constable's hat, throwing them "abroad," and declaring that "he had as good a Right to manage the affairs of [the] Meeting as the Select men." After "several hours" had passed, the meeting reconvened and attempted another vote, only to witness Bowers again order a lackey to hold another hat to collect votes.

³³ Inhabitants of Swansea, complaint against Jerathmeel Bowers's conduct in a town meeting, 27 May 1776, Mass. Arch. 181: 23. On voting procedures, see Cook, *Fathers of the Towns*, 9.

³⁴ Inhabitants of Swansea, complaint against Jerathmeel Bowers's conduct in a town meeting, 27 May 1776, Mass. Arch. 181: 23.

³⁵ For town voting qualifications, see Robert E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691-1780* (Ithaca: Cornell University Press, 1955), 80-99. For 5s 5d poll tax, *Acts and Resolves* 5: 433.

³⁶ Greene and Harrington, *American Population Before the Federal Census of 1790*, 35, 18. Dividing the number of white males over 16 in 1777 for Suffolk, Essex, Middlesex, Hampshire, Plymouth, Barnstable, Bristol, York, and Worcester counties by the total populations for those counties as returned in the 1776 census, and then averaging the proportions, yields 24.3 percent.

³⁷ Cook, *Fathers of the Towns*, 24.

Bowers again ripped the votes out of the constable's hat and "threw them on the floor," initiating "a great Tumult amongst the people." Fearing damage to their building, the proprietors of the meetinghouse sent the townsmen outside and locked the doors. Bowers and his supporters, influenced by rum their leader had provided, "proceeded to the Choice of Town Officers" free from interference. The three selectmen Bowers' men elected subsequently called another town meeting where inhabitants elected—to no one's surprise—Jerathmeel Bowers as Swansea's representative for the year.³⁸

The unusual degree of conflict Swansea witnessed in 1776 suggests at the very least that inhabitants recognized their town officers, always important in the governance of the community, would be taking on unprecedented responsibilities in the midst of the Revolutionary crisis. A town's selectmen carried out a wide range of duties related to managing the town's property, institutions, and people throughout the year. Numbering three, five, seven, or nine depending on the size of the town, the selectmen did not earn any pay for their time-consuming work. Neither usually did the town's treasurer or clerk make any money. Since these major town offices carried with them the most authority and responsibility, they usually fell to middle-aged men who had previously served the town in one of the many minor offices available each year, such as surveyor, inspector, fence viewer, hog reeve, warden, constable, or tax collector. Indeed, depending on the size and type of town, between half and all of the "inhabitants" would hold some type of town office in their lifetimes.³⁹ Busy in peacetime, town officers were about to be confronted with an unprecedented number of laborious tasks that strained their capacities and also relations with inhabitants.

³⁸ Inhabitants of Swansea, complaint against Jerathmeel Bowers's conduct in a town meeting, 27 May 1776, Mass. Arch. 181: 23-24. Bowers

³⁹ Cook, *Fathers of the Towns*, 2, 62, 85, 103, and passim.

The one significant change to the structure of town government came in the form of Committees of Correspondence, Inspection, and Safety. Originally, these were separate committees formed during the latter stages of the Imperial Crisis for specific purposes. Committees of Correspondence had been formed to maintain lines of communication with other towns, “apprising the Community of Danger” posed by the British. Committees of Inspection had the original goal of enforcing the nonimportation and non-consumption agreements. Committees of Safety helped to protect the community from Tories and British threats while tending to “lesser matters relative to internal police.” Although extralegal in origin, the committees had been scrupulously legalistic in justifying their actions, acting “discretionally” only “when [they] could not procure Resolves” from the Continental Congress, Provincial Congress, or General Court.⁴⁰

In February 1776, the assembly incorporated all the committees, combining them into one per town. It mandated that once a year each town was to elect a variable number of inhabitants “for the special business of attending to the political, & general Interest of the Colonies, while the attention of the other officers is employed about the particular concerns of their respective Towns.”⁴¹ In theory, the committees were to take the lead in implementing the mobilization-related policies of the Continental Congress and the General Court “respecting the present struggle with Great Britain.” In practice, the General Court’s acts and resolves often

⁴⁰ Report relative to powers & duties of Committees of Correspondence, 25 Oct 1776, Mass. Arch. 137: 118-19. On committees’ commitment to due process and the rule of law, T.H. Breen, *American Insurgents, American Patriots: The Revolution of the People* (New York: Hill and Wang, 2010), 208. On the origins and early activities of committees generally, see *ibid.*, 185-240, *passim*; Richard D. Brown, *Revolutionary Politics in Massachusetts: The Boston Committee of Correspondence and the Towns, 1772-1774* (New York: Norton, 1970), 131-34; David Ammerman, *In the Common Cause: American Response to the Coercive Acts of 1774* (New York: Norton, 1975 [orig. 1974]), 103-24.

⁴¹ Resolve Empowering Each Town in the Colony at their Annual March Meeting to Choose Committees of Correspondence, Inspection, & Safety, 13 Feb 1775, *Acts and Resolves* 19: 259. On 10 May 1777, the General Court also mandated that an additional town officer be elected “to procure and lay before [the authorities], the evidence that may be had of the inimical dispositions toward this or any of the United States, of any inhabitant...whose residence in this state is dangerous to the public peace and safety.” *Acts and Resolves* 5: 648.

empowered both the committees and the selectmen to carry out a given policy, leaving the town to decide which body was most capable.⁴² Given the influx of demands on town governments, the creation of the committees helped ease the workload of overburdened town officials. Evidence suggests that the men elected to the committees did not differ markedly from those chosen to serve in the other major town offices.⁴³

The authority and legitimacy of town government was crucial because the implementation of province or state-wide policy depended largely on local compliance. Massachusetts simply did not possess the means to oversee the enforcement of the General Court's legislation in each of the state's communities. Throughout the war, the General Court introduced additional indirect mechanisms to ensure enforcement—mainly in the form of fines for officials and towns. Built into the system itself, however, remained numerous opportunities for local discretion.

Petitions

⁴² See for instance the Act Against Monopoly and Oppression, 25 Jan 1777, *Acts and Resolves* 5: 583-89.

⁴³ Cook, *Fathers of the Towns*, 186. The Oct 1776 General Court committee report recommended “discreet, prudent, firm persons” for the committees given their extensive powers to pursue Tories and confiscate their property. Report relative to powers & duties of Committees of Correspondence, 25 Oct 1776, Mass. Arch. 120. The men elected to the Acton (Middlesex County) committee in 1776 serve as a suggestive sample. Prior to serving on the committee, Ephraim Hosmer had served as a fence viewer in 1755, constable in 1756, selectman in 1762-1767, tithingman in 1771, and warden in 1772. He would go on to serve as a longtime town moderator beginning in 1777. See Acton Memorial Library Reference Staff, eds., *Early Town Records of Acton, Massachusetts, Transcriptions* (Acton Memorial Library, 2013), 123, 130, 168, 176, 181, 187, 192, 198, 228, 239, 269, 279, 291, 300, 314, 329, 340. Simon Hunt was surveyor of the highways in 1756 and 1769, fence viewer in 1757 and 1760, constable in 1762, culler of staves and hoops in 1763, tithingman in 1766, and warden in 1770. He was also a captain in the militia. For unclear reasons, Hunt was dismissed from the committee in 1776, though he would be elected town representative in 1780. *Ibid.*, 130, 136, 155, 168, 176, 192, 208, 218, 269, 274, 279, 317. Hunt's replacement on the 1776 committee, Thomas Noyse (or Noyes), had been hog reeve in 1764, surveyor of the highways in 1768 and 1773, warden in 1773, and would go on to serve on the committee in 1778 and 1779 before becoming a selectman in 1787. He was a lieutenant in the militia. *Ibid.*, 182, 204, 249, 269, 291, 300, 373. Deacon Joseph Brabrook had been fence viewer in 1763, 1766, and 1767, constable in 1769, surveyor of the highways and hog reeve in 1772, warden in 1774, and would go on to serve as a selectman in 1777, 1778, and 1780. *Ibid.*, 177, 192, 198, 208, 239, 254, 269, 279, 291, 314. Joseph Robbins was constable in 1753, fence viewer in 1755, tithingman in 1761, surveyor of the highways in 1762, warden in 1767, a member of the Committee of Inspection in 1775, and would be on the committee in 1776, 1777, 1778, and 1780—in addition to being the town's delegate to the constitutional convention in 1779. *Ibid.*, 114, 123, 164, 169, 198, 264, 269, 279, 291, 305, 314.

The practice of petitioning linked towns and individuals to the General Court and constituted an essential aspect of Massachusetts governance. With few means of obtaining regular information about the issues facing various parts of the province, the General Court relied on inhabitants in the localities to bring their problems to its attention. Government therefore operated on a reactive, responsive basis. To be sure, representatives often carried with them instructions from their constituents that outlined the town's views regarding pieces of legislation currently or imminently before the assembly. Yet petitions proved more flexible; they could be composed by anyone at any time about any problem that arose. While some could be abstract statements of protest with little chance of immediate redress—along the lines of the anti-slavery petitions of the antebellum era—most addressed wholly practical concerns: applications for town incorporation; settlement of local controversies; taxes. By the time of the Revolution, petitioning had long served as a key component of Massachusetts government, having been adapted by seventeenth-century Puritans from even longer-standing English practices.⁴⁴

The General Court spent much of its time reading and considering petitions. Of all the colonies, Massachusetts' assembly consistently received the most petitions annually, both in raw numbers and, with the possible exception of Rhode Island, per capita.⁴⁵ When a petition arrived

⁴⁴ David D. Hall, *A Reforming People: Puritanism and the Transformation of Public Life in New England* (New York: Knopf, 2011), 87-92; David Zaret, *Origins of Democratic Culture: Printing, Petitions, and the Public Sphere in Early-Modern England* (Princeton: Princeton University Press, 2000), 81-86. On instructions, see Alison Olson, "Eighteenth-Century Colonial Legislatures and Their Constituents," *Journal of American History*, 79 (Sep., 1992): 553-56; J.R. Pole, *Political Representation in England and the Origins of the American Republic* (New York: MacMillan, 1966), 72.

⁴⁵ *Ibid.*, 557. The nature of the records makes it extremely difficult to count the total number of petitions any colonial assembly received in a given year, and the sources from which Olson compiles her table probably undercount of the number of petitions received. See *ibid.*, 567. Olson estimates that the Massachusetts General Court received an average of 257 per year between 1760-1765. The indexes for Mass. Arch. volumes 78, 79, and 117 alone list 318 petitions for 1760—though the majority of these were written by men serving in the province's army that year and thus suggest that war consistently increased the frequency of petitioning. The claim that Massachusetts received at least the second most petitions per capita is based on dividing the average number of petitions received 1760-1765 (*ibid.*, 557) by the available 1765 population census for Massachusetts and the (probably inflated) population estimates for Connecticut, and Rhode Island.. MA: 257.0/241,813 = .0010628; CT:

in Boston, it received a reading before the Speaker of the House assigned a committee to deliberate on it. These committees usually consisted of three representatives whose qualifications included their presence in Boston and their willingness to serve on such committees. Throughout the provincial period, the norm was for about only one-fourth of the elected representatives to handle the majority of the committee assignments. John Schutz finds that beginning in 1775, however, most representatives took an active role in serving on the committees considering petitions, with only 40 of 218 members remaining aloof the first year of the war.⁴⁶ Once convened in committee, the members could rule in one of several ways. It could “dismiss” the petition outright or, somewhat more politely, order it “to lie” for the present, often with little chance of it being reconsidered. If a committee found the petition worthwhile, it could recommend that it be considered alongside similar petitions touching on the same issue. These petitions would inform pieces of general legislation. If the petition had merit but was of a private or localized concern, the committee would recommend a specific monetary grant or course of action that the entire House would then resolve upon.⁴⁷

The composition and style of argumentation found in petitions conformed to precise conventions. Judging by the range of formal literacy apparent in manuscript petitions, almost everyone in Massachusetts either knew how to draft a petition themselves or could easily find someone who did. Moreover, those “memorials,” as they were sometimes called, which

130.3/180,000 = .00072388; RI: 100.3/60,000 = .00167. Population figures from Greene and Harrington, *American Population*, 21 (MA, Dana M.S.), 6 (CT and RI).

⁴⁶Schutz, *Legislators of the Massachusetts General Court*, 36-37, 39, 50-53, 55, 62-64.

⁴⁷ While no systematic study of petitions or their precise legislative impact has been completed for Massachusetts, studies of provincial Virginia and Pennsylvania both conclude that petitions often formed the basis of more than 50 percent of legislation in a given session, reinforcing a perception of popular participation and government responsiveness. See Raymond C. Bailey, *Popular Influence on Public Policy: Petitioning in Eighteenth-Century Virginia* (Westport, CT: Greenwood Press, 1979), 62; Alan Tully, *William Penn's Legacy: Structure and Politics in Provincial Pennsylvania, 1726-1755* (Baltimore: The Johns Hopkins University Press, 1977), 99-100, 188-89. For an overview of petitioning and legislation in the colonies generally, see Olson, “Eighteenth-Century Colonial Legislatures and Their Constituents,” 556-67.

betrayed their authors' lack of literary refinement do not appear to have been at any significant disadvantage with the General Court, provided they made compelling cases. Petitions could be written by individuals or a group of individuals, including women, Native Americans, and free black denizens.⁴⁸ When a group of individuals sought to submit a complaint about local authorities—as was the case with the enemies of Jonas Dix and Jerathmeel Bowers—petitioners sometimes designated themselves the “inhabitants” of a given town or place. Petitions related to town matters could be signed by the “selectmen,” the “committee,” the “selectmen and committee,” the “selectmen for the inhabitants,” or simply “the town” as a whole. Petitions began by acknowledging the relevant authority to which the petition was addressed, usually both “the Honorable Council and the House of Representatives”—though petitioners might address only the Council or the House in certain instances. After identifying themselves, the petitioners then “Humbly shew[ed] that” they were currently experiencing some hardship or required government intervention. They concluded by pleading that “their honors would take [their] case into their wise consideration and grant such relief as you in your wisdom shall see meet.”⁴⁹

While it would be a mistake to read petitions as though they presented uniformly objective descriptions of reality, it would be equally mistaken to overlook the insights they offer if analyzed in the appropriate context. As historical sources, they are not less valuable because their authors possessed agendas. The explicitness of their bias, in fact, can make them easier to evaluate than sources whose forms do not announce their intent so forthrightly. The temptation

⁴⁸ For African American petitions to the Massachusetts General Court in the Revolutionary period and Early Republic, see Daniel Carpenter and Nicole Topich, “Contested boundaries of representation: Patterns of transformation in black petitioning in Massachusetts, 1770-1850,” in Emmanuelle Avril and Johann N. Neem, eds., *Democracy, Participation, and Contestation: Civil Society, Governance, and the Future of Liberal Democracy* (New York: Routledge, 2015), 201-22; see also their excellent “Antislavery Petitions Massachusetts Dataverse,” Harvard University, accessed 22 May 2016, which contains thousands of digitized petitions from the seventeenth, eighteenth, and nineteenth centuries: <https://dataverse.harvard.edu/dataverse/antislaverypetitionsma>

⁴⁹ For the conventions of seventeenth-century English petitions with an emphasis on their need to appear deferential, juridical, and spontaneous, see Zaret, *Origins of Democratic Culture*, 90-99.

to exaggerate and bend the truth undoubtedly proved irresistible for many, and yet petitioners could not simply claim anything they wished. Their presentation of facts, description of circumstances, requests for relief—all needed to meet basic standards of plausibility. Having drafted or helped to draft many petitions themselves, the representatives in Boston read petitions shrewdly.⁵⁰ It is telling that, the representatives' healthy skepticism notwithstanding, the General Court organized its business with the expectation of receiving petitions, ultimately granting many or otherwise using them to draft numerous acts and resolves. The legislators themselves clearly found the arguments contained in many petitions compelling.

Crucially, petitioners made their arguments by appealing to the prevailing normative values of their society and political community. They needed to demonstrate how their requests conformed to universally accepted understandings of government's means and ends. By granting a request, petitioners argued, the General Court would only be furthering the aims of government as revealed in all its other legislation. Making their cases effectively therefore required petitioners to articulate the fundamental assumptions and principles to which not only they themselves subscribed, but those which also resonated with their fellow inhabitants throughout Massachusetts. In this sense, petitions can and should be read as sophisticated expressions of constitutional thought, for they offer a window onto people's concepts about governance at precisely those moments when they were actually experiencing governance.⁵¹

⁵⁰ For instance, in 1780 James Bowdoin, former president of the council and future governor, submitted a petition on behalf of "a joint Committee of the Corporation of Harvard College & of the American Academy of Sciences" to request that the state provide a ship so a scholar could view an eclipse off the coast of Maine. 9 Sep 1780, Mass. Arch. 186: 285-86. In 1779, former Speaker of the House James Warren submitted a petition on behalf of his hometown of Plymouth to request the General Court's help in provisioning the town, which was unable to supply the families of Continental soldiers. James Warren for the Town of Plymouth, 31 May 1779, Mass. Arch. 185: 183.

⁵¹ My reading of petitions as texts is informed by Quentin Skinner's interpretation, especially pertinent to petitions, that historical subjects "will generally find it necessary to claim that their actions were in fact motivated by some accepted principle. [Furthermore]...even if they were not motivated by any such principle, they will find themselves committed to behaving in such a way that their actions *remain compatible* with the claim that their professed principles genuinely motivated them. To recognise these implications is to accept that the courses of

The Revolution caused a sharp increase in the number of petitions because wartime mobilization increased the breadth and scope of governance. In the 1776-1777 legislative year of 33 weeks, the House appointed 1,629 committees—most of them undoubtedly formed to consider petitions. By comparison, 1773's thirteen-week legislative session had seen 455 committees.⁵² The General Court passed 1,089 separate pieces of legislation in 1775-1776 and 1,205 in 1776-1777, a large proportion of them resolves on individual petitions or legislation passed to mitigate general problems pointed out by numerous petitioners throughout Massachusetts.⁵³ In short, never before had inhabitants been confronted with so many opportunities to consider the nature of their relationship to the state and to articulate what made for legitimate and effective government. They did so by explaining how the burdens of war affected their lives within their local communities and by situating themselves firmly in the context of Massachusetts' larger political geography. In their constitutional thought and political philosophy, there existed no sharp distinctions between abstract principles and the practical experience and context of governance. Between 1775 and 1780 inhabitants recognized that the interconnected issues of troops, finance, and protection were straining governmental authorities at all levels, in large part due to the character of the American confederation into which

action open to such agents will in part be determined by the range of existing principles they can hope to profess with some degree of plausibility." [Emphasis in original.] Skinner, *Visions of Politics, Volume I: Regarding Method* (Cambridge, UK: Cambridge University Press, 2002), 155. By reading petitions and situating them in the larger context of governance, my intent, as Skinner explains elsewhere, "is to challenge any categorical distinction between texts and contexts." *Ibid.*, 117. For other specific encapsulations of Skinner's method that have influenced my interpretation and use of sources, *ibid.*, 149-50, 153, 156, 174. On how shared concepts and language necessarily comprises the arena for all political debate, see James Farr, "Conceptual Change and Constitutional Innovation" in Terrance Ball and J.G.A. Pocock, eds., *Conceptual Change and the Constitution* (Lawrence: University of Kansas Press, 1988), 15-18.

⁵² Schutz, *Legislators of the Massachusetts General Court*, 51.

⁵³ *Ibid.*, 112, 117. The organization and nature of the records makes it impossible to provide an accurate count of the number of petitions the General Court received, but the scale of petitioning is suggested by the number of volumes in the Mass. Arch. Collection that are composed either almost completely or significantly of petitions. See Mass. Arch. vols. 180-88 ("Revolution Petitions"), 206-39 ("Revolution Resolves"). See also the "Revolution Council Papers" volumes in Mass. Arch. 164-79, which contain large numbers of petitions. I would like to thank Nicole Topich for providing me with indexes of these Council volumes.

Massachusetts was now incorporated. They articulated an understanding of government encapsulated in the concept of equity, the meaning and implications of which became ever clearer and more refined as they faced the war's challenges.

Troops

Fifty-two years old in 1779, Ebenezer Keen had "been out in the service of his Country at War a number of years." He first left his Plymouth County hometown of Abington in 1754 to serve along the Kennebec River in Maine for three months. After serving for nine months in 1755, he spent nine months at Lake George in 1756, nine months at Fort William Henry in 1757, nine months at Crown Point in 1758, and five months at Crown Point and Ticonderoga in 1761. Keen's Revolutionary War service did not take him quite as far afield. He spent eight months with the American army at Roxbury in 1775, five months at Hull in 1776, and three months in Rhode Island in 1777. All this "hard Service & lying on the Cold Ground," five years in total, had led to "a Rheumatic Disorder and...an incurable lameness" that inspired his petition to the General Court for a pension.⁵⁴ On the surface, Keen's account suggests similarities and continuities between Massachusetts' mobilization in the French and Indian War and the Revolution; Keen himself presented his tours in both conflicts as of a piece. Yet in fact Massachusetts' mobilization during the War of Independence differed in striking ways from earlier efforts. Raising men for the Revolution placed unprecedented strains on the populace and on state and local authorities. Massachusetts inhabitants were by and large no different than they had been two decades earlier. They were exactly the same, in Keen's case. It was the larger

⁵⁴ Petition of Ebenezer Keen, 6 Apr 1779, Mass. Arch. 185: 83. Keen's petition was read in the House and assigned to a committee of three representatives, but its fate is unclear. 14 Sep 1779, *House Journal* 55: 93. The entry for Ebenezer Keen of Abington in the service records contains only Keen's service in 1775. *Massachusetts Soldiers and Sailors of the Revolution* (Boston: Wright and Potter, 1903) 7: 14.

context in which governance occurred and the nature of the challenges Massachusetts now faced that made the difference.

Massachusetts now conducted war as part of a confederation of states under the regulation of Congress. Though its policies on pay and discipline had often approximated those of its New England neighbors, Massachusetts had never needed to coordinate as closely with other colonies on issues pertaining to its own forces. Beginning in 1775, Congress adopted policies for the Continental Army that would be least objectionable to the diverse set of colonies it oversaw. Bound to adhere to Congress' wishes, these decisions did not always conform to the expectations of Massachusetts inhabitants and they made it more difficult to raise troops throughout the war.

A case in point is the pay scale Congress mandated in July, 1775, which set the monthly rate for soldiers in the Continental Army. Since the General Court found it necessary at first not to incentivize one kind of military service over another, in effect these rates functioned as the baseline compensation for service in the state's militia forces as well. Massachusetts inhabitants found Congress' pay for privates too low, comparing it unfavorably to the province's wages during the French and Indian War. First, Congress calculated pay periods according to calendar months rather than the lunar month of 28 days as had long been customary in New England. Moreover, the stipulated wage of 40 shillings per month for privates with no bounty came in significantly below the money earned by Massachusetts privates two decades earlier (36 shillings per lunar month) once their lump sum bounties (between £8 and £12) were factored in. Taken together, James Warren calculated that Massachusetts soldiers on the Continental establishment were making 13shillings less per month.⁵⁵ Samuel Osgood of Andover, soon to be a delegate to

⁵⁵ James Warren to John Adams, 20 Oct 1775, PJA 3: 221-22. Congress' 29 Jul 1775 resolution on a pay establishment provided for privates to earn 6 2/3 dollars. JCC 2: 220. One Spanish milled dollar was the equivalent

Philadelphia himself, lamented that Congress had adopted a policy more suited to the southern colonies where “Men enough....could be rais’d for [30 or 36 shillings] per Month.” Osgood took issue with the southern contention that New England men were idle in the winter months anyway, and that they should be content with Congress’ wages. “[T]he Sons of the respectable Yeomanry of New England,” Osgood wrote, “...[find] very little Leisure in the Winter.” Each farmer needed, for example, to gather wood to mend the fences around his property—“and consider what an almost infinite Leng[th] of Fences” this required since “[Massachusetts] Farms are smaller and more Divided with Fences than the Southward Plantations.”⁵⁶ In short, Congress’ pay establishment seemed to be premised on misunderstandings about Massachusetts society that hindered recruitment from the start.⁵⁷

The unusually high wages for officers relative to privates compounded the problem. This too represented a concession to southern preferences. John Adams worried “our people will think it extravagant.”⁵⁸ By December the “inhabitants” of the Worcester County town of Harvard were petitioning the General Court to express their “dissatisfaction with the Large Stipends, Granted to Officers” and to warn that it “has been a Bar against the Army’s filling up.” Aware that the policy originated in Philadelphia, the inhabitants desired their leaders to “use their Influence with” Congress to reduce officer pay and thereby “Support unanimity in America.”⁵⁹ Unanimity of opinion proved elusive in Congress, where Massachusetts delegates did their best to forward their colony’s interests without undermining the broader coalition. The

of 6s. See John Adams to Elbridge Gerry, 12 Jun 1775, PJA 3: 26 and n.4 in *ibid.*, 27. For lunar months, see Elbridge Gerry to John Adams, 4 Dec 1775, PJA 3: 350-51.

⁵⁶ Samuel Osgood to John Adams, 4 Dec 1775, PJA 3: 352. See also John Adams to John Winthrop, 2 Oct 1775, LDC 2: 96.

⁵⁷ Delays in distributing pay to the troops also began early in the war. James Warren, in his role as paymaster to the army, informed John Adams that the pay for August 1775 did not arrive until late September, causing the troops to be “very Uneasy.” James Warren to John Adams, 19 Sep 1775, PJA 3: 162. See also James Warren to John Adams, 1 Oct 1775, PJA 3: 179.

⁵⁸ John Adams to Elbridge Gerry, 18 June 1775, PJA 3: 26.

⁵⁹ Inhabitants of Harvard, against excessive pay of Army Officers, 11 Dec 1775, Mass. Arch. 180: 245.

distribution and method of selecting officers for the Continental Army received much attention as states argued that they should receive a certain proportion of Continental Army officer appointments. John Adams maintained that Massachusetts men wanted to be commanded by Massachusetts officers. “[C]an it be Supposed that the private Men will be easy to be commanded by Strangers to the Exclusion of Gentlemen, whom they know being their Neighbours,” Adams asked.⁶⁰ That this was even a question represented a change from Massachusetts’ past experience.

Congress’ method of distributing the manpower burdens of the war—along with its incapacity to ensure that those forces were actually raised—decisively shaped mobilization in Massachusetts. As with the pay scale, the delegates’ true options were constrained by the character of the confederation they represented. For this reason, an analysis of the confederation ought not to be taken as a criticism of Congress’ skill or decision-making. In the broadest terms, Congress necessarily formulated military policies on the assumption that all states were equal members of the confederation. When determining how many men each state should provide for the Continental Army it therefore chose, at the first opportunity, to assign straightforward quotas on the basis of state populations.⁶¹ Such a policy made sense in the abstract and it succeeded in maintaining harmony within the American union; it was the policy likely to produce the greatest degree of voluntary compliance on the part of the states. Yet it contained two unfortunate flaws.

First, a strict quota system based on population could not correct for the differences in the geographical proximity of the various states to the main theaters of combat, or for the local

⁶⁰ John Adams to John Winthrop, 2 Oct 1775, LDC 2: 96. See also John Adams Notes on Debates, 10 Oct 1775, LDC 2: 155-56; Samuel Osgood to John Adams, 30 Nov 1775, PJA 3: 328-30; John Adams to Samuel H. Parsons, 22 Jun 1776, LDC 4: 291-92; John Adams to Henry Knox, 13 Aug 1776, LDC 4: 671.

⁶¹ Wright, *Continental Army*, 92. Prior to late 1776 when Congress passed its “Eighty-Eight Battalion” resolve, it had authorized or adopted regiments from the states in an ad hoc manner owing to the different circumstances and policies of the states. Still, it had attempted to spread the total number of troops on the Continental establishment as equally as possible.

exigencies that would inevitably arise and require an immediate response. Once Congress fixed quotas and proportions, they could not be adjusted easily or quickly in light of emergencies. This problem might have been rendered moot if Congress had possessed the power to force the states to comply with its manpower demands in the first place, for there would have been enough troops available to spread between the main field armies and other strategic points. That Congress lacked this power constituted the second flaw in the system. Since almost all of Congress' resolutions in these years were implemented by state action, there existed no administrative means by which Congress could have enforced compliance—even though the states consistently acknowledged Congress' role in conducting the war.⁶² As a result, the Continental Army never reached its full authorized strength after 1775. In 1777, the Continental Army fielded fewer than half the 90,000 men Congress had requested.⁶³

In one sense, the inflexibility of a quota system and the failure of the colonies to supply their full proportions represented nothing new. Both had been problems during the French and Indian War and in earlier conflicts. The difference lay in the nature of the threat and in the consequences of failing to field flesh and blood forces in a timely manner. Ultimately, during the French and Indian War, the colonies risked relatively few consequences if their forces did not materialize or proved incapable on their own of capturing some distant objective. They would try again the following year or wait for British regular forces to lead the way.⁶⁴ Now, Americans needed to maintain a force competent enough to combat the principal British armies while also responding to additional threats that cropped up elsewhere. Failure now would result in defeat and subjugation. Scholarship on the Revolution has highlighted the extent to which Americans,

⁶² Cf. Rakove, *Beginnings of National Politics*, 172-73.

⁶³ Wright, *Continental Army*, 40, 119; Charles Royster, *A Revolutionary People at War: The Continental Army and American Character, 1775-1783* (Chapel Hill: University of North Carolina Press), 132.

⁶⁴ See chapter 1.

influenced by an ideological affinity for the citizen-soldier and a fear of “standing armies,” continued to rely on militia forces throughout the war, supposedly at the expense of the Continental Army.⁶⁵ Yet Americans never enjoyed a free choice; the nature of their confederation determined that they would always need both kinds of forces.⁶⁶ Before considering Massachusetts’ efforts to maintain its quota of the Continental Army, it is important to examine the militia levies that formed an ever present backdrop in the lives of its inhabitants.

Between late 1775 and 1780, calls on the militia were frequent and unpredictable. Initiated usually by a resolve of the Council and House—or by just the Council during the recess of the House—they occurred for one of three general purposes: 1.) to reinforce or augment the Continental Army in emergencies;⁶⁷ 2.) to undertake various expeditions, sometimes alongside militia from other states, that did not involve the Continental Army; 3.) to perform dedicated guard duty along the coast or inland. Omitting the approximately 1,200 men hired annually to serve as seacoast guards, the state averaged over six separate militia levies per year beginning in 1776, with many of the individual calls stipulating numbers of men that equaled or exceeded the total Massachusetts forces raised in a given year during the French and Indian War. Moreover, the calls did not follow a predictable spring to late-fall rhythm but rather came at all times of the year. An overview of their timing and duration begins to indicate the challenges they presented to government authorities and the populace generally.

In December, 1775, the Continental Army besieging Boston required a temporary reinforcement of 3,008 Massachusetts militiamen to maintain its lines as enlistments ran out. Although the British evacuated the capital in March, 1776, the second half of the year saw seven

⁶⁵ For a discussion of the tension between the militia ideal and the need for a more professional force, see Royster, *A Revolutionary People at War*, 36-43.

⁶⁶ Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York: Oxford University Press, 2003). 79-80.

⁶⁷ These are sometimes referred to as the “state lines” of the Continental Army.

different calls on the militia. In late June, the state needed to supply 5,000 men to reinforce both Washington's army in New York and American forces in the Northern Department until December 1. The state called for an additional 1,500 men (technically as part of its Continental quota) for the Northern Department in early July. July 1776 also saw a call for approximately 3,000 militiamen to serve near Boston until December.⁶⁸ As men trickled into the city, militia general Benjamin Lincoln assessed the reasons for the delay. "I imagine it hath not arisen from a backwardness in the people to man the lines," he wrote, "but from there being so many men already absent that they have been constrained to gather in their harvest...how greatly our Militia have been thinned."⁶⁹ The calls continued, however. The American defeat in New York and the British presence in Rhode Island inspired a call in September for forces in excess of 10,000 to serve for no more than two months. In late November and early December, the General Court levied forces in excess of 5,000 and 3,500, respectively, to serve for about three months in New York and Rhode Island. The General Court elected to augment these forces less than a week later by a couple thousand.⁷⁰

The first militia calls in 1777 came in April, when 2,000 and 1,500 men were required for two months' duty in Rhode Island and at Ticonderoga, respectively. In June, in addition to attempting to reenlist as many of the 2,000 men already serving in Rhode Island as possible, the General Court authorized two new regiments totaling approximately 1,500 men to serve in that state through the end of the year. The situation in northern New York became critical in the summer and fall, necessitating a call for "such and so many of the Militia as" the commanding officers of Berkshire and Hampshire Counties could "muster and march"—equivalent to some

⁶⁸ *House Journal* 51: 7, 9-10; Wright, *Continental Army*, 55; *Acts and Resolves* 19: 462-67; Records of the States, Microfilm, Mass. E.1, Reel No. 9, Unit 3, 89-91; PJA 4: 418n.4.

⁶⁹ Benjamin Lincoln to John Adams, 24 Aug 1776, PJA 4: 494.

⁷⁰ *Acts and Resolves* 19: 558-60, 690-92, 698-99, 713.

proportion of the approximately 10,000 men on the militia rolls there. The state continued to pour militia forces into the region as Burgoyne's army march south: in August, the equivalent of approximately 8,000 men to serve until November 31 and, in September, perhaps another 10,000. A "Secret Expedition" to Rhode Island required a call for 3,000 men to serve for the month of October and in December the General Court attempted to reenlist the 1,500 men who had been serving there since July for the entirety of the ensuing year.⁷¹

The militiamen raised in 1777 had helped to defeat the British forces at Saratoga, and the need to guard this captured British "Convention Army" in the vicinity of Cambridge led to several of the first calls of 1778: in January, 758 men for a short period; in February, 400 men to guard the stores around Boston for three months; in March, 500 men for guard duty for just one month; in April, 1,064 men for guard duty until July 2. Later in April, the General Court announced two calls of 2,000 men apiece to reinforce the Continental Army in New York. It assigned priority to the first levy, which was to keep men in service for nine months; once that was filled, the state would attempt to enlist 2,000 volunteers to serve in New York for six months. On the same day, however, the General Court also called for 1,300 men to serve for eight months in Rhode Island and at the passes of the North River near New York City. June saw three more calls: one of 1,800 men for serve for the remainder of the year in Rhode Island, New York, or in Bristol or Plymouth County as guards; another emergency draft of 554 men to serve for 21 days in Rhode Island; and one of 1,000 men to serve as guards for the Convention Army through the end of the year. False rumors of an impending British invasion of Boston caused the Council on September 7 to raise 1,200 men to serve until January 1. The General

⁷¹ *Acts and Resolves* 19: 877-78, 925; *Acts and Resolves* 20: 52-53, 61, 88-90, 114-15.

Court then called for several thousand more men before countermanding its resolve a few days later when it became clear that the 1,200 men would suffice.⁷²

1779 began with calls in January and February for 400 and 500 men, respectively, to enlist for three-month guard duty stints around Boston and eventually inland. The British presence in Rhode Island continued to require Massachusetts forces to act as a deterrent, and the General Court called in April for 715 men to enlist for eleven months (May 1, 1779 to April 1, 1780) and for an additional 500 men to serve until July 1. In June, Massachusetts needed to provide 800 more men to serve in Rhode Island through the end of the year. Even more taxing was its call the following day for 2,000 men to serve alongside the Continental Army in New York for nine months. Just a couple weeks later, the General Court concluded that 1,500 two-month militiamen would be needed to accompany the state's ultimately disastrous naval expedition to Penobscot Bay in Maine. After a small levy of 400 men to serve for one month around Boston in September, the state proceeded to raise 2,000 men to serve for three months along the Hudson River.⁷³

1780 saw three major drafts of the militia. In March, 600 men were needed to guard Maine "from the Encroachments and Depredations of an unprovoked but persevering Enemy." The following June, the General Court made three large calls: one of 3,934 men to serve for six months with the Continental Army; another of 4,726 men to serve along the Hudson River for three months; and, finally, an additional 983 men to serve for six months with the Continental Army.

⁷² *Acts and Resolves* 20: 255-56, 282-83, 333-34, 367-73, 373-75, 441-44, 450, 470-71, 476; *Massachusetts Soldiers and Sailors of the Revolution* (Boston: Wright and Potter, 1896) 1: xxviii.

⁷³ *Acts and Resolves* 20: 570-71, 676-78, 687-88, 694-95; *Acts and Resolves* 21: 33-45, 38-44, 68, 104-5, 114, 141-42, 225-29.

Clearly, the more than three dozen significant militia calls between December 1775 and June 1780 varied widely in the number of men required, duration of service, destination, and time of year. The militia calls ultimately served the interests of the entire state and would have greatly strained the populace even if the manpower burdens had each been distributed equally. A small number of the militia levies were raised in the same proportion throughout the whole of Massachusetts: the July 9, 1776, effort to raise 1,500 men for duty to Canada called for every twenty-fifth man in the alarm list and train band to be drafted, as did the July 18, 1776, call for service within the state.⁷⁴ But militia levies did not necessarily cover the entire state. Many specified the areas of Massachusetts that were to fill the ranks of the temporary force. Given that many calls responded to emergencies in particular places—Rhode Island, northern or southern New York, Maine, Boston—it was impractical to muster and march men far from their homes to deal with threats more swiftly addressed by others.⁷⁵ Calls concerning Rhode Island almost always included the nearby counties of Bristol, Barnstable, Plymouth, and Worcester.⁷⁶ The state's emergency response to the British threat in northern New York in 1777 fell hardest on Berkshire and Hampshire.⁷⁷ The 1,500 men that took part in the Penobscot Expedition were drawn from the three Maine counties.⁷⁸ While inhabitants recognized the exigent character of the militia levies, the state government could cite geographical considerations only so many times before people began to question the fairness of the policy. They expected that, in

⁷⁴ *Acts and Resolves* 19: 517; Editor's Note, PJA 4: 418n.4, citing Records of the States, Microfilm, Mass. E. 1, Reel No. 9, Unit 3, p. 89–91.

⁷⁵ See for example the resolve of 12 Sep 1776 noting that “the Militia of this State within the Counties of York, Cumberland, & Lincoln, are too remote to march to the timely Aid of the Army.” *Acts and Resolves* 19: 558.

⁷⁶ For example the call of 12 Apr 1777 for 2,000 two-month men, *Acts and Resolves* 19: 877-78.

⁷⁷ See the resolve of 30 Apr 1777 for 1,500 men from Hampshire County only. *Acts and Resolves* 19: 925; and the resolve of 2 Jul 1777 for an indeterminate number from Hampshire and Berkshire, *Acts and Resolves* 20: 61.

⁷⁸ Cumberland and Lincoln supplied 600 men each while York provided 300 men. See *Acts and Resolves* 21: 104-5, 114.

aggregate, over the course of the war, the various parts of the state would be called upon in roughly equal measure.⁷⁹

The militia levies therefore posed a novel and ongoing dilemma for the General Court, which had to apportion the manpower burden on the populace. Formerly, although the assembly controlled many aspects of military mobilization through its charter rights and fiscal powers, the governor had commanded the militia and appointed all the officers, who ultimately raised the men. The governor had decided how many men from which counties and regiments would be needed to perform temporary duty. Now, ironically, the people could hold the House and Council completely accountable for the apportionment. The General Court had to decide which counties to include in the militia calls and how many men to require from each. Only by viewing all the calls for these years as part of one continuous effort can one discern the pattern of the assembly's policies. The care and difficulty involved in assigning and recalibrating the quotas speaks to the existence of widespread expectations about government responsiveness to changing circumstances and recognition of past exertions.

In the first part of the war, the General Court usually specified what proportion of a county's militia should march. In November, 1776, for example, it mandated that one-fourth of the militia in the counties of Suffolk, Barnstable, York, Cumberland, Berkshire, and Lincoln should proceed to Connecticut. In August, 1777, Suffolk, Essex, Middlesex, Hampshire, York, Worcester, and Berkshire were to send one-sixth of their men to assist American forces in northern New York.⁸⁰ Increasingly, from 1777 on the General Court ordered counties to supply specific numbers of troops rather than uniform proportions, demanding what may seem oddly precise totals. For the April, 1777, expedition to Rhode Island, Suffolk was to supply exactly

⁷⁹ See for example Petition of Joseph Palmer against draft to relieve Canada, 9 Jul 1776, Mass. Arch. 181: 119.

⁸⁰ *Acts and Resolves* 19: 558-60; *Acts and Resolves* 20: 88-90.

282 men. They would be joined by 376 from Essex, 305 from Middlesex, 220 from Plymouth, 105 from Barnstable, 217 from Bristol, 359 from Worcester, and 136 from York.⁸¹ The ratios in the numbers of men each county was to supply relative to other counties were not fixed but fluctuated slightly—sometimes significantly—from levy to levy. In nine militia calls from 1777 through 1780 in which the General Court ordered both Bristol and Middlesex to contribute men, for example, Bristol's quota comprised 71 percent, 2000 percent, 59 percent, 69 percent, 61.5 percent, 69 percent, 63 percent, 65 percent, and 65 percent of Middlesex's contribution.⁸²

Once the county totals were set, the General Court could leave it to the militia field officers to assign quotas to the various towns within their regiments. But since the legislators in Boston ultimately bore responsibility for the decisions of the militia field officers, which it now appointed, it could also choose to set the town quotas themselves. The General Court issued town quotas for large militia calls on five occasions between 1775 and 1780. In each of the five cases the men would be reinforcing or serving in conjunction with the Continental Army. The General Court deemed these calls of special importance and wanted to make the towns as explicitly responsible for providing the requisite number of men as possible.⁸³ A given town's quota relative to its own population and to the quotas of other towns fluctuated as well. Comparing the quotas assigned to the nearby Hampshire County towns of Colrain and Northfield shows that in June, 1776, when the towns had respective populations of 566 and 580, the General Court required fourteen men from Colrain and eighteen men from Northfield. In the levy of

⁸¹ *Acts and Resolves* 19: 877-78.

⁸² *Acts and Resolves* 19: 877-78; *Acts and Resolves* 20: 114-15, 367-73, 373-75, 441-44; *Acts and Resolves* 21: 33-35, 38-44, 519-24, 568-72. The outlier in which Bristol was assigned 2000 percent of Middlesex's quota came with the 17 Sep 1777 call for 3,000 men to serve one month on the "secret expedition" to Rhode Island. Bristol was assigned 1,000 men and Middlesex 50.

⁸³ The five calls were those of 25 June 1776 for 5,000 men to serve in Canada or New York; 20 April 1778 for 2,000 men to serve in New York; 9 June 1779 for 2,000 men to serve in New York; 5 June 1780 for 3,934 men to serve along the Hudson River; and 22 June 1780 for 4,726 men also to serve along the Hudson. *Acts and Resolves* 19: 462-67; *Acts and Resolves* 20: 367-73; *Acts and Resolves* 21: 38-44; 519-24; 568-72.

1778, Colrain and Northfield were both to supply four men, even though their adult male populations had begun to diverge: 133 resided in Colrain in 1777 while 174 lived in Northfield.

COUNTY OF HAMPSHIRE.			
Towns	N ^o of Men	Towns	N ^o of Men
Springfield	13	Ashfield	6
Wilbraham	7	Worthington	5
Northampton	13	Shutesbury & Ervingshire	4
Southampton	6	Chesterfield	6
Hadley	6	Southwick	3
South-Hadley	4	West Springfield	10
Amherst	7	Williamsburgh	3
Granby	3	Westfield	10
Hatfield	6	Deerfield	7
Whately	3	Greenfield	4
Conway	6	Shelburne	4
Northfield	4	Montague	5
Sunderland	3	Palmer	6
Brimfield	7	Granville	8
S ^e Brimfield	6	New-Salem	6
Monson	5	Belchertown	7
Pelham	5	Colrain	4
Greenwich	6	Ware	4
Blandford	5	Ludlow	3
Leverett	2	Norwich	2
Warwick	4	N ^o 5	3
Bernardston	4	N ^o 7 or Merrifield	1
Murrayfield	3		
Charlmont	3		
		Total of Hampshire	212

Nine-month Men Quotas for Hampshire County from the General Court's Resolve of April 20, 1778. *Acts and Resolves* 20: 371.

The three calls in 1779 and 1780 mandated quotas for the two towns whose ratios were four men to five men, eight men to eleven men, and ten men to thirteen men. Yet by 1781, the towns' respective adult male populations had nearly swapped: Colrain possessed 172 polls while Northfield had only 147.⁸⁴ In short, whatever the precise method the General Court was using to determine the nearly three hundred town quotas, the legislators were not standing pat but constantly adjusting them on the basis of new considerations. On occasion, the representatives even returned to their towns to aid the recruiting process.⁸⁵

For the General Court, the militia levies were so many opportunities to distribute manpower burdens equitably on the macro level of the state. As we will see, they were also so many opportunities for towns throughout Massachusetts to find fault with their representatives'

⁸⁴ *Acts and Resolves* 19: 466; *Acts and Resolves* 20: 371; *Acts and Resolves* 21: 43, 523, 571. For population figures, see Greene and Harrington, *American Population Before the Federal Census*, 34.

⁸⁵ See for example James Warren to John Adams, 19 Sep 1776, PJA 5: 33.

calculations. An equally complicated and taxing process occurred within communities coping with the need to furnish men numerous times per year. On the surface, the question of who in the town should serve in the militia calls appeared obvious: any of the men in the militia. The Militia Act of January 1776 stated that the train band, required to drill eight times per year, included all males aged sixteen to fifty. The alarm list technically included men to age sixty-five, though men over sixty would never be required to march out of the town. The law provided exemptions for civil officers, holders of any state or Continental commission, selectmen, constables, ministers, Harvard students, and masters of vessels over thirty tons.⁸⁶ In a large seaport such as Salem, with its more stratified social structure, the effects of these exemptions appeared in starker relief. In April 1776, Salem's militia commanders Timothy Pickering and Joseph Sprague forwarded the complaint of the town's militiamen. The men elected captains and subalterns kept refusing to accept their positions to protest "the numerous exemptions...; by means of which the burthen of military service appears to them to be imposed with very great inequality." For laborers, even forgoing work eight times a year to train caused great financial strain. Pickering and Sprague concluded their petition on behalf of the men by warning the General Court that "unless some remedy be provided for the mischief complained of,...they shall find insuperable difficulties in procuring officers for the militia companies in Salem."⁸⁷

Most towns managed to elect militia officers with a minimum of controversy. The larger problem for authorities lay in finding men for militia calls that followed one another in rapid succession or that were in effect simultaneously. Authorities showed misgivings about

⁸⁶ *Acts and Resolves* 5: 445-46, 451.

⁸⁷ Col Timothy Pickering and Joseph Sprague, an Essay against allowing a privileged class exemption from training, 9 Apr 1776, Mass. Arch. 180: 402-3. The House assigned a time to consider the petition but it is unclear if it ever did. Sprague offered his own solution later in the month when he proposed the incorporation of an independent company of light infantry for those "who by law are exempted from training." See Joseph Sprague and others of Salem for forming an independent company, 24 Apr 1777, Mass. Arch. 180: 410-10a.

compelling the same men into service repeatedly. In January 1778, Captain Abiel Clap asked the General Court for relief from his town's quota of eleven men to serve in Rhode Island. After drafting six men he had discovered that every other man in his company had just served a "Tower of Duty" in Rhode Island last October.⁸⁸ Decisions about who would be drafted fell not just to the militia officers like Clap, however, but included the town fathers as well. By the "Act for Providing a Reinforcement to the American Army" of November 1776, one-fourth of the total militia pool was to be designated in advance as minutemen ready to march as soon as a new call arrived. These men were to be chosen "by voluntary enlistment, lot, or draft" by the militia officers acting "in conjunction with the selectmen and committees of correspondence, etc." in a manner that appeared to them "equitable and just."⁸⁹ The aim, therefore, was not to distribute the burden of service randomly or blindly; town leaders deliberately chose who was liable to march on a given militia expedition. Although alien to modern sensibilities, eighteenth-century New England towns generally exercised a significant degree of control over aspects of inhabitants' lives that affected the larger political economy of the town.⁹⁰ For this reason, evidence suggests those who served in the militia levies tended to be slightly older and more established men who would have found relatively short-term service feasible, if still difficult—especially if the town's manpower pool was small enough that they were required to march

⁸⁸ Petition of Abiel Clap, 24 January 1778, Mass. Arch. 183: 379. The General Court was not impressed with Clap's request, probably because the prior militia call referred to—the "secret expedition" to Rhode Island—had indeed required a large number of men from Bristol County but had lasted only one month.

⁸⁹ 14 Nov 1776, *Acts and Resolves* 5: 596. A few militia levies specified voluntary enlistment only. In these cases, an officer's commission depended on him successfully enlisting a given number of men. These included the 26 Jan 1779 call for 400 men to serve near Boston for three months, the 15 Apr 1779 call for 500 men to serve throughout the state for three months, and the 16 Apr 1779 call for 715 men to serve in Rhode Island for eleven months. *Acts and Resolves* 20: 570-71, 676-78, 694-95.

⁹⁰ See Levy, *Town Born: The Political Economy of New England from Its Founding to the Revolution* (Philadelphia: University of Pennsylvania Press, 2009), 11, and *passim*.

multiple times.⁹¹ Indeed, enough town selectmen marched away that the General Court found it necessary in 1777 to authorize town clerks to call town meetings in their absence.⁹² Town leaders supported this distribution of militia service because at the same time they were trying to maintain the town's quota for the Continental Army.

When Congress officially adopted the Continental Army on June 14, 1775, Massachusetts had about 14,000 men in the field around Boston—slightly over the 13,600 the Provincial Congress had designated as its contribution for the colonial army created after Lexington and Concord. Massachusetts maintained that number through 1775, when the men's initial enlistments ran out. In early January, 1776, with the British still in Boston, Congress and Washington reorganized the army, assigning Massachusetts a quota of 11,648 men—about equal to the number Congress authorized for New Jersey, Pennsylvania, Delaware, and Maryland combined.⁹³ Some men from the 1775 forces had reenlisted, and the General Court was probably too optimistic about the size of the returning contingent when it resolved on January 20 and 21 to raise a total of 5,096 men, divided into town quotas, for service until January 1 or April 1, 1777.⁹⁴ Army returns for 1776 show that about 4,500 Massachusetts Continentals were present with Washington as he marched and encamped in New York City in late spring and summer, 1776; approximately 2,000 were serving elsewhere.⁹⁵ Still, since these numbers raised by voluntary enlistment fell well short of the mark—not least in part due to Congress' continuing

⁹¹ Walter Sargent, "Answering the Call to Arms: The Social Composition of Soldiers of Massachusetts, 1775-1783" (Ph.D. diss., University of Minnesota, 2004). Some later militia drafts called for the detachments to be made "indiscriminately," though it is likely that militia officers and town leaders continued to use discretion when drafting. See for example the resolve of 8 June 1779, *Acts and Resolves* 21: 34.

⁹² An Act in Addition to an Act Entitled "An Act for Regulating of Townships, Choice of Town Officers, and Setting Forth Their Power," 4 Feb 1777, *Acts and Resolves* 5: 613-14. In September, 1777, Andover's representative marched on a militia call and left the town deprived of a voice in the House. See Petition of the Selectmen of Andover asking for leave to elect a representative, 17 Sep 1777, *Mass. Arch.* 183: 147-47a.

⁹³ Wright, *Continental Army*, 23, 55, 52, 82. For Continental Army returns, Charles H. Lesser, *The Sinews of Independence: Monthly Strength Reports of the Continental Army* (Chicago: University of Chicago Press, 1976), 2-13.

⁹⁴ *Acts and Resolves* 19: 217-20, 221-23.

⁹⁵ Lesser, *Sinews of Independence*, 20-27.

refusal to offer alluring bounties—the General Court resolved in June and July to raise, by impressment if necessary, 5,000 militiamen and two other regiments totaling approximately 1,500 men who would reinforce Continental troops in New York and Canada through December 1. After the disasters of the New York campaign, Continental Army returns for December 1776 listed a total of 3,601 Massachusetts troops with Washington along the banks of the Delaware.⁹⁶

Rather than repeat the customary request for annual enlistments, Congress determined to set quotas on the states to provide men for at least three years or, preferably, the duration of the war. As a result of its “Eighty-eight Battalion Resolve” of September 1776 and its subsequent decision to raise sixteen additional regiments, Massachusetts was to provide eighteen infantry regiments totaling just over 13,000 men and one artillery regiment of about 700 men.⁹⁷

Massachusetts leaders hoped the new plan would lead to greater contributions from states that had so far raised relatively few troops. From Boston James Warren had asked cynically in July, 1776, whether the “Southern Colonies...think with half our Men gone the remainder can defend [Massachusetts], with Spears and darts, or with Slings (as David Slew Golia[t]h).”⁹⁸ As it turned out, the states complied unevenly at best. By July, 1777, North Carolina would produce only 1,094 officers and men out of the approximately 7,000 its quota stipulated.⁹⁹ The Massachusetts General Court took the momentous step on January 24, 1777, to raise its men by mandating a

⁹⁶ *Acts and Resolves* 19: 462-67, 517, 519-20; Lesser, *Sinews of Independence*, 43. On bounties, see James Warren to John Adams, 7 Mar 1776, PJA 4: 46; John Adams to Samuel H. Parsons, 22 Jun 1776, LDCC 4: 291-92; John Adams to Joseph Reed, 7 Jul 1776, LDCC 4: 403; James Warren to John Adams, 10 Jul 1776, PJA 4: 378-79; Elbridge Gerry to Samuel and John Adams, 21 Jul 1776, PJA 4: 400-1; John Adams to William Heath, 3 Aug 1776, LDCC 4: 612; Henry Knox to John Adams, 21 Aug 1776, PJA 4: 484.

⁹⁷ Wright, *Continental Army*, 92-95. In 1776, a Continental infantry regiment on paper comprised 733 men and an artillery regiment 718 men. See *ibid.*, 53, 69, 102. In 1778, Congress reduced the total men per regiment to 582. *Ibid.*, 156.

⁹⁸ James Warren to John Adams, 17 Jul 1776, PJA 4: 390.

⁹⁹ Wright, *Continental Army*, 108. For the levels of compliance by other states, see *ibid.*, 108-11.

general quota of “one Seventh Part of all Male Inhabitants of each Town and Plantation of Sixteen Years old and upwards without any Exceptions.”¹⁰⁰

The General Court elected to assign a simple proportion of men because it possessed no better alternative. Given the scale of the burden it was placing on the entire populace—the continuous absence of a large number of each community’s men—a uniform proportion seemed likely to elicit the fewest objections that the legislators showed bias for or against certain parts of the state.¹⁰¹ But inhabitants quickly pointed out that an equal proportion on paper did not operate equally in the context of Massachusetts’ actual communities. Removing one-seventh of the male population in some places caused greater hardship than in others. Among the first to ask for an exemption from the quota was Winthrop, a remote, recently-incorporated town in Maine’s Lincoln County that reported 93 adult males in 1777. Although the inhabitants were “Certain...that no town in the Neighbourhood has equaled us” in contributing men for past Continental and militia calls, they had been able to enlist only four of their quota of thirteen men. “[W]e are Ready to Sacrifice all we have be it ever so dear to us in Support of the measures adopted by the United States of America,” they insisted. And yet they asked, by way of concluding their case, “could your Honours for a moment place your Selves in our place and Consider that when you left your families you Realy belived [sic] they were in real danger of being murdered by the Savages[?]”¹⁰² Far to the south, the inhabitants of Truro, Wellfleet, and

¹⁰⁰ Resolves for Levying Every Seventh Man in this State, 26 Jan 1777, *Acts and Resolves* 19: 781. There was, in fact, one exception: “the People called Quakers.” In fact, the General Court realized a year later that successfully levying one-seventh of the inhabitants would still leave Massachusetts 1,200 men short of the quota Congress had assigned. The militia levies for short-term state line Continental troops that began in April 1778 were in part a recognition of this fact. See Report relative to MA completing her quota of the army, 12 Mar 1778, Mass. Arch. 137: 218; W. Wetmore to Timothy Pickering, 30 Mar 1778, Timothy Pickering Papers, Massachusetts Historical Society, Boston, Reel 17.

¹⁰¹ A Committee of the House considered the alternatives and concluded simply “that the fifteen Bat[t]alions to be raised in this state be apportioned upon the several Towns in the state by a return of all the Inhabitants in the state.” Report of Committee relative to recruiting the army, 22 Jan 1777, Mass. Arch. 137: 137.

¹⁰² Inhabitants of Winthrop, ME, in danger, ask exemption from draft, 10 Mar 1777, Mass. Arch. 182: 214-15.

Eastham in Barnstable County stated “That the Situation and present Circumstances of those Towns are such as will Render it very Difficult if not impracticable to raise their Quota of the Continental Army.” Already weakened by the exodus of sailors and fishermen seeking work elsewhere, “it will be doing Injury to the publick Cawse to Drane these Towns of their men,” they maintained.¹⁰³ In short, many inhabitants recognized the government’s one-seventh quota policy for the rather blunt instrument it was; they in turn owed it to their fellow inhabitants to illustrate this fact for state officials.

Nevertheless, most towns proceeded to the task of filling their quotas and even appealed to the General Court to help facilitate their efforts. A month before the one-seventh resolve, the Essex County town of New bury had petitioned to explain its “great Difficulty in raising their Quota of men for military Service” because of the lack of enticing incentives offered by the state and Continent. Among the inhabitants, there existed a pool of men “best disposed, and qualified to go into the war,” and the town agreed “that it is highly unreasonable & unjust that the Burden should lie wholly upon them & some others.” Those who were not “able bodied, or fit for actual Service” could contribute in other ways, and the town had voted a local tax to compensate men who had already served and “for encouragement to present Services in the war.” Newbury wanted confirmation that such a tax for town bounties was legal.¹⁰⁴ In response, the General Court authorized the towns to raise money “for carrying on the present war,” with town bounties to be added to those offered by Congress (\$100 and 200 acres of land) and the state (£20).¹⁰⁵

¹⁰³ Inhabitants of Truro, Wellfleet, and Eastham for exemption from draft, 3 Apr 1777, Mass. Arch. 182: 323.

¹⁰⁴ Committee of the Town of Newbury for confirmation of assessments for soldiers, 23 Dec 1776, Mass. Arch. 181: 392. The petition is also printed in *Acts and Resolves* 5: 719.

¹⁰⁵ An Act for Enabling Towns to Raise Money for Carrying on the Present War, 26 Apr 1777, *Acts and Resolves* 5: 636-37. The General Court rejected a plan proposed by a convention of New England states held in Providence in January that called for a £10 state bounty as well as a blanket and supply of articles not furnished by Congress at fixed rates and without charge for transportation. Report of a Convention of New England Delegates, assembled in Providence, R.I. Decr 25, 1776, 4 Jan 1777, Mass. Arch. 144: 26-27. A committee of the General Court rejected the

Permitting towns to offer additional bounties must be viewed alongside the General Court's decision four days later to authorize militia officers, acting again in concert with the selectmen and committees, to draft men to fill town quotas. Once drafted, a man had three options: 1.) avoid service altogether by hiring a man to serve in his place or by paying a £10 fine; 2.) agree to serve for three years or the duration of the war and receive the Continental, state, and town bounties, or; 3.) agree to serve for eight months but not receive any of the bounties. Since the town would remain liable for its full quota for three years, it lay in its interests to entice men to enlist for the full term, but it could not compel them to serve that long.¹⁰⁶ The pressure on local authorities increased a few months later when, "in order to do equal justice through the State in the present situation of affairs," the General Court mandated fines for those selectmen and committees whose towns' quotas remained deficient: for each man short, each of these officeholders would pay £6 initially and £4 for every month thereafter. If the town's treasurer did not prosecute the selectmen and committees, he would be fined £100.¹⁰⁷ The following year, the General Court made the entire town liable to be fined £150 per man deficient; the sum would simply be added to the town tax bill.¹⁰⁸ The militia levies intended to augment the Continental Army in 1778, 1779, and 1780 also included provisions for town fines.¹⁰⁹

convention's proposal. See Report on the proceedings of Committees of convention of four states convened at Providence, 4 Feb 1777, Mass. Arch. 137: 151-52.

¹⁰⁶ Resolves for Compleating this State's Quota of the Continental Army, 30 Apr 1777, *Acts and Resolves* 19: 921-23.

¹⁰⁷ Resolve for Compleating this State's Quota of the Continental Army, 15 Aug 1777, *Acts and Resolves* 20: 105. Militia officers were also subject to the fines for deficiency in the town quota. See for example Capt. Stephen Perkins and Lt. Solomon Dodge of Topsfield with a petition concerning quota for Topsfield, 2 Mar 1778, MA 184: 15-16; Elisha Hunts and Ebenezer James, Militia Officers for Northfield regarding deficiency in quota, 4 Apr 1780, Mass. Arch. 186: 85-86.

¹⁰⁸ Resolves Requiring Delinquent Towns to Furnish their Quota of Men for the Army, 17 Apr 1778, *Acts and Resolves* 20: 364-65.

¹⁰⁹ £100 per man for the 20 Apr 1778 call for 2,000 men, though the towns were also credited £30 per man. *Acts and Resolves* 20: 370, 386. The 9 Jun 1779 call for 2,000 men fined towns £600 for each man deficient and credited them £120. *Acts and Resolves* 21: 43, 249. The 5 Jun 1780 call for 3,934 men carried a £300 fine per man *Acts and Resolves* 21: 522. The General Court attached additional fines for deficiency on the 5 and 23 Jun 1780 levies of a

Taken together, these demands placed entire towns on edge as they tried to avoid the penalties mandated by the General Court. Gloucester's committee saw an opportunity in March 1777 when nine men who had enlisted for three months' militia service came home before their terms ran out. Because the men's conduct was "very vile and deserved very severe punishment," the committee convinced all of them to "enlist into the Continantal army during the war or...hire each of them a man" as a means to wipe their transgressions from the record.¹¹⁰ Town leaders were tempted to look into neighboring communities for manpower. A committee from Reading formally requested permission to enlist men from other towns that had already filled their quotas "by Reason of the Stagnation of Business in sd Towns."¹¹¹ Others defied the law and hired men from towns whose quotas were still deficient, claimed men from other towns as part of its own quota, or even engaged deserters from the British army.¹¹² Likewise, individuals who were drafted often took advantage of the opportunity to hire substitutes, and men willing to serve naturally tried to maximize their profits and minimize the length of their enlistments. Assessing the recruiting practices that brought men into the Continental Army, historians have often discerned a gap between the stated ideals of the Revolution and the willingness of the populace at large to perform the hard personal service necessary to win the war.¹¹³ The men Massachusetts' system tended to select for Continental service were definitely younger on average—one historian has found that 50 percent were 21 or younger—and possessed less

sum equal to the "average price" to hire a man. *Acts and Resolves* 21: 601. Due to the depreciation of the currency, the sum of the respective fines do not necessarily indicate their value.

¹¹⁰ Committee of Gloucester About men who deserted from the army, 14 March 1777, *Mass. Arch.* 182: 233-34.

¹¹¹ Committee of First Company of Reading for leave to enlist men from other towns, 1 Apr 1777, *Mass. Arch.* 182: 301.

¹¹² Resolve Appointing Committees to Settle Disputes Between Towns Concerning Their Respective Quotas, 29 Apr 1778, *Acts and Resolves* 20: 404-5; Resolve Allowing Towns to Enlist Men for the Continental Army Out of Those Towns Who Have Completed Their Quota, 29 Jun 1779, *Acts and Resolves* 21: 115-16; Resolves Requiring Delinquent Towns to Furnish their Quota of Men for the Army, 17 Apr 1778, *Acts and Resolves* 20: 365.

¹¹³ Royster, *A Revolutionary People at War*, 132-34, 267-68; John Shy, *A People Numerous and Armed: Reflections on the Military Struggle for American Independence* Rev. Ed. (Ann Arbor: University of Michigan Press, 1990), 173; James Kirby Martin and Mark Edward Lender, "*A Respectable Army*": *The Military Origins of the Republic, 1783-1789* 3rd Ed. (Malden, MA: Wiley Blackwell, 2015), 89-99.

property in an absolute sense. The type of town a recruit inhabited and the family from which he came would determine whether he was truly poor relative to other inhabitants or possessed average wealth and prospects for an individual of his life stage.¹¹⁴

More broadly, it is important to understand inhabitants' attitudes and actions in the context of their communities. Their response to the challenges of mobilization within their towns reflected the same strategies and values that—by popular expectation—guided the General Court's policies on the level of the state. In October, 1778, the selectmen of Mendon described, without any sense of irony or cognitive dissonance, how their Worcester County town of 493 adult male inhabitants coped with the repeated calls for troops. By the third year of the war, “many of its Inhabitants” had already “been called forth as Soldiers of this, and the other United States” and had “been exposed to great Perils, fatigue, & Hardships.” Then it

further Considered the great Inconveniencies and unequal Burthen, that many Individuals have been subjected to by their being drafted to serve in the War; especially in some Instances, where Heads of Families have been drafted, and obliged to procure others to serve for them, or to be Considered as Soldiers themselves:--Which reduced them to the unhappy Alternative, either of leaving their families in difficult and distressed Circumstances; or of giving any exorbitant Sum, demanded of them to hire others, to serve in their stead.

Mendon concluded “that all the Men that should be sent for, in future,...as this Town's Quota of Soldiers, should be hired at the expence of the Town.” The meeting then proceeded, in a manner characteristic of the state's inhabitants generally, to attempt to calculate the relative contributions of those “who had already done more than their Proportion” in personal service “or by their Money.” Their stated goal was to spread “the Burden of the War...with an equal weight on all the Inhabitants.” They appointed a committee to “estimate the Service of all” and then levied a tax on the town “in order that those who had done more than their Proportion, might receive an

¹¹⁴ Sargent, “Answering the Call to Arms,” 147-49.

equivalent further Service; and those who had been deficient, might be bro't up upon an Average.” Only afterward did the meeting grow concerned about the legality of the tax under the act permitting towns to raise money for bounties.¹¹⁵

If towns could prevent it, then, they avoided sending men with families into Continental service. The men who engaged in the first year of the war, Henry Knox reasoned, would have been oblig'd by the Laws of self-preservation to have Continued for some time embodied” even without pay. As the conflict continued, those same “worthy men who wish to do their Country every Service in their power” also wished to avert “the ruin of themselves and families.”¹¹⁶

Apart from whatever personal sympathy it harbored, the town possessed a practical interest: the families would become a further burden on the community. The overseers of the poor in Salem complained as early as September 1775 that families of men in long-term Continental service strained local resources.¹¹⁷ The one-seventh quota for three years exacerbated the problem. The General Court codified what many towns had already started doing when it permitted towns in October 1777 to supply families with “such Necessaries of Life as their Circumstances may require” to the equivalent of one-half the soldier’s wage. Eventually, the state would reimburse the towns, but in the meantime the inhabitants had to tax themselves to raise the money—and town officers had to spend their time overseeing the laborious process.¹¹⁸ Remote settlements such as Royalsbourg in Cumberland County, with 49 families total, found it difficult to supply

¹¹⁵ Selectmen of Mendon, for confirmation of vote of Town for payment of soldiers by an estimate with a Vote of Town Meeting for said Estimate, 14 Oct 1778, Mass. Arch. 184: 269-70. Concord employed a similar practice. See Gross, *Minutemen and Their World*, 148.

¹¹⁶ Henry Knox to John Adams, 21 Aug 1776, PJA 4: 484.

¹¹⁷ Petition of the Overseers of Same (about support of families of non-resident soldiers), Sep 1775, Mass. Arch. 180: 178.

¹¹⁸ Resolve for Supplying Soldiers’ Families, 10 Oct 1777, *Acts and Resolves* 20: 159-60. If the town had granted a bounty, the town would first deduct the value of the supplies from the sum of the bounty.

the families left behind by its seventeen men in Continental service for three years.¹¹⁹ Selectmen in the Essex County town of Ipswich had to request the General Court's permission to take much-needed firewood from confiscated tory property so they could give it to soldiers' families.¹²⁰

In some towns, the strain proved beyond the means of local authorities and betrayed inhabitants sought relief directly from the state. After enlisting in the Continental Army in January 1777 as one of Southboro's 176 adult men, Silas Hemingway returned home about a year later only to find his family "under Indigent Circumstances." Shocked, he was heartened to learn of the General Court's resolve of the previous October. He "immediately applied [him]self to the Selectmen," who "refuse[d] to give any releaf." Hemingway apparently obtained a copy of the resolve, perused its provisions, and discovered to his disappointment "that there was no penalty in said Resolve upon those [town officers] that refuse" to comply.¹²¹ Hemingway was correct. After receiving other complaints like his, the General Court resolved in February 1779 that *towns* whose selectmen and committees failed to supply soldiers' families would be fined up to "five times the value of such supplies which they upon request shall unreasonably refuse to make." Like town fines for deficiencies in manpower quotas, the resolve implicated the entire community if the individuals it elected failed to carry out their charge.¹²² Although problems

¹¹⁹ Inhabitants of a new Habitation or settlement called Royalsbourg..., Feb 1778, Mass. Arch. 183: 389-91. The petition does not mention how many of the seventeen men had families that needed to be supplied. See also Town of Ashfield, a threatening petition about grievances, filling quota, etc., 20 May 1778, Mass. Arch. 184: 130-31.

¹²⁰ Selectmen of Ipswich for leave to take wood from refugee estate, 4 Jan 1779, Mass. Arch. 184: 312. The General Court authorized the practice; see *ibid.*, 313.

¹²¹ Silas Hemingway of Southboro for relief of his destitute family, 10 Mar 1778, Mass. Arch. 184: 24. Population figure in Greene and Harrington, *American Population Before the Federal Census*, 37.

¹²² Resolve for Supply the Families of Continental Officers and Soldiers, etc., 6 Feb 1779, Acts and Resolves 20: 587-88. The resolve also granted fixed sums for the families of continental officers, who had not been covered under the 10 Oct 1777 resolve.

persisted, the existence of complaints point to the overriding expectation that a town's system would function as the law provided.¹²³

The frontier town of Oakham, displaying a tendency similar to that found in Mendon, even began discussing whether the policy of taxing inhabitants to support families of soldiers was unfair to soldiers without families. The selectmen discovered “that Uneaseness [sic] and Discontent prevails among Our Inhabitation [sic] and in the Army from an Apprehension that the Measures are Unequal.” While “the Meney souldiers who are in the Army who Have Estates and are Singel men Must Contribute to this expense,” they wrote, “[there] doth not appear to be any thing done for them as an Equivalent.” But Oakham's inhabitants believed this concern was just a symptom of a larger issue, for the town actually had more than its quota of men in the Continental Army. The town pointed out to the assembly that “no Allowance [is] made us for” these additional families “as was Expected.” Oakham did not have a representative in the General Court, but “In Our Behalf, as well as in the Common Cause...some [measure] may be Taken to prevent the growing Evil.” Since “the Present [sic] plan doth not Appear Equal,” inhabitants believed “the Regard we have for good goverment [sic] and the Rights of Society Induced [them]...to make this Representation.”¹²⁴

Equity

Oakham thus participated in the continuous, cyclical discussion that occurred between all parts of the state and affected all levels of governance. Inhabitants everywhere recognized that

¹²³ Michael Deagle of Barnstable found the town committee unwilling to grant him supplies, even (Deagle alleged) questioning why he was serving in the army. 1 Apr 1779, Mass. Arch. 185: 78. See also Petition of Henry Luckis a sergeant in Col. Crane's Regt of Artillery for supplies promised by town, 4 May 1780, Mass. Arch. 186: 199. One petitioner pointed out to the General Court that its resolves for families failed to include the invalid regiments the state had raised. See Petition of William Hill, sergeant (invalids) for same privileges as the Cont. 15 Battalions, 3 Jun 1779, Mass. Arch. 185: 214. The sums granted Continental officers did not always allow men to support their families, especially after the currency depreciated. Lt. Ivory Holland found in 1780 that he could not support his family “which are helpless and expencive.” Petition of Lt. Ivory Holland of the 5th MA Continental Regt for depreciation, 5 Feb 1780, Mass. Arch. 186: 74.

¹²⁴ Selectmen of Oakham complaints as to support of families for soldiers, etc., Nov 1778, Mass. Arch. 184: 278-79.

their ability to realize equity on a local level depended to a large extent on the scale and nature of the burdens assigned to them by the General Court. After attempting to meet the demands through local action, inhabitants sought to put the onus of unrealistic demands back on their leaders in Boston. The state's representatives and councilors evaluated the merit of the populace's points and the entire process would begin again. Mobilization afforded innumerable opportunities for inhabitants to consider their fundamental assumptions about how governance ought to operate in concrete contexts. Implicitly in their actions and explicitly in their statements about troop mobilization, Massachusetts inhabitants articulated the main tenets of their understanding of equity.

The first premise of equity was that all members of the community should *exert* themselves to an equal extent. As the selectmen of Boston stated in 1778, "We ask not the least alteration in any Necessary Proportiond Difficulty." Demonstrated exertion was a prerequisite for any legitimate argument. Thus the Boston selectmen noted that while the city's official military-age population—the number the General Court had used to assign its quotas—had been 2,852 "including 188 Molattoes & Negro's," that number had fallen to "only 1423" the previous winter. Nevertheless, at present, Boston had over 700 officers and men serving with the Continental Army and "near 300 in the Continental Navy." Moreover, the inhabitants had experienced such "frequent Draughts from the Militia, for what tours of duty, that almost every man has served twice." The Bostonians were "convinced we have done more than our duty."¹²⁵ Belchertown, a rural community in Hampshire County that contained 310 polls in 1778, had

¹²⁵ Selectmen for the Inhabitants of Boston, about filling their quota, Oct 1778, Mass. Arch. 184: 362-64.

likewise sent, the selectmen claimed, “more than Double our Proportion” of men in 1775 and then “ten more than our proportion” in 1776.¹²⁶

The notion of “proportion” was ubiquitous; everyone’s exertions should be proportional. The General Court formulated its policies and quotas on this premise. Yet people and communities operated under varying circumstances. Equity allowed that while an individual or town’s exertions might be just as taxing as another’s, the *results* of those exertions might differ. Individuals and towns truly did face diverse challenges that affected their ability to comply with the government’s requisitions. They offered an endless series of reasons for their difficulties in raising men, all of which, they knew, needed at least to appear plausible to the committee of legislators reading their accounts in the Boston statehouse.

The composition and size of a town’s population fluctuated. In October 1777, the Committee of Safety for Adams in Berkshire County balked at drafting some of the town’s Quaker inhabitants “into the army where,” they noted, “we Humbly Concieve [sic] they will be useless.”¹²⁷ Although Quakers were in fact exempt from military service by law, their presence in a town in sizable numbers could skew the ratio between the town’s quota and the pool of males eligible for personal service. In their successful petition for remittance of a fine for a deficiency in its quota, the Cumberland County town of Falmouth claimed that Quakers made up “one third part of the town.”¹²⁸ The Middlesex County town of Medford’s problem involved not Quakers but an influx of impoverished former inhabitants from Charlestown who, after fleeing

¹²⁶ Selectmen of Belchertown account of sufferings of their men in the expedition to Quebec in 1776, etc., 10 Nov 1779, Mass. Arch. 185: 402. Population figure from Greene and Harrington, *American Population Before the Federal Census*, 34.

¹²⁷ Committee of Safety of East Hoosuck (Adams) for method against drafting Quakers, 3 Oct 1777, Mass. Arch. 183: 365. See also Resolve on the Petition of Jeremiah Smith and Others of East Hoosuck, 3 Oct 1777, *Acts and Resolves* 20: 147.

¹²⁸ Joseph Dimock for the town of Falmouth, ME for relief, 1 Apr 1780, Mass. Arch. 186: 194. Falmouth appears to have exaggerated the number, but the General Court accepted their argument. *Ibid.*, 194a. Greene and Harrington, *American Population Before the Federal Census*, 37.

their destroyed homes, were “so low that the whole [sum the selectmen] could tax them would not pay the Bounty the Town gave for one Man.” They nevertheless counted in calculating Medford’s one-seventh quota.¹²⁹

Most towns, however, pointed to loss of population as the principal cause of deficiency. After Hancock, in Berkshire County, submitted “the Number of the Inhabitants for Assigning [its] Quota,” twenty-five men from the town “Deserted the State & joind the Enemy” while “five More have been Taken going to the Enemy and also five More are under Confinement” for being Tories. “[C]onsidering the Situation and Circumstances” of the town, Hancock’s petitioners felt it reasonable to be exempted “from the Extraordinary Burden of Procuring Soldiers.”¹³⁰ The coastal Essex County town of Beverly’s quota reflected a population count made before “our Great Losses of men,” including forty inhabitants who were presumed drowned on board “three armed Vessels.”¹³¹ Fifty of Braintree’s men “as could best Leave their family” were currently serving garrison duty on nearby Castle Island, and as a result that town found it could not raise its quota of six-month men “without a very Extraordinary Expence.”¹³² To the north, Gloucester charted in detail a depressing and consistent trend whereby its “Men diminish in the proportion of 10 per Cent per Annum,” leading the seaport town to predict that “unless their [losses] be supply’d by youth coming of Age—or Strangers settling here, a ten years war, (if we were to lose as we have done) would extinguish all male Inhabitants.”¹³³ Given such realities, Massachusetts inhabitants were in universal agreement, government authorities needed to be responsive to rapidly changing circumstances.

¹²⁹ Petition of Benjamin Hall and others Selectmen of Medford claiming that their quota of men was complete, 29 Sep 1777, Mass. Arch. 182-83.

¹³⁰ Town of Hancock for consideration as to quota, Mar 1778, Mass. Arch. 184: 2.

¹³¹ Selectmen of Beverly for an exemption for supplying men, 12 Jun 1780, Mass. Arch. 186: 253. Apparently unconvinced, the General Court granted Beverly “leave to withdraw” its application.

¹³² Town of Braintree for exemption from quota, 19 Jun 1780, Mass. Arch. 186: 261.

¹³³ Town of Gloucester detailed account of losses by land and sea, of money and men, stating need for relief, 17 Aug 1779, Mass. Arch. 185: 251.

While clearly irritated by the burdens assigned them on the basis of now-inaccurate information, inhabitants acknowledged the practical difficulties their representatives faced. They faced analogous challenges when distributing burdens within their communities. Leominster, in Worcester County, stated that despite its various “causes of complaint” over the preceding few years, it had been “very unwilling to trouble the Genl Court at them times, whilst we was sensible the publick affairs was a full imployment for all their time, and faculties” and therefore they had “remained silent.”¹³⁴ Overworked town selectmen, tending to the ever multiplying needs of their fellow inhabitants, could relate to the representatives’ plight—though this did not prevent them and other local officers from holding the state’s councils to the most exacting standards.

Changing circumstances called for equitable adjustments. In cases where population decline had made their quotas numerically disproportional, towns usually requested an alteration to their quotas or a remittance of the fines imposed for a deficiency. Yet towns possessed circumstances beyond mere disparity in population. Greenwich, a Hampshire County town with just over 200 military-age males in 1778, had attempted to meet the various militia and Continental quotas in a manner similar to every other town. In 1780, it reported, the town raised 48 men. Since the selectmen and committee had needed to borrow already-collected tax money from the constables to supply and equip the new soldiers, however, they now found themselves in the position of “defend[ing] the Constables from Executions” by the sheriff, who had orders to collect the money lent to the town. Greenwich’s town fathers identified the root of the issue: “from the Commencement of the war till Now,” they told the General Court, “...our quotoas

¹³⁴ Town of Leominster about exemption and abatement, Mar 1780, Mass. Arch. 186: 111.

[sic] were Called for By Numbers without any Regard to our Wealth which is very small.”¹³⁵

Petitions such as Greenwich’s reveal that while “equality” in the abstract—of exertion, of contribution—remained the goal, inhabitants maintained that government authorities responsible for distributing burdens should make a reasonable assessment of circumstances and treat them, in key respects, *unequally*.

Inhabitants who appealed for special treatment needed to situate themselves in the context of the larger polity. Every town petition involved making at least an implicit comparison to other communities. Each also made a case for the town’s importance within the state as a whole. Petitioners needed to demonstrate how, by allowing their town to deviate from the original request made of them, the benefits would redound to Massachusetts generally. For some towns, this might resemble Greenwich’s contention that a disparity in wealth hindered its ability to contribute men in an equal proportion. The wealth of the town was often correlated with its relative youth, and some petitioners could invoke the state’s overall pattern of settlement to argue that an unreasonable manpower burden would be fatal at a critical stage in the community’s development. The men of Charlemont, a Hampshire County town incorporated in 1763, did not possess “the advantages which the old Towns have, of sowing old fields, but are necessitated to Clear up new ground, or buy their bread.” While Charlemont had “filld up [its] Quota of Continental Men, and also answerd all Calls for Militia, and in Alarms have turnd out almost beyond any town of our Numbers,” the fact remained, inhabitants insisted, “that we do not stand upon an Equal footing with the old towns, and it appears Hard to us after all our Struggle

¹³⁵ Selectmen, Committee of Safety, and officers of Greenwich regarding Continental quota, 4 Sep 1780, Mass. Arch. 186: 280. The town of Ashfield also noted that its quota was equal “to Manay old Rich towns that are vastly Richer than we are.” See Town of Ashfield a threatening petition about grievances, filling quota, etc., 20 May 1778, Mass. Arch. 184: 130.

for liberty, to Be greater Sufferers than our brethren in General.”¹³⁶ Charlemont could have cited a maxim used by the inhabitants of the unincorporated settlement of Limerick, in York County, who reminded the General Court that “the Bending of the plant too young often hurts the groth [sic] of the tree.”¹³⁷ No one in the state would benefit if communities acquiesced to demands that would injure their long-term prospects.

Whether one inhabited a frontier settlement or a long-incorporated community, however, maintaining equity for one’s town involved constant observance of other towns. Equity was inherently relative, and inhabitants scrutinized the fortunes of neighboring jurisdictions for any hint that the state government, intentionally or otherwise, had favored them. Thus the town of Barnstable believed its fine for deficiency should be remitted not just because the General Court lacked “proper information” at the time it was levied, but “more Especially as we find several of the neighbouring Towns Excused or their fines suspended whose situation at present we Esteem far from happy yet Compared with the situation of this Town...much hapier [sic].”¹³⁸ The inhabitants of Marblehead also expressed confidence that the General Court would readily remit their fine for deficiency on this basis. “[O]n viewing the Circumstances of this Town,” they wrote, the representatives would inevitably seek to do “Justice as we respect the other Towns in the State.”¹³⁹ Keeping other towns and the General Court’s conduct toward them under close watch frequently provided useful precedents to cite in petitions for one’s own relief. But it also could lead inhabitants to voice stronger appeals about the underlying problems facing Massachusetts.

¹³⁶ Inhabitants of Charlemont in need of aid, 1 Sep 1779, Mass. Arch. 185: 268-69.

¹³⁷ Inhabitants of Limerick ME for release from Taxes, 20 Sep 1780, Mass. Arch. 185: 319.

¹³⁸ Town of Barnstable for remittance of fine for deficiency of men, 14 June 1780, Mass. Arch. 186: 255.

¹³⁹ Town of Marblehead, 24 Jan 1780, Mass. Arch. 186: 71.

True equity ultimately demanded a government capable of enforcing its policies. Towns that failed to meet their quotas or disregarded the General Court's rules about recruitment caused a chain reaction of problems for the surrounding region and even the entire state. By permitting unreasonable noncompliance by other towns, the inhabitants of a given community believed the General Court was being inequitable to them. In 1779, the coastal town of Manchester in Essex County was assigned a quota of five nine-month men to reinforce the Continental Army, "yet could procure no more than three." The town proceeded to consider all the requisitions for men that had been made in past years. "[W]e yet think that," they concluded, "if other Towns had Furnished the seventh part of their Numbers First Called for, the three [men] we furnished would Have been our full Proportion." The call for nine-month men followed from others' noncompliance with the 1777 levy. Since 27 of Manchester's 29 men from its 1777 quota were "still in the Field," inhabitants reasoned, three additional men actually put the town over its original obligation.¹⁴⁰ All petitioners would have acknowledged that in theory the doctrine of equity should afford the same relief to others that they were now requesting. Whether for purely rhetorical purposes or out of genuine belief that their neighbors had not fully exerted themselves—and with little appreciation for the irony—they denied in these specific instances that other towns met the threshold for allowing equitable noncompliance.

Well-informed and engaged in the process of mobilization, inhabitants held the state's authorities to their promises. The Hampshire County town of Palmer, which had with only 165 adult men in 1778, also suspected that its hardships could be traced to the failures of other towns. Upon receiving its quota of Continental reinforcements in 1780, the inhabitants dusted off the General Court's one-seventh resolve of January 26, 1777. "We also find a Parragraff in said

¹⁴⁰ Petition of the Inhabitants of Manchester, 12 Apr 1779, Mass. Arch. 185: 112. Manchester obviously made no allowance for attrition in the forces generally, or for the original deficiency of the one-seventh proportion to meet Congress' full quota for the state. See above n.

orders,” they informed the General Court, “that Every Town in Said Massachusetts Bay who should furnish their Qota [sic]” would not be subject to drafts on their militia until all other towns had met their quotas. Since Palmer had its full number in the army, inhabitants felt “it unreasonable and unjust that we should be Cald upon to Suply the Said Contanental Army with any more men...untill Every Town and plantation in said Common welth shall have furnished their Equal proportion.”¹⁴¹ Leominster likewise noted that it had “incurred a prodigious debt, in providing [its] proportion of men for three years service” with the “full Assurance” offered by the General Court’s 1777 resolve “on which we firmly relyd.” Yet “many Towns in this state, did not provide their proportion” and as a result “there appeared a necessity for a reinforcement (which we apprehend was intirely owing, to the negligence of them Towns).” Summing up all of the key dimensions of equitable government, Leominster concluded by noting that inhabitants “have a Right to Expect Justice in common with the other towns in this state,...our circumstances cannot bare more th[a]n our just proportion of the publick calamities and we hope the honorable court will take care for the future that it may not be required of us.”¹⁴²

Money, Protection, and the Scope of Equitable Government

By exhorting the state government to distribute the burdens of war equitably, Leominster articulated the common understanding of all Massachusetts inhabitants. Wherever they lived, inhabitants evaluated governance according to its susceptibility to rival claims to equity. The political geography and institutional structures that comprised Massachusetts’ constitution encouraged this, providing tangible contexts by which authorities could assign and inhabitants could compare their respective burdens. Conflict inevitably occurred because inhabitants shared a common language of equity through which they all needed to legitimize their actions. Equity

¹⁴¹ “Select body” of the Town of Palmer, 6 Nov 1780, Mass. Arch. 186: 364-65. Population figure from Greene and Harrington, *American Population Before the Federal Census*, 34.

¹⁴² Town of Leominster about exemption and abatement, Mar 1780, Mass. Arch. 186: 110-11.

offered no fixed ideal; rather, its definition lay in the arguments for or against its existence in any given instance. Equity could never be achieved permanently or be fixed by a static proportion; it demanded constant recalibration and serious engagement with the world beyond the boundaries of one's town.

The state's experiences in the realms of public finance and in the struggle to protect inhabitants from physical attack followed the same pattern and reinforced the same idiom of equity as did its efforts to raise troops. The state initially financed its war effort by issuing non-interest bearing bills of credit that were intended to circulate as currency. Beginning in 1776, the General Court phased out issuing its bills of credit in favor of issuing treasury notes that bore interest and were not intended to circulate as currency. It ordered inhabitants to bring in their bills of credit and to exchange them for longer-term treasury notes, to be redeemed by taxation a few years in the future, as a means of combating price inflation. Meanwhile, Congress' issuance of \$241,552,780 in paper money caused depreciation that became acute beginning in 1778, leading it to request in early 1780 that the states call in quotas of Continentals by taxation and exchange them for interest bearing state notes redeemable in specie beginning in 1786. Congress also made the state responsible for paying the depreciation on soldiers' wages: the difference in the real value of the wages Continental soldiers were to receive on the date they were supposed to be paid by Congress and the value of the depreciated wages soldiers actually received when Congress got around to disbursing the wages. In a move that angered many towns and soldiers, the General Court decided to deduct the sums soldiers had received in town enlistment bounties when calculating how much money the state still owed them for depreciation.¹⁴³ Taken together,

¹⁴³ For the policy regarding town bounties and objections to it, see Resolve, 25 Nov 1779, *Acts and Resolves* 21: 262; Resolve 20 Dec 1779, *ibid.*, 304; Resolve, 7 Jan 1780, *ibid.*, 341; Committee of the army regarding soldiers' pay, 8 Jan 17[80], Mass. Arch. 186: 49-52; Committee of the Massachusetts Line of the army concerning bounties, pay, 9 Mar 1780, *ibid.*, 53-58a; Selectmen of Stoughton respecting soldiers' repayment of town bounties, 17 Apr

the General Court conducted fiscal policy in a way that favored the state's overall public credit at the occasional expense of individual constituencies of non-creditor inhabitants.¹⁴⁴ The chaotic state of public finance and the currency presents a sharp contrast with the relative regularity and stability that marked provincial Massachusetts' experience during the French and Indian War.

Most of the direct taxation lay in Massachusetts' future, when its treasury notes would become payable with interest, but the relatively light taxes levied between 1775 and 1780 initiated the same process of distributing burdens throughout the state and within towns. It also led to the same types of appeals on the basis of equity and suggested the difficulties the state would face when it would need to begin levying frequent and heavy direct taxes across a complex political geography. Diverse towns cited their circumstances to challenge the General Court's apportionment of their tax quotas and they pointed to other towns that were, in their opinion, not being asked to contribute their fair share.¹⁴⁵ Within towns, local officers attempted to distribute the town's quota of taxes equitably among inhabitants. The inhabitants of Lanesboro, in Berkshire County, requested in 1778 that the General Court break with longstanding custom and no longer specify a uniform poll tax on all inhabitants; they wanted to assign the entire tax on the basis of circumstances and wealth, rather than only the amount that

1780, *ibid.*, 175-76; Col. Ephraim Doolittle for soldiers of Petersham regarding their bounties and wages, 8 Jun 1780, *ibid.*, 249; Town of Stoughtonham supporting soldiers' right to bounties, 13 Sep 1780, *ibid.*, 300; Report respecting soldiers' bounties, 2 Nov 1780, *Mass. Arch.* 137: 313-14.

¹⁴⁴ Oscar Handlin and Mary F. Handlin, "Revolutionary Economic Policy in Massachusetts," *The William and Mary Quarterly* 3rd Ser. 4, no. 1 (Jan., 1947): 3-26; William B. Norton, "Paper Currency in Massachusetts During the Revolution," *The New England Quarterly* 7 no. 1 (Mar., 1934): 43-69; Whitney K. Bates, "The State Finances of Massachusetts, 1780-1789," (M.A. Thesis, University of Wisconsin, 1948), 30-59, 154-60. For price control policy and popular reaction to it, see Barbara Clark Smith, "The Politics of Price Control in Revolutionary Massachusetts, 1774-1780," (Ph.D. diss., Yale University, 1983). Important public addresses from the General Court on public finance include *Resolve*, 11 Jun 1779, *Acts and Resolves* 21: 53-56 and *Resolve*, 4 Oct 1779, *ibid.*, 185-89.

¹⁴⁵ See, for instance, Selectmen of Marblehead for abatement of taxes, 30 Mar 1776, *Mass. Arch.* 180: 373; Convention of Lincoln County, Thos. Rice Chairman, for abatement of taxes, 13 May 1776, *Mass. Arch.* 181: 14; Committee of Wellfleet for abatement of taxes, 30 May 1776, *ibid.*, 34-35; Inhabitants of Salem for abatement of Taxes, 27 May 1778, *Mass. Arch.* 184: 141-45; Inhabitants of Dedham, Medfield, Wrentham, etc. for remisison of present undue taxation with a resolve providing correction of same, Oct 1779, *Mass. Arch.* 185: 363-65; Town of Worcester for an abatement of rates of taxation, 16 Nov 1779, *ibid.*, 418-20; Town of Monson, Mar 1780, *Mass. Arch.* 186: 101.

remained after collecting the poll tax.¹⁴⁶ Lanesboro's proposal about the poll tax paralleled the concern towns raised about the order requiring them to contribute one-seventh of their inhabitants for Continental service: standard proportions did not affect all communities equally. Still, records reveal that the state was collecting at least some taxes from towns through 1780, albeit with the usual delays.¹⁴⁷

The state also had to distribute another type of burden in these years: vulnerability. Massachusetts did not possess the resources to ensure the safety of all inhabitants from possible attack by British naval forces and British-allied Native Americans, and the General Court found itself weighing the claims of various communities to the state's limited protection. One of the most striking changes Massachusetts experienced from the conflicts of the colonial era lay in the fact that communities along the state's extensive coast no longer enjoyed the Royal Navy's protection but instead feared its power. Congress could provide no assistance aside from authorizing a small number of Continental vessels and granting letters of marque to privateers. Inhabitants' paranoia about safety throughout the war followed from spectacular early examples of British aggression. The memories of the British burning of Charlestown in June, 1775, and the destruction of Falmouth by Captain Henry Mowat in October, 1775, loomed large in the collective memory and justified appeals to the General Court.¹⁴⁸ Citing its "expost" position, the tiny town of Truro on Cape Cod asked the General Court in December, 1775, for "powder and small arms and two or three field p[i]eces and five Hundred Sold[i]ers" for defense.¹⁴⁹ The General Court found Truro's request excessive, but it continued to respond to individual petitions

¹⁴⁶ Inhabitants of Lanesboro for abatement of poll tax, 18 May 1778, Mass. Arch. 184: 129. See also Town of Conway about assessment of taxes, 11 Sep 1778, *ibid.*, 216-17.

¹⁴⁷ Sheriff's Execution Warrants, Mass. Arch. 321: 1-147. The records show compliance with execution warrants in Bristol, Suffolk, and Middlesex counties.

¹⁴⁸ Inhabitants of Charlestown...for abatement of taxes, 16 Nov 1779, Mass. Arch. 185: 414-16; Committee of Falmouth about demands of Capt. of the Cerberus, 2 Nov 1775, Mass. Arch. 180: 224-26; James Warren to John Adams, 20 Oct 1775, PJA 3: 221-22.

¹⁴⁹ Committee of Truro for 500 men, also small arms & field pieces, 25 Dec 1775, Mass. Arch. 180: 266.

by authorizing towns to raise dedicated “seacoast men,” in addition to a statewide force of guards that numbered up to 1,200 in 1776.¹⁵⁰ The need to defend the coast occasionally exempted coastal communities from contributing men in militia levies, drawing the ire of communities who felt equally vulnerable but still found their men called away to defend others.¹⁵¹ In truth, the small contingents of seacoast men offered little real protection from any determined British force. Their purpose lay mainly in demonstrating that the General Court acknowledged the “peculiar circumstances” of its inhabitants and was willing to make some effort to protect them, as unsatisfactory as those efforts inevitably turned out to be.

Two cases illustrated Massachusetts’ limited capacity to provide equitable protection. The island of Nantucket off the state’s southern coast lay helpless to prevent incursions by the British navy. This fact, along with the island’s conspicuous exemption from the terms of Parliament’s Restraining Act, led the Provincial Congress to ban the shipment of supplies to Nantucket out of suspicion of Toryism in July, 1775.¹⁵² The General Court permitted shipments in September, 1775, after receiving petitions from the island’s selectmen, but it quickly re-imposed the ban in December on word that the supplies imported exceeded the needs of the population and could only be finding their way to British forces. Relations remained strained

¹⁵⁰ See, for example, Selectmen of Rehoboth for pay for expenses of a fortification with a report recommending guard of 50 men for Taunton River, 8 Jan 1776, Mass. Arch. 180: 282-82b; Selectmen of Yarmouth for a guard, 20 Mar 1776, *ibid.*, 359; Inhabitants of Dorchester, Milton, Braintree Weymouth, and Hingham for a regt. to defend them, 9 Apr 1776, *ibid.*, 396-97; Report of Committee appointed to view sea coast, 17 May 1776, Mass. Arch. 137: 92-95. For seacoast establishment, see Resolve Continuing the Sea Coast Forces, 1 Jan 1776, *Acts and Resolves* 19: 189-92.

¹⁵¹ See for example Petition of Sml Parker in behalf of Provincetown asking to be released from furnishing men for the army with resolve, 17 Sep 1777, Mass. Arch. 183: 150-50a; Petition of Committee of Falmouth [Cumberland County], 22 Jun 1779, Mass. Arch. 185: 223.

¹⁵² Resolution on Provisions at Nantucket, 7 Jul 1775, in L. Kinvin Wroth, et al., eds., *Province in Rebellion: A Documentary History of the Founding of the Commonwealth of Massachusetts, 1774-75*. Microfiche ed. (Cambridge, Mass.: Harvard University Press, 1975), Doc. 921, 2551-52.

between inhabitants and the state government in the following years as the General Court sorted through accusations of Nantucket's collusion and inhabitants' protestations of innocence.¹⁵³

To the north, Massachusetts attempted to defend the exposed settlements of Maine, culminating in Penobscot expedition of July and August 1779. Exposed settlements frequently petitioned the General Court for more troops to defend against British threats. By June, 1779, a convention of towns in Lincoln County, after providing detailed information on the British fleet currently ensconced in Penobscot Bay, reminded the state authorities of "the Necessary protection, which we, in common with the other parts of the State, have a right to expect." Like the inhabitants of Nantucket, inhabitants in Lincoln County cautioned that they may have to "make for ourselves the best terms we can" since they expected that "the present application [will be] treated with that neglect by the Legislature which has been very Sensibly felt by them, when it has been the fate of former petitions and Memorials from these parts."¹⁵⁴ Yet the General Court fully exerted itself in this case, organizing a force of 1,500 militiamen and a fleet of ships hired from private owners whose objective was to dislodge the British. The expedition ended in unmitigated failure in August, when over forty Massachusetts vessels were captured or destroyed. Because the General Court had insured the ships against damage or loss, the enormous cost of the expedition haunted the state for years thereafter.¹⁵⁵ Viewed in the perspective of the state's broader mobilization, it was perhaps the government's most expensive attempt to demonstrate equity in the distribution of burdens.

¹⁵³ See Resolves of 29 Sep 1775, 11 Dec 1775, and 25 Jan 1776, *Acts and Resolves* 19: 89-90, 170-71, 233; Resolve 23 Jun 1779, *Acts and Resolves* 21: 83-84; Selectmen of Nantucket countering libelous views of their island, 14 Jul 1775, Mass. Arch. 180: 86-87; Selectmen of Nantucket for repeal of General Court resolve, 14 Sep 1775, *ibid.*, 132; Selectmen of Nantucket for leave to import fuel and provisions, 16 Jan 1776, *ibid.*, 285; Petition of Inhabitants of Nantucket, 9 Apr 1779, Mass. Arch. 185: 109-10½; Petition of Thomas Jenkins, Nov 1779, Mass. Arch. 137: 279-81; Report of committee on complaint against Timothy Folger & others as inimical inhabitants of Nantucket, 31 Mar 1780, *ibid.*, 276-77.

¹⁵⁴ Petition of the Delegates of the Several Towns in the County of Lincoln, 24 Jun 1779, in James Phinney Baxter, ed., *Documentary History of the State of Maine* (Portland: Lefavor-Tower Company, 1910) 16: 314-15.

¹⁵⁵ For an account of the expedition, see Leamon, *Revolution Downeast*, 104-19.

Notwithstanding the seemingly endless conflicts that arose over the equitable distribution of every kind of burden, Massachusetts' war effort, if viewed in comparative context, must be judged a qualified success. While precise calculations remain difficult, historians agree that "Massachusetts put a larger percentage of her population in the field than any other state."¹⁵⁶ Available returns show that Massachusetts forces always composed a significant proportion of the Continental Army's total strength. Predictably, the proportion was highest in 1775, when Massachusetts troops made up in excess of 60 percent of the army. As the main theater of war moved south, Massachusetts still accounted for about 35 percent of Continental forces throughout 1776, and probably averaged about 20 percent in 1778, 1779, and 1780.¹⁵⁷ Massachusetts inhabitants frequently failed to meet their targets and fill their quotas. Authorities at all levels and inhabitants generally experienced unprecedented hardships and strains that may yet prove unsustainable. Yet widespread compliance characterized the relationship between the state and populace between 1775 and 1780, a fact that must be attributed in large measure to the standards of equity all participants insisted upon. Noncompliance could not be legitimized unless it was premised on earlier compliance or, at least, an expressed will to comply.

Faced with the need to distribute burdens equitably, inhabitants naturally adopted an outlook that resembled a commonsense, vernacular federalism. Carefully watching the General Court's conduct toward other towns and other parts of the state, they saw all as constituting a single whole. But everyone knew that ultimately many of their burdens—Massachusetts' quota of Continental soldiers among them—originated as mandates of Congress. As Gloucester had noted, the "equitable rule" stated that what "holds good respecting an Individual in a Town, by A

¹⁵⁶ Higginbotham, *War of American Independence*, 389. See also Handlin and Handlin, "Revolutionary Economic Policy," 5.

¹⁵⁷ Figures calculated from Lesser, *Sinews of Independence*, 2-195. Because the forces included on the Continental Army's total strength returns fluctuated so widely, it is not possible to give an exact figure for the proportion of Massachusetts forces serving in or with the Continental Army.

parity of reason,...holds good in respect to a Town in a State.” This formulation might expand to include “a state in a confederation.” Simultaneously, inhabitants sought to strengthen their own state’s ability to meet present and future challenges through a formal process of constitution-making. Far from making inhabitants fearful of their government’s power, the Revolution created a demand for more effective government.

Chapter 4

A Useful Piece of Machinery: Constitution-Making, 1775-1780

“A Government without Power to exert itself,” declared the Massachusetts constitutional convention, “is at best, but an useless Piece of Machinery.”¹ This statement, included in the “Address of the Convention,” appeared in March, 1780, near the end of a half-decade-long process by which Massachusetts wrote and ratified a new frame of government. “Instead of being the first we shall be the last Colony to form a Government,” Francis Dana of Boston had predicted to John Adams in July, 1775.² Much to Adams’s disappointment, Dana’s instincts proved correct. It remains a remarkable paradox that Massachusetts, the last state to adopt a new frame of government during the Revolution, nonetheless came to possess—in the estimation of Americans at the time—the most legitimate constitution on the continent while offering a model process for all future American constitution-making.³

An explanation begins to emerge if we take as a starting point the convention’s insistence that a constitution must be a useful “piece of machinery” designed to achieve concrete ends. Fundamentally, a successful constitution must facilitate effective governance, especially when the political community faces its greatest challenges—such as Massachusetts faced during and after the War of Independence, when the state needed to supply men, provide fiscal stability, and ensure protection for its inhabitants. In short, a constitution must prove capable of mobilizing power to meet the needs of constituents. A constitution’s effectiveness certainly hinges on its perceived legitimacy: the extent to which constituents accept and seek to comply

¹ *Journal of the Convention for Framing a Constitution of Government for the Massachusetts Bay...* (Boston: Dutton and Wentworth, 1832), 217.

² Francis Dana to John Adams, 28 Jul 1776, PJA 4: 416.

³ R.R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, Volume I: The Challenge* (Princeton: Princeton University Press, 1959), 214-28.

with the demands of authorities operating according to a given set of fundamental rules, be they written and codified or simply understood through longstanding practice. Thus in addition to assessing what constitutions such as Massachusetts' might *signify* in a more abstract sense, it is important to explore what, in a more immediate sense, they were supposed to *do*. For Massachusetts inhabitants, their constitution's ability to deliver effective government during the community's great wartime crucible certainly factored into their assessment of its larger meaning and legitimacy. To view the process of constitutional development solely as either a struggle for democracy arising from socio-economic conflict, on the one hand, or as a relatively straightforward reflection of ideological affinities and fears, on the other, risks introducing a distinction between the constitution's form and function that inhabitants would not have recognized.

In general, scholars have focused on American constitutions' forms—the contents of declarations of rights, the theory of representation, the powers of the separate branches, the definitions of citizenship and the thresholds for political participation—as the primary subject of analysis, taking for granted that the governments they implemented functioned to the satisfaction of constituents. Moreover, we can extend our purview beyond the long tradition of exploring how, in the wake of their experience of British tyranny (as they understood it), Americans focused their efforts on limiting the potential for their new governments to devolve into corrupt versions of themselves. By examining constitution-making in these negative terms, we have often failed to appreciate the extent to which Americans of the period enthusiastically embraced government's potential to mobilize power toward desired, collective aims.

In the case of Massachusetts, scholars have neglected to explore this more positive dimension of its constitutional development because they have limited themselves to studying

the formal process of writing and ratifying its state constitution, which naturally highlights debates and controversies over the constitution's specific provisions. Massachusetts possesses an extremely rich vein of sources pertaining to this formal process. The questions that intrigued earlier historians guided the compilation and publication of documentary collections in the 1960s, which made widely available many key documents: the General Court's resolves on the constitution-writing process; pertinent statements by individuals and groups such as the "Berkshire Constitutionalists"; and, most important, the hundreds of town returns on the successive constitutional proposals between 1776 and 1780.⁴ On the one hand, these sources are so rich that they can support many different—sometimes diametrically opposed—interpretations.⁵ On the other hand, the relative volume of the sources is misleading, for the evidence—especially that derived from the town returns—defies simplistic attempts at categorization and interpretation.⁶ Scholars who limit themselves to these sources therefore depict, variously, a process characterized by deep fissures among the populace, incipient democracy quashed, conceptual breakthroughs in political theory, or, simply, pragmatic fraud.

We gain a fuller understanding of constitution-making in Massachusetts by viewing the formal process of writing and ratifying a frame of government for the state as one part of a larger

⁴ Robert J. Taylor, ed., *Massachusetts, Colony to Commonwealth: Documents on the Formation of Its Constitution, 1775-1780* (New York: W.W. Norton: 1961); Oscar Handlin and Mary Handlin, eds., *The Popular Sources of Political Authority: Documents on the Massachusetts Constitution of 1780* (Cambridge, MA: Belknap Press of Harvard University Press, 1966). Earlier works that established the narrative and standard sources include Harry A. Cushing, *History of the Transition from Provincial to Commonwealth Government in Massachusetts* (New York: 1896) and especially Samuel E. Morison, "Struggle over the Adoption of the Constitution of Massachusetts, 1780," *Massachusetts Historical Society, Proceedings*, L (1917): 353-411. Studies that rely heavily on the documentary editions of Taylor and the Handlins—if not for their interpretations directly but at least in terms of the body of evidence to be interpreted—include Stephen E. Patterson, *Political Parties in Revolutionary Massachusetts* (Madison: University of Wisconsin Press, 1973) and Matthew C. Boesen, "From Charter to Constitution: Local Self-Government in Revolutionary Massachusetts, 1774-1780" (Ph.D. Diss., University of Virginia, 1998).

⁵ See for example Gordon S. Wood, *Creation of the American Republic, 1776-1789* (Chapel Hill: University of North Carolina Press, 1969), 437.

⁶ For a trenchant critique of the method employed in Patterson, *Political Parties in Revolutionary Massachusetts*, see Ronald M. Peters, Jr., *Massachusetts Constitution of 1780: A Social Compact* (Amherst: University of Massachusetts Press, 1978), 37-38n.36.

search for more effective government. First, it merits repeating that formal constitution-making occurred at the same time inhabitants across Massachusetts were attempting to distribute the burdens of war and articulating a sophisticated understanding of equity as government's operative principle. People did not discard these perspectives when they attended a town meeting to debate constitutional matters; they knew intimately how governance in Massachusetts functioned. In addition, to appreciate the scale of their thinking, we must also consider inhabitants' views on the Declaration of Independence and the Articles of Confederation. Both of these constitutional acts received widespread discussion in the state, and the almost universal consensus in their favor helps place inhabitants' positions on the state constitution in a proper perspective. The Declaration and Articles both represented opportunities to make government more effective and equitable.

Massachusetts could not easily adopt a new constitution in the early years of the Revolution, as most of the other states did, because any new constitution Massachusetts adopted would need to be more effective and legitimate than the charter regime it currently enjoyed. The states that wrote and adopted new constitutions in these years were not replacing anything as substantive as the Massachusetts charter. These colonies therefore needed new constitutions immediately. In contrast, the two corporate colonies whose charters included royal authority only indirectly, Connecticut and Rhode Island, easily retained their constitutions and never attempted to adopt new ones during the Revolution. Massachusetts' constitution was too legitimate and functional to discard easily, but it was also too flawed and too susceptible to the charge that its institutional framework was designed for royal government and ill-suited to serve as a long-term solution. The charter regime's relative effectiveness meant that inhabitants felt comfortable and justified in taking their time adopting a new frame of government. In 1778,

Massachusetts became the only state to reject a fully formed draft of a constitution. The strength of the constitution Massachusetts finally did adopt in 1780 owed much to the fact that it succeeded a stable, robust regime.

The war circumscribed the limits of constitutional innovation. Given the need to maintain the compliance of inhabitants across a complex political geography, no group of Massachusetts leaders could ever hope to impose on the populace a constitution that diverged drastically from its current form. Major innovations were limited to those aspects of the constitution that groups within the state could successfully argue needed to be altered to deliver equitable government after independence. Wartime mobilization revealed that the distribution of representation, for instance, might have made sense when Massachusetts was a province of the British Empire, but it now struck many inhabitants as unjust, especially in light of the contributions demanded of them for the war. These practical limitations on reform staved off the most radical proposals of all kinds; few considered the final settlement fully satisfactory.

Yet inhabitants approached constitution-making in an informed and sophisticated manner, usually appreciating the practical challenges involved. By contemporary standards, Massachusetts allowed a remarkable degree of popular participation in the drafting of its constitution. Without question, when given the opportunity towns advocated an astonishing range of constitutional provisions, many of them apparently at odds with the constitution adopted in 1780. We risk portraying inhabitants as delusional, however, if we read their statements out of context and assume they maintained unrealistic expectations that their views would prevail in full. They knew they lived in a complex larger polity and that there was value in stating their preferences as strongly as possible in the hope of influencing the final result. They also knew that what they wanted above all was a government that assigned burdens equitably, responded to

their needs when circumstances dictated, and possessed sufficient power to accomplish common goals. Collectively they demanded a process that reflected popular will not perfectly but plausibly enough.

While the basic institutional framework of its government was unlikely to undergo radical change, constitution-making in Massachusetts focused on enhancing the state constitution's legitimacy as a means of augmenting its authority. For this reason, the constitution's status as a useful "piece of machinery" capable of mobilizing power owed at least as much to the popular civic ritual that led to its adoption as it did to its formal provisions. The 1780 constitution's acceptance is usually attributed primarily to its being drafted by a constituent convention, by which inhabitants acknowledged that fundamental law differed from normal legislation and needed to come directly from the source of all political power, the people. This conceptual point was important for some at the time, and would soon come to be crucial in legal theory. Few accepted the constitution simply because a convention wrote it, however.

In Massachusetts in 1780, equally important was that the convention and the broader process of ratification offered inhabitants away to believe with confidence, despite the various objections to it, that they and the populace at large had consented to the constitution and that all were equally bound to accept its authority. By making the constitution's ratification contingent on the approval of two-thirds of the inhabitants, by having inhabitants vote by individual articles instead of on the entire constitution, by pledging to revise those articles that did not achieve two-thirds approval, and finally by including in the constitution a provision for a constitutional revision in fifteen years, the Massachusetts convention eliminated possible objections to the constitution's legitimacy. The constitution's ratification may have been a political fiction, but it was not a fraud. People desired more effective government, and they saw in the process of

constitution-making a means to achieve that end by ensuring that all members of the political community would possess no valid grounds to resist government's demands.

Beyond the Berkshire Constitutionalists

By late 1775, it was clear Britain would not acknowledge Massachusetts' corporate rights within the empire by appointing a governor amenable to the charter, as the colony's leaders had officially stated as their hope upon resuming the charter in July. Would Massachusetts now adopt a new constitution? In analyzing this question, scholars have granted the "Berkshire Constitutionalists" a disproportionate influence in their interpretations of constitution-making in the state. In December, 1775, the town of Pittsfield and its leader the Reverend Thomas Allen wrote a petition to the General Court, asserting that "all Manner of Disorders have been introduced into our Constitution till it has become an Engine of Oppression and deep Corruption." Allen and his followers denied that the Continental Congress had recommended the resumption of the charter. They desired "to new model our Constitution..." by keeping "no more of our antient form...than what is Just and reasonable."⁷ Ironically, they called for the election of a governor, their overriding complaint being that the charter constitution vested the power to commission judges with a biased Council that appointed the same group of local elites with whom they had long been contending. They hoped that the county would be allowed to nominate its own judges and justices of the peace. To signal their displeasure, beginning in early 1776 they prevented the civil and criminal courts from convening.⁸ For a period between 1776

⁷ Pittsfield Memorial, 26 Dec 1775, Handlin and Handlin, eds., *Popular Sources*, 62, 63, 64.

⁸ Robert J. Taylor, *Western Massachusetts in the Revolution* (Providence: Brown University Press, 1954), 79-80. See also Report of a Lecture by Thomas Allen, 18 Feb 1776, Handlin and Handlin, eds., 70-72; Affidavit on Thomas Allen, 2 Mar 1776, in Taylor, ed., *Massachusetts, Colony to Commonwealth*, 24-26; John Ashley and others...to the Council complaining of conduct of Rev. Thos. Allen, 6 Mar 1776, Massachusetts Archives, Boston, 180: 336, also printed in *ibid.*, 23-24; Report of the Committee on petitions & papers from the Committees of Berkshire County, 18 Apr 1776, Mass. Arch. 137: 76-78; Petition of Pittsfield, May 1776, in Taylor, ed., *Massachusetts, Colony to Commonwealth*, 26-29; Inhabitants of Berkshire County complaining of inimical persons, 29 May 1776, Mass. Arch. 181: 50-51.

and 1778, sympathetic elements in the western parts of neighboring Hampshire County also interrupted normal court meetings.⁹

Surveying these disorders in the westernmost parts of the state, historian Robert J. Taylor concludes that “During most of the Revolutionary War [the Berkshire Constitutionalists] were in virtual rebellion against the civil authority set up in the east.”¹⁰ This claim, as well as the common depiction of the charter as a dead letter in the minds of most Massachusetts inhabitants that derives from the Berkshire statements, must be qualified and placed in proper perspective.¹¹ First, the identities and strength of the “Constitutionalists” in Berkshire changed frequently and probably never comprised a sizable contingent. The total population in 1776 of the five northern Berkshire County towns Taylor identifies as the movement’s strongest bastions was under 6,000; slightly over 1,000 were males over sixteen.¹² Even a small fraction of the state’s overall population could influence the discourse, but the Constitutionalists’ positions on constitution-making were hardly, if at all, in advance of those held by inhabitants generally. The Constitutionalists’ insistence in May, 1776, that a new constitution must be consented to by the people at large accorded with prevailing assumptions and precedent: that same month the General Court asked the towns to approve instructions to Massachusetts delegates in Congress on declaring independence, which was consistent with past referendums on important matters.

⁹ Taylor, *Western Massachusetts in the Revolution*, 87. See also John Winthrop to John Adams, 1 Jun 1776, PJA 4: 222, 224; Letter from the Chesterfield Committee of Correspondence, 4 Mar 1776, in Taylor, ed., *Massachusetts, From Colony to Commonwealth*, 22-23; Proceedings of a Convention in Hampshire, 1 Mar 1776, *ibid.*, 23.

¹⁰ Taylor, *Western Massachusetts in the Revolution*, 76. See also Wood, *Creation of the American Republic*, 284-87.

¹¹ Although Taylor also writes that the Constitutionalists “won no support elsewhere in Massachusetts” (Taylor, *Western Massachusetts in the Revolution*, 76.), accounts such as Wood’s use them to illustrate the trajectory of opinion in the state as a whole. In addition, see Willi Paul Adams, *The First American Constitutions: Republican Ideology and the Making of the State Constitutions in the Revolutionary Era*, Rita and Robert Kimber, trans. (Chapel Hill: University of North Carolina Press, 1980), 46-47.

¹² Taylor identifies Windsor, Lanesborough, Hancock, Pittsfield, and Lenox as the primary towns, with others swaying between support and opposition. *Ibid.*, 81. Populations in Evarts B. Greene and Virginia D. Harrington, *American Population Before the Federal Census of 1790* (New York: Columbia University Press, 1932), 38. The Worcester committee reminded the Constitutionalists of their minority status in 1778. See Handlin and Handlin, eds., *Popular Sources*, 370.

The Constitutionlists never insisted that the constitution be written by a special convention.¹³ Their famous petition of August, 1778, in which they ominously noted that “there are other states, which have Constitutions who will we doubt not, as bad as we are, gladly receive us,” revealed no concern for their right to contribute to the creation of fundamental law—though the act of annexing themselves to a neighboring state would, presumably, comprise their popular ratification of their new state’s constitution.¹⁴

Moreover, evidence suggests the Constitutionalist strongholds frequently complied with the General Court’s policies regarding wartime mobilization. As they noted in their petition in May, 1776, the towns had “raised and sent off in the Dead of Winter” “a considerable Number of Men” for the expedition against Canada.¹⁵ They reported in 1777 that half their militia had responded to General Horatio Gates’s call for men.¹⁶ In 1778, Hancock petitioned to explain why it had failed to meet its quota of Continental soldiers, while Lanesborough petitioned for permission to determine for itself what the poll rate on inhabitants ought to be in light of heavy taxation.¹⁷ Thomas Allen himself served as a chaplain with Massachusetts troops in the war’s early years.¹⁸ In sum, while Berkshire’s internal conflicts have rightly been the subject of study, their impact on constitution-making in Massachusetts was not decisive.

¹³ Taylor, *Western Massachusetts in the Revolution*, 88.

¹⁴ Delegates of the several towns in Berkshire County petitioning for a state constitution, 26 Aug 1778, Mass. Arch. 184: 198. The Berkshire petitioners did not identify the state, but they probably had in mind Vermont, which had broken away from New York, written a new constitution in 1777, gained towns that seceded from New Hampshire, and was currently fighting to obtain official recognition as a separate state. See Adams, *First American Constitutions*, 93-94; Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1774-1787* (Philadelphia: University of Pennsylvania Press, 1983), 140-45.

¹⁵ Pittsfield Petition, 29 May 1776, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 89.

¹⁶ Convention of Committees of Towns in Berkshire, 3 May 1777, Mass. Arch. 182: 376. See also General John Fellows for pay for Berkshire soldiers who marched to Highlands of NY on Alarm, 6 May 1777, *ibid.*, 379-80.

¹⁷ Town of Hancock for consideration of difficulties as to quota, Mar 1778, Mass. Arch. 184: 1-2; Inhabitants of Lanesborough for abatement of Poll Tax, 18 May 1778, *ibid.*, 129.

¹⁸ See Frank A. DeSorbo, “The Reverend Thomas Allen and Revolutionary Politics in Western Massachusetts” (Ph.D. Diss., New York University, 1995), 70-103.

Like the Berkshire Constitutionalists, John Adams underestimated the resilience of the charter regime and overestimated the willingness of Massachusetts inhabitants to move on from it quickly. As a member of the Continental Congress in Philadelphia, Adams charted developments in all the states and predicted that there would soon be a flurry of constitution-writing as royal authority crumbled. In November, 1775, he noted approvingly that Congress had authorized New Hampshire and South Carolina, where the end of crown rule had left the colonies in dire need of legal authority, to draft constitutions.¹⁹ The information Adams received from home suggested that constitutional reform would soon occur in Massachusetts as well. Frustrated with the Council's conduct during the militia appointment controversy, House Speaker James Warren admitted to Adams, "I am sick of our Constitution...I hate the name of Our Charter."²⁰ Joseph Palmer told Adams in early December that he favored new forms of government "the sooner the better, particularly for this Colony." Palmer predicted that "if we were Set entirely free from the Charter, we shou'd act with more vigour and expidition [sic]."²¹

These reports only encouraged Adams, who in late 1775 and early 1776 wrote several versions of what came to be his pamphlet, *Thoughts on Government*. He asserted that "a Single Month is Sufficient without the least Convulsion or even Animosity to accomplish a total Revolution in the Government of a Colony."²² Though he emphasized its originality, his plan looked suspiciously like the Massachusetts charter: a house of representatives and a council of around twenty-eight to be elected by the house annually or triennially, with a governor elected every three or seven years by joint ballot of the assembly.²³ Perhaps because his plan resembled

¹⁹ John Adams to James Warren, 5 Nov 1775, LDCC 2: 306. For the New Hampshire and South Carolina constitutions, which were officially temporary, see Adams, *First American Constitutions*, 58-59.

²⁰ James Warren to John Adams, 14 Nov 1775, PJA 3: 303.

²¹ Joseph Palmer to John Adams, 2 Dec 1775, PJA 3: 336.

²² John Adams to Richard Henry Lee, 15 Nov 1775, LDCC 2: 348.

²³ See *ibid.*; John Adams to John Penn, 19-27 Mar 1776, LDCC 3: 402-5; John Adams, *Thoughts on Government: Applicable to the Present State of the American Colonies. In a Letter from a Gentleman to his Friend* (Boston: John

the charter so closely, aside from the longer terms for the upper house, Adams told Warren in April, 1776, that the General Court should “either . . . proceed to make such Alterations in our Constitution as they may judge proper, or to Send a Petition to Philadelphia for the Consent of Congress to do it.”²⁴ William Tudor praised Adams’s *Thoughts*, and also expressed his desire “that the May Election [in Massachusetts] will not stop till three Branches of the Legislature are chosen and a Government completely formed.”²⁵ Tudor proposed that James Bowdoin should be the first governor. Adams agreed that Bowdoin would be the best choice since the governor “ought to have a Fortune,” but John Winthrop or Warren would be suitable as well.²⁶

Massachusetts’ failure to implement any constitutional reforms modelled on his plan stung Adams deeply because it followed what he considered “the most important Resolution, that was ever taken in America”: Congress’ resolves of May 10 and 15 recommending the colonies adopt new governments and suppress crown authority.²⁷ Soon thereafter, Adams began to hear of the new constitutions being written in the states. “They are erecting Governments, as fast as Children build Cobb Houses,” he wrote to his wife in July.²⁸ New Hampshire and South Carolina already had their provisional forms of government, but Virginia adopted its constitution on June 27 after about a month’s work. New Jersey took even less time in its deliberations, producing a constitution between June 21 and July 2. Pennsylvania began working on August 19 and finished on September 27. Delaware completed its constitution on September 20 after beginning on September 2. Other states initiated the process but took longer to finalize their

Gill, 1776). Adams’s plan also resembled Connecticut’s arrangement, and “Thirteen Colonies under Such a Form of Government . . . or one not quite so popular leagued together in a faithfull Confederacy might bid Defiance to all the Potentates of Europe if united against them.” John Adams to Horatio Gates, 23 Mar 1776, LDC 3: 431.

²⁴ John Adams to James Warren, 22 Apr 1776, LDC 3: 570.

²⁵ William Tudor to John Adams, 4 May 1776, PJA 4: 169.

²⁶ *Ibid.*; John Adams to James Warren, 12 May 1776, LDC 3: 661-62.

²⁷ John Adams to James Warren, 15 May 1776, LDC 3: 678. For the resolves, see Adams, *First American Constitutions*, 69-62.

²⁸ John Adams to Abigail Adams, 7 Jul 1776, LDC 4: 401. Adams had predicted in April that “Governments will be up every where before Midsummer . . .” See John Adams to Abigail Adams, 28 Apr 1776, LDC 3: 594.

drafts, though the actual time spent discussing the constitutions remained relatively brief.

Maryland started in mid-August, entered into focused discussions from October 10 to November 3, and adopted its frame of government on November 8. North Carolina began on November 12 and had a constitution by December 14. Georgia worked haphazardly between October and February 4, 1777. New York, finally, in August, 1776, appointed a committee that failed to present its draft until March 12 of the following year, when the proposal was considered, edited, and adopted on April 20, 1777.²⁹

These states could adopt new constitutions quickly for a combination of reasons. None possessed a central, discrete text that the populace could cite as the colony's frame of government. What formal frames of government these colonies did have were based only on their crown or proprietary governors' commissions and instructions, whose authority to bind their actions colonists had disputed for decades.³⁰ In practice, the colonies' constitutions, according to inhabitants, "had been composed almost entirely of uncodified and unratified custom and inheritance."³¹ These colonies thus had forms of government that had been refined over the provincial era but no single, comprehensive texts with any positive valence or authority. Constitution-making proceeded rapidly in states such as Virginia and New Jersey where elite-dominated assemblies largely codified versions of existing institutional arrangements.³² In Pennsylvania, whatever promise its 1701 "Charter of Privileges" had once held as a constitutional plan had long been destroyed by its association with self-interested proprietors and

²⁹ Adams, *First American Constitutions*, 73, 74, 75-76, 79-80, 80-81, 82, 82-83, 86. See also Donald S. Lutz, "State constitution-making, through 1781" in Jack P. Greene and J.R. Pole, eds, *A Companion to the American Revolution* (Oxford, U.K.: Blackwell, 2000), 271-76; Palmer, *Age of the Democratic Revolution* 1: 217-21.

³⁰ Jack P. Greene, "The Role of the Lower Houses of Assembly in Eighteenth-Century Politics" in Jack P. Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville: University of Virginia Press, 1994), 173-74.

³¹ Jack P. Greene, "The Colonial Origins of American Constitutionalism" in Greene, *Negotiated Authorities*, 40.

³² Lutz, "State constitution-making, through 1781," 272.

the intractable conflicts between its proprietary and Quaker factions.³³ Its new constitution's unicameral frame of government reflected the heritage of these conflicts as well as the influence of republican ideology. Its cumbersome and radical character was made possible by the fact that Pennsylvania was not yet managing the strains of long-term military mobilization. In all of these states, then, new constitutions represented positive additions that could only enhance the governments' effectiveness; they did not replace anything that resembled a codified, written constitution. In Connecticut and Rhode Island, which possessed such texts in their corporate charters, inhabitants made no attempt to change the frame of government.³⁴

Likewise, none of these colonies would seek the consent of the people at large on constitutional matters. Maryland and Pennsylvania hastily printed constitutional drafts for public readership, but popular views or votes had no role in the process of adoption.³⁵ Not only did these states lack precedents and established mechanisms to accomplish any form of popular ratification, even if revolutionary authorities in a given state had wanted to submit their constitutions for the people's consent, they would have faced a daunting conceptual and practical hurdle. Namely, if they presented the people with a proposed constitution when the state currently—and admittedly—lacked a legal constitution, the people would hardly be exercising a free choice, as their de facto alternatives would amount to the proposed constitution or a return to unsatisfactory rule by extralegal authority. The people's consent would have been qualified at best while adding little or nothing to the constitution's legitimacy in the long term. Thus Delaware, Pennsylvania, North Carolina, and New York held elections in which voters knew

³³ Alan Tully, *Forming American Politics: Ideals, Interests, and Institutions in Colonial New York and Pennsylvania* (Baltimore: The Johns Hopkins Press, 1994), 69-70, 275-76, 279-81; Richard Alan Ryerson, *The Revolution is Now Begun: The Radical Committees of Philadelphia, 1765-1776* (Philadelphia: University of Pennsylvania Press, 1978), 24; Walter Farleigh Dodd, *The Revision and Amendment of State Constitutions* (Baltimore: The Johns Hopkins University Press, 1910), 15.

³⁴ Adams, *First American Constitutions*, 66-67.

³⁵ Dodd, *Revision and Amendment of State Constitutions*, 13, 15-16.

beforehand that the men they chose would write a new constitution, but they gave no thought to popular ratification. In New York, the “Mechanicks in Union” petitioned the Provincial Congress on June 14, 1776, to request that a new state constitution be distributed to the people for majority approval, for “by its having received their free assent,...it would be truly binding on the people.” The alternative, the mechanics acknowledged, was that the laws would be “tolerated until a new system of Government shall have been freely ratified by the co-legislative power of the people,” a need arising “for the sake of common conveniency” only. Yet at the same time the mechanics also suspected that the forces of “corrupt oligarchy” were lurking in the state and eager to take control.³⁶ Even if authorities had condescended to distribute the proposal, the mechanics’ real options on ratifying the constitution, however much they may have liked its contents, would have appeared limited. The “binding” nature of their consent would have been open to question, if not immediately, then certainly with time. The pressing need to sustain mobilization also eliminated any real alternatives inhabitants may have enjoyed to adopting new constitutions.³⁷ Thus the states that wrote constitutions to replace uncoded Revolutionary arrangements could act quickly, never needing to consider additional methods of legitimizing their new fundamental laws.

Adams’s hopes notwithstanding, Massachusetts’s constitutional development would not occur as rapidly as in the other states. The charter regime certainly possessed flaws that would prevent it from serving as the permanent constitution: its vacant governorship and the awkward separation of powers question that resulted from the Council inheriting executive powers

³⁶ Petition of “Mechanicks in Union,” 14 Jun 1776, in Charles S. Lobingier, *The People’s Law, or Popular Participation in Law-Making* (New York: Macmillan, 1909), 160.

³⁷ On Pennsylvania and Delaware’s revolutionary governments being distracted from constitution-writing by wartime concerns, see Marc W. Kruman, *Between Authority and Liberty: State Constitution Making in Revolutionary America* (Chapel Hill: University of North Carolina Press, 1997), 27, 29.

foremost among them.³⁸ “You know how much we are embarrassed for want of a Governor,” Joseph Palmer told Adams in January 1776, “how Slow our proceedings; and how difficult to have 15 [councilors] always in the Chair.”³⁹ The 1691 charter also had made Massachusetts a royal colony, and the lingering association with crown authority comprised a severe handicap in the long term. Yet Massachusetts possessed a functioning government based on a discrete constitutional text—one that inhabitants had mobilized to defend in 1774 and 1775—that offered inhabitants a viable, comprehensive alternative to fall back on if presented with an unsatisfactory constitutional draft during a process of popular ratification—a process they would demand.⁴⁰

In the spring of 1776, one bloc of Massachusetts inhabitants demonstrated their expectation that the charter would endure for the time being. Towns in Essex County petitioned and then engineered—by legal but questionable means—the passage of the “Act Providing for a More Equal Representation in the General Court.” The Essex petitioners argued that the current method of apportioning representation in the House had led to severe imbalances in the ratio of population (and wealth) to representatives. Towns of 30 freeholders could send one representative, towns with 120 freeholders could send two, and only Boston could send more (four).⁴¹ In the provincial period, this apportionment had served colonists interests. The charter had granted the General Court the authority to fix the rule of apportionment, which it had done, and colonists had proceeded to incorporate so many new towns that the governors eventually saw the increase of representatives in the House as a threat to the tenuous balance of the

³⁸ See Francis Dana to John Adams, 14 Aug 1776, PJA 4: 415-16.

³⁹ Joseph Palmer to John Adams, 23 Jan 1776, PJA 3: 412.

⁴⁰ For the view that Massachusetts “could proceed in a more leisurely manner to frame [its] new [constitution]” because of “freedom from external danger and from internal conflict... and also [because it] already had a stable [government] in existence,” see Dodd, *Revision and Amendment of State Constitutions*, 25. Yet Massachusetts was decidedly not free from external danger. Moreover, the fact that Connecticut and Rhode Island also possessed functioning governments but never tried to write new constitutions points to the distinctiveness of Massachusetts’ case.

⁴¹ Essex County Petition, 25, 26 Apr 1776, in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 73-75.

Massachusetts assembly, in which the Council was elected by joint ballot of the House and incumbent Council. Colonists fought the governor's efforts to restrict town incorporation and to create more non-represented incorporated "districts."⁴² Upon resuming charter government in 1775, the General Court granted full representation rights to all districts.⁴³

The burdens of war highlighted the current apportionment's inequity. The populous Essex County towns noted that lightly taxed towns in the state that met the low population threshold were vastly overrepresented—on paper at least. Since Essex was being asked to contribute money and men in proportion to its wealth and population, Massachusetts ought to abandon this apportionment scheme that had been calibrated to its provincial circumstances. The General Court acted rapidly, perhaps because many small-town representatives had departed already, and passed an act that vastly increased the potential size of the House by permitting towns with 220 freeholders to elect three representatives, and one additional representative for every 100 freeholders thereafter.⁴⁴ Small towns objected, but they had a hard time arguing the old scheme was more equitable. The House grew in size to around 300 members in the election of May, 1776, though most towns decided not to send their full complement, a trend that would continue in the following years. The additional members helped to handle the influx of petitions addressed to the General Court by inhabitants managing the challenges of war and mobilization.⁴⁵

The Declaration of Independence

⁴² See chapter 1.

⁴³ Act on Representation, 23 Aug 1775, in *ibid.*, 59-60.

⁴⁴ Patterson, *Political Parties in Revolutionary Massachusetts*, 143-45.

⁴⁵ John A. Schutz, *Legislators of the Massachusetts General Court, 1691-1780: A Biographical Dictionary* (Boston: Northeastern University Press, 1997), 114, 117. See also Patterson, *Political Parties in Revolutionary Massachusetts*, 167; James Sullivan to John Adams, 9 May 1776, PJA 4: 179-80; Benjamin Hichborn to John Adams, 20 May 1776, PJA 4: 202-3.

John Adams considered Congress' resolve of May 15, 1776, calling on the states to write new constitutions as tantamount to a declaration of "total absolute Independence."⁴⁶ Adams in fact viewed state constitution-making, a formal declaration of independence, and confederation as all part of one process, preferably with a declaration coming last. Adams's prediction that Massachusetts would quickly adopt a new state constitution in the spring of 1776 was incorrect, but he rightly perceived that inhabitants continued to search for more effective government by other means. "Time has been given for the whole People," Adams wrote to his wife on July 3,

maturely to consider the great Question of Independence and to ripen their Judgments, dissipate their Fears, and allure their Hopes, by discussing it in News Papers and Pamphletts, by debating it, in Assemblies, Conventions, Committees of Safety and Inspection, in Town and County Meetings, as well as in private Conversations, so that the whole People in every Colony of the 13, have now adopted it, as their own Act. *This will cement the Union...*⁴⁷

In Massachusetts, inhabitants spent May and June, 1776, meeting to discuss and affirm their state's decision to declare independence from Britain, binding themselves more closely with the other states in a union they pledged to defend with their "blood and treasure." It was the first in a series of constitutional referendums in which they participated.

By the time the British army evacuated Boston in mid-March, sentiment in favor of independence was becoming increasingly widespread. Writing from Watertown on February 19, Joseph Palmer had proclaimed to Adams that "This is *the time*, for declaring independency" because "Such a Declaration,...will be a foundation to build a good Constitution upon."⁴⁸ John Winthrop believed by April that "Our people are impatiently waiting for Congress to declare off from G. B. If they should not do it pretty soon, I am not sure but this colony will do it for

⁴⁶ John Adams to Abigail Adams, 17 May 1776, LDC 4: 17. Adams had written the preamble to the resolve.

⁴⁷ John Adams to Abigail Adams, 3 Jul 1776, LDC 4: 376. Emphasis added.

⁴⁸ Joseph Palmer to John Adams, 19 Feb 1776, PJA 4: 38. Emphasis in original.

themselves.”⁴⁹ On May 1, the General Court passed an act altering the style of commissions and writs issued in the colony from “in the name and stile of the king of Great Brittain” to that “of the Government and People of the Massachusetts Bay, in New England.” To justify the change the General Court described how British forces “by the commandment of George the Third,” had continued “to prosecute, with their utmost vigour, in cruel manners, and have directed their vengeance, principally against this colony, wasting, spoiling, and destroying the country, burning houses and defenseless towns, and exposing the helpless inhabitants to every misery.”⁵⁰

The General Court looked to instruct its delegates to the Continental Congress to support independence. The Council maintained that the colony’s delegates in Philadelphia already possessed authorization to do so but, according to House Speaker James Warren, Northampton representative Joseph Hawley perceptively suggested that “we had better have the Instructions of our Towns for” it.⁵¹ Although inhabitants had been fighting the British for over a year, this momentous formal step ought to be made with a broad mandate. The House passed a resolve on May 10, 1776, asking the towns to instruct their representatives whether they would “solemnly engage with their Lives and Fortunes to Support the [Continental] Congress” in the event that “the Honorable Congress should, for the safety of the colonies, Declare themselves Independent of the Kingdom of Great Britain.”⁵² Word spread of the House’s call for the towns to deliberate on the question, especially after greater pains were taken to ensure the resolve was printed in the newspapers. From mid-May through July, towns met and voted.⁵³

⁴⁹ John Winthrop to John Adams, n.d. Apr 1776, PJA 4: 157.

⁵⁰ An Act for Establishing the Stile of Commissions... *Acts and Resolves* 5: 484-85.

⁵¹ James Warren to John Adams, 8 May 1776, PJA 4: 178.

⁵² Resolve quoted in Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York: Knopf, 1997), 59.

⁵³ *Ibid.*, 59-61.

The discussion on independence took place in roughly as many towns as would later vote on state constitutional proposals. No comprehensive collection of the town returns exists today, but the response can be charted through references in the antiquarian histories most towns commissioned in the nineteenth or early twentieth centuries. Given the imperfect nature of the sources, it is not possible to know exactly how many towns voted to instruct their representatives. Yet based on available evidence at least 118 towns passed votes in favor.⁵⁴

Table I. Known Town Responses to May 10, 1776 House Resolve on Independence

County	Known Response	County	Known Response
Suffolk	12	Hampshire	13
Essex	15	Berkshire	3
Middlesex	24	York	2
Bristol	7	Cumberland	4
Plymouth	6	Lincoln	0
Barnstable	4	Dukes County	0
Worcester	28	Nantucket	0

Source: See Appendix II.

As Pauline Maier has demonstrated, by the time Congress approved its drafted in July, ordinary inhabitants in Massachusetts and elsewhere already took for granted many of the ideas and assumptions articulated in the Declaration of Independence, even to the point of expressing themselves in strikingly similar turns of phrase. Some towns chose to emphasize the sense of betrayal they felt regarding their relationship with George III. “To the amazement of your

⁵⁴ In the Appendix to *American Scripture*, 220-23, Maier identifies 58 town responses to the House resolve on independence. Writing in 1997, before the preponderance of town histories were easily accessible, Maier notes: “A more exhaustive survey of town records, many of which remain within individual towns, would no doubt expand [her] list, which, although substantial, includes a minority of the roughly 200 town seats...Until a more thorough survey is made, it is difficult to draw conclusions with regard to relative support for Independence in the counties or regions of Massachusetts...” p. 220. Maier rightly questions the incomplete and flawed account of response to independence in Patterson, *Political Parties in Revolutionary Massachusetts*, 146-48.

constituents, the King of Great Britain is become a tyrant,” the Plymouth County town of Marshfield—which a year before had dealt with a significant Tory problem—wrote in its instructions. “He has wantonly destroyed the property of the Americans, and wickedly spilled their blood.”⁵⁵ In another statement prefiguring one in the Declaration, the Bristol County town of Freetown noted that the king “hath purchased foreign Troops to assist in Enslaving us and Enciteed ye Savages of this Contery to Carry on a war against us, as also ye Negroes, to inbrue their hands in ye Blood of their masters in a manner unpractised by Civilized Nations.”⁵⁶ Scituate repeated the fear about “the Savages of the wilderness” and also charged that Britain aimed “to repeople this once happy Country with the ready sons of Vassalage, if such can be found.”⁵⁷ Inhabitants thus echoed the grievances voiced by Americans generally.

Inhabitants also justified the declaration by pointing to offenses committed against Massachusetts specifically. Malden, in Middlesex County, recounted crimes committed on “the ever memorable Nineteenth of april,” explaining that “the Expiring groans of our murdered Countrymen yet Vibrate on our Ears!” The town cited “the Ruines of Charlestown which are Daily in our Vew” and “the Cryes of ye Widow & ye orphan” who “Demand...that the Sword of their Country Should Avenge their rongs.” The extent of Malden’s complaint against the provincial constitution was here restricted to “the Powers of appointing to office & Comanding the militia in the hands of Governors” and “acts [of] Trade and manufactor” that had “Cramped” the colony.⁵⁸ Some towns explicitly traced back the present need for independence to Britain’s attack on Massachusetts’ constitution. Referring to Francis Bernard and Thomas Hutchinson, Wrentham noted that after 1763 “Letters by diverse ilminded persons have been Wrote against

⁵⁵ Quoted in D. Hamilton Hurd, ed., *History of Plymouth County, Massachusetts...* (Philadelphia: J.W. Lewis, 1884), 1157.

⁵⁶ Quoted in *A History of the Town of Freetown, Massachusetts* (Fall River: J.H. Franklin and Co., 1902), 22.

⁵⁷ Instructions to Nathan Cushing, Esq... 4 Jun 1776, Mass. Arch. 158: 103.

⁵⁸ Quoted in Deloraine Pendre Corey, *The History of Malden Massachusetts 1633-1785* (Malden: n.p., 1899), 764.

the Governments [sic] and in Consequence of which Divers Acts of the British Parliament has been made, Mutilating and Destroying the Charter and are wholly Subversive of the Constitution.”⁵⁹ Acton also accused Britain of “Subverting our Constitution.”⁶⁰ The town of Palmer traced the many and varied constitutional crimes committed against the colonies, which reached their pinnacle when the British “altered the Charter of this Colony, and [had] thereby overthrown the Constitution.”⁶¹ Inhabitants continued to emphasize the Charter not because they were interested in legal and constitutional theory for its own sake, but because constitutional issues tied together all aspects of their lives, as they always had. They therefore took seriously the constitutional consequences of independence.

The constitutional impact of the towns’ overwhelming consensus on independence lay in further enhancing the authority of Congress within Massachusetts and, hopefully, throughout the continent. By instructing their representative in Boston to, in turn, instruct Massachusetts’ delegates in Philadelphia to vote for independence, inhabitants pledged to “Support the Congress” with “their Lives and Fortunes.”⁶² The vast majority of extant town responses simply restated the language of the House resolve, which emphasized this dimension of what inhabitants would be doing. This comprised more than a mere rhetorical flourish, for inhabitants were well aware of the manpower quotas Congress assigned to their state—and to every other state. The General Court always prioritized Continental levies and took special measures to ensure towns delivered their proportions. Massachusetts’ relatively high degree of compliance with Congress’ requests during and after the Revolution no doubt derives in some significant degree from the popular mandates given to its authority. It is likely that more Massachusetts towns resolved

⁵⁹ Wrentham Town Meeting Instructions, 5 Jun 1776, Mass. Arch. 158: 105.

⁶⁰ Acton Instructions, 14 Jun 1776, *ibid.*, 108.

⁶¹ Palmer Instructions, 17 Jun 1776, quoted in J.H. Temple, *History of the Town of Palmer, Massachusetts, Early Known as the Elbow Tract....* (Springfield: Clark W. Bryan, 1889), 176.

⁶² House resolve quoted in Maier, *American Scripture*, 59.

specifically on independence than did the assemblies, counties, towns, and “private or quasi-public” organizations of all the other states combined.⁶³

The Declaration promised to make government in Massachusetts more effective by exhorting the other states to contribute their just proportions in the war effort and thus relieve Massachusetts of its inordinately heavy burdens. While inhabitants maintained a continental outlook, in mid-1776 they assumed that a stronger Congress would not compromise the integrity of their own state. Townsend supported the creation of the “American Republic . . . , provided the internal government be left to the colony.”⁶⁴ Freetown likewise stipulated “that the internal police of this Government Be allwise left to the people of the said Colony.”⁶⁵ Inhabitants possessed no indication that any such interference lay on the horizon and they welcomed all external developments that would ease the pressure on their own government. With independence, they turned to strengthening Massachusetts’ constitution.

The Constitution of 1778

In 1778, Massachusetts became the first state to reject a proposed constitution. Assessing the reasons for this extraordinary development, scholars have typically emphasized that the 1778 constitution was written not by a true convention of the people completely separate from the sitting legislature. Massachusetts inhabitants made their contribution to American constitutional theory, this line of interpretation argues, by pointing out the dangerous precedents that would follow from fundamental law being created by a normal—and therefore transient—legislative process. In contrast, when Massachusetts created a true convention to write a constitution a

⁶³ See the list, surely incomplete, in *Ibid.*, 217-23. This includes the other New England states that one might expect to produce evidence of popular consideration. Maier lists no towns from these states, however.

⁶⁴ Townsend Instructions, 20 Jun 1776, Mass. Arch. 156: 185.

⁶⁵ Freetown Instructions, 2 Jul 1776, in *A History of the Town of Freetown, Massachusetts*, 23.

couple years later, people readily accepted it because they considered it properly grounded on popular political authority.⁶⁶

By emphasizing the aspects of constitution-making related to the authority of conventions, these historians suggest that Massachusetts' experience fits into a larger narrative in which Americans were gradually becoming more sophisticated in their constitutional thinking. Without question, the idea of a convention of the people would soon become an essential political fiction in the United States. Massachusetts' experience during the Revolution loses some of its specificity and richness, however, if we settle for casting its significance only in terms of this teleology. Many of the facts about the 1778 constitution simply do not conform to the narrative scholars have advanced. While a small number of towns did voice concerns about the type of convention that drafted the constitution, the vast majority of towns articulated no objections on these grounds—a point historians have elided. The “Berkshire Constitutionalists,” who figure prominently in the traditional story of Massachusetts constitution-making, did not ultimately insist that a convention needed to write the constitution. In addition, the more famous convention of 1779-1780 was still necessarily organized by the General Court, which mandated how members were to be elected and how, generally, the constitution would be adopted. The distinctions between the respective bodies were inevitably blurred in the process. In short, we can add to our understanding if we take Massachusetts' constitutional development on its own

⁶⁶ For this view, see Wood, *Creation of the American Republic*, 328-43; Palmer, *Age of Democratic Revolutions* 1: 214-217, 221-28. Marc Kruman suggests that all Americans recognized from the beginning that constitutions, as fundamental law, needed to be written by a body other than the legislature. He therefore presents Massachusetts as “less pathbreaking and more typical than historians have suggested.” Yet Kruman’s narrative of the events in Massachusetts contradicts his interpretation of constitution-writing in the other states. After noting that the legislatures in other states made sure to designate themselves “conventions” when writing and adopting their constitutions, he then offers the same interpretation as Wood for why Massachusetts inhabitants rejected the 1778 constitution—it was written by the legislature, albeit one calling itself a convention when writing the constitution. Kruman, *Between Authority and Liberty*, 30-33, quote at p. 30.

terms—not just as an illustrative step in a larger national process—and situate it within the context of a distinct polity searching for more effective governance at a time of immense strain.

The larger issue behind the failure of the 1778 constitution lay in the procedures proposed for its popular ratification. The resolve outlining the ratification process allowed inhabitants in their towns to vote simply to approve or reject the constitution in full and did not offer any prospect that the constitution could be amended in the short or long term. These provisions alone probably proved fatal to the proposal's chances. Most inhabitants found at least one or two objectionable provisions in the poorly written draft constitution, saw no opportunities to fix those unsatisfactory parts, and elected to continue government according to the charter, which they knew was at least functional, if not perfect.

The problem ran even deeper than that, however. By these ratification guidelines, even a ratification determined to be successful would have, paradoxically, made the state's constitutional authority *less* legitimate overall than the charter constitution it was replacing. Inhabitants almost always voted in near unanimous blocs on these constitutional proposals in their town meetings—regardless of whether they approved or rejected them. Ratification as attempted in 1778 effectively would have placed the towns that voted to reject the constitution on record as having opposed, in its entirety, what would become the state's sitting constitutional authority. Compared to the charter constitution, the new constitution would have operated at a disadvantage for this reason. Aside from perhaps a few Berkshire towns' resistance to a small number of specific points, no towns boasted a recent history of denying the current government's authority. The new constitution would thus have created grounds for contesting the legitimacy of government's demands—a development that in no way would have made the state's

government more effective or benefitted the majority of inhabitants as they coped with mobilization.

The process of crafting the new constitution began in mid-1776. The broader context of governance in the state all but prohibited the General Court from writing and adopting a new constitution on its own. Although constitutional according to the charter, the Act for More Equal Representation of early May had evoked significant objections to the General Court's mode of altering a fundamental aspect of the governmental architecture. Moreover, the House's request for the towns to instruct their representatives on independence later in the month made it extremely unlikely that the legislature could accomplish any momentous changes to Massachusetts' own frame of government without a similarly broad mandate. Petitioners from Berkshire emphasized this point about ratification. Without voicing any requirements for a special convention, Berkshire wanted the General Court—that “Honourable Body”—to “form a fundamental Constitution.” Since fundamental law was ultimately grounded on the authority of the people, a majority of Massachusetts inhabitants should vote to approve the constitution before it went into effect. Yet Berkshire also believed, curiously, that Massachusetts should not proceed to write a new constitution until “leave is asked and obtained from the Honourable Continental Congress.”⁶⁷ Massachusetts leaders assumed the state already possessed more than adequate authority to write itself a new constitution, but the House and Council disagreed over whether it was advisable to do so at present. When the Council demurred, the House passed a resolve on September 17 in which it requested the towns to give their consent that the present House, along with the Council, “should consult, agree on, and enact” a new constitution.⁶⁸

⁶⁷ Pittsfield Petition, 29 May 1776, in Handlin and Handlin, eds., *Popular Sources*, 92-93.

⁶⁸ Resolution of the House of Representatives, 17 Sep 1776, in *ibid.*, 99.

Returns on the resolution revealed interest in the possibility of a new state constitution but also uncertainty and trepidation about how the process would actually work. Of the approximately 130 towns that responded between September and November, thirty-nine simply voted in favor of the resolution as written without expressing any caveats.⁶⁹ As many other town returns attest, however, the House resolution's description of the proposed constitution-making process was hardly self-explanatory.

The primary cause of confusion lay in the resolution's ambiguous statement that the constitution drafted by the General Court would "be made Public for the Inspection and Perusal of the Inhabitants, before the Ratification thereof by the Assembly."⁷⁰ The towns that fixated on this passage came to one of three conclusions. One group of about nine towns that voted "yea" to the resolution probably assumed out of hand that this passage implied that the towns would get the opportunity to vote to approve or reject the constitution. In the past, any time the General Court had sent special proposals to the towns, it had done so with the expectation that the towns would take some kind of action on them—not simply read them for curiosity's sake.⁷¹ A larger group of towns—approximately twenty-seven in number—voted to approve the resolution, but specifically stated that their approbation was contingent on the towns' right to consent to the constitution. They noticed that the resolution did not presently provide for popular ratification of the constitution but agreed with the mode of drafting it. They also probably assumed that the

⁶⁹ See returns for Dedham, Medway, Walpole, Marblehead, Lynn, Haverhill, Reading, Groton, Bedford, Lincoln, Wilmington, Northampton, Norwich, Deerfield, Monson, Granby, Conway, Charlemont, Colrain, Greenfield, Bernardston, Southampton, Marshfield, Halifax, Plympton, Pembroke, Wellfleet, Falmouth, Truro, Raynham, Wrentham, Berkley, Kittery, Scarborough, New Gloucester, Sheffield, Williamston, Sandisfield, New Providence in *ibid.*

⁷⁰ Resolution of the House of Representatives, 17 Sep 1776, in *ibid.*, 99.

⁷¹ See for example the returns for Danvers, Methuen, Cambridge, Sherburn, Brimfield, West Springfield, Greenwich, Freetown, Arundel in *ibid.*

right to popular ratification would be easily clarified.⁷² A final group of a few towns that also took note that the resolution failed to guarantee the towns' right to ratify voted to reject the resolution on these grounds.⁷³ While impossible to determine for certain, it is likely that this final group of towns did not differ markedly in opinion from the second group that technically voted "yea" to the resolution.

A smaller number of towns explicitly requested some form of convention other than the one outlined in the House resolution. Concord, for example, dissented from the resolution "Because a Constitution alterable by the Supreme Legislative is no Security at all to the Subject against any Encroachment of the Governing part on any, or on all of their Rights and priviliges [sic]."⁷⁴ The town desired a state convention to write the constitution. Stoughton and Norton also wanted a state convention that would consider draft constitutions written by separate county conventions.⁷⁵ Other towns—mostly notably those assembled in the Worcester County convention—wanted a state convention because the apportionment of representation in the state since the previous May no longer disproportionately favored them. Far from being the harbinger of a democratic future, these towns looked backward and wanted a convention composed according to the "mode of representation agreeable to the last charter and as practised in the year 1775."⁷⁶ Boston objected that the current General Court had not been elected with the understanding that its members would be empowered to write a constitution, but the Bostonians did not at this time demand a specially elected convention.⁷⁷

⁷² See returns for Needham, Stoughtonham, Billerica, Chelmsford, Medford, Littleton, Westford, Sunderland, Ashfield, Bridgewater, Taunton, York, Wells, Berwick, Rutland, Oakham, New Braintree, Southborough, Shrewsbury, Uxbridge, Harvard, Harwick, Princeton, Hutchinson, Winchendon, Paxton, Great Barrington in *ibid.*

⁷³ See the returns for Rehoboth, Dartmouth, Leicester in *ibid.*

⁷⁴ Concord Return, 22 Oct 1776, in Handlin and Handlin, eds., *ibid.*, 153.

⁷⁵ Stoughton Return, 2 Oct 1776, in *ibid.*, 106-7; Norton Return, 7 Oct 1776, in *ibid.*, 124-25.

⁷⁶ Resolution of Worcester County Towns, 26 Nov 1776, in *ibid.*, 166.

⁷⁷ Boston Return, 11 Oct 1776, in *ibid.*, 135-37.

Towns stated other reasons for voting against the resolution that suggest their overriding concern for effective government. At least nine towns did not want a new constitution at the moment because, as South Hadley, in Hampshire County, wrote, “our People being gon so many of them from us and the prsent distressing Situation of Affares think best to Neglect it for the prsent.”⁷⁸ Milton, in Suffolk County, believed that “the raising of, and well-providing for, a new army at this Important Crisis, of Infinitely Greater Consequence than the now forming a new System of Government.”⁷⁹ The absence of many townsmen while the proposals were under consideration might reduce the legitimacy of the constitution in the long term. The towns that expressed this concern, as well as many of the towns that voted to reject the House resolution outright with no elaboration apparently preferred the current regime over a new but imperfectly established constitution.

The returns from the House resolution trickled into Boston, leaving the General Court to interpret the will of the people. The state’s leaders ultimately settled on a solution that was, in some ways, slightly more progressive than the majority of towns had requested. On January 27, 1777, one day after the General Court resolved to raise one-seventh of the state’s men to serve in the Continental Army for three years, a committee of the House assigned to read through the returns issued a report recommending that the towns elect delegates according to the present apportionment to meet in “a general Convention, for the sole purpose of framing a new Constitution & form of civil Government.” The draft the convention produced would be sent to the towns for “signifying, in a plain & simple manner, their approbation or disapprobation of such system.” If two-thirds of the towns approved—the committee crossed out its original proposal requiring three-fourths approval—then the constitution would be considered ratified.

⁷⁸ South Hadley Return, 28 [Oct] 1776, in *ibid.*, 121.

⁷⁹ Milton Return, 23 Oct 1776, in *ibid.*, 155. For other views along these lines, see returns for Belchertown, Chelmsford, Sutton, Stoughton, Topsfield, Dorchester, and Worcester in *ibid.*

The report received a reading before being rejected by the House in early February on the grounds that “Though [it] seems to be founded upon the returns of the several Towns yet there are but about six Towns which mention a Convention.”⁸⁰ Whatever the precise number, the House did not overturn any widespread opinion in favor of a special convention when it proposed instead that the General Court elected in May be authorized to write a new constitution, which would receive popular ratification.⁸¹

Consistent with its previous behavior, the Council immediately questioned the need to compose a new constitution by these means and at this time. “[T]he powers of government have been exercised for almost two years past and in such manner, we trust, as to answer the present ends of government,” it asserted with some justification. None of the state’s pressing problems resulted from the “present constitution.” “Could another form of government,” the Council asked, “unless it were a despotic one, fill the army immediately, & put this State into a proper posture of defence? Would it be more likely to detect and defeat the design of our internal enemies? Or enforce a due deferrance [sic] of the Laws?”⁸² Yes, replied the House, if only because “ever since the Declaration of Independence, . . . a great Part of our Constituents have been expecting that a new Constitution would be formed or some alterations made in the present.” The proposed method of creating a new constitution, while imperfect, would not interrupt “the more immediately important Concerns of the State . . . while we are adjusting a system of Government.”⁸³ Once the people ratified the new constitution, the House implied, the government would indeed “acquire such stability & strength to be able to exert its powers in such

⁸⁰ Report relative to settling a form of Govt. . . , 27 Jan 1777 [read 31 Jan 1777], Mass. Arch. 137: 138, 139, 141.

⁸¹ Resolution Authorizing the General Assembly to Frame a Constitution, 4 Apr 1777, in *ibid.*, 171-72.

⁸² Message from the Council on forming a Constitution of Government, 14 Apr 1777, Mass. Arch. 158: 78, 79.

⁸³ Message from the House on this Subject, 21 Apr 1777, *ibid.*, 81-83.

manner as is necessary for the benefit and safety of the state.”⁸⁴ The Council finally relented and in May the General Court resolved that the next assembly would meet in convention to draft the constitution.⁸⁵

Despite the House’s optimistic predictions to the contrary, the General Court found it difficult to carry on normal business and devote sufficient time to constitution-writing. The convention met on June 17, 1777, and chose a committee composed of one member from each county as well as five at-large members. In the ensuing months, the convention occasionally urged the committee to keep working. Finally, on December 11, the committee presented its report. The convention arranged to print 300 copies of the draft for its members before adjourning until January 15, 1778. It debated various points throughout January and February. On March 6, nearly nine months after first meeting, the convention dissolved after issuing a statement explaining how the inhabitants would ratify the constitution. Many of the full convention’s 37 total meetings were hurried and brief, which probably contributed to the quality of the proposed constitution.⁸⁶

To its credit, the 1778 constitution tried to address some of the key structural shortcomings of the Revolutionary charter that most interest groups within the state could agree required attention. It reinstated a governor—one without veto power over legislation—who would take back the executive functions from the Council and implement policy more effectively and efficiently. It ensured that the upper house would no longer be dependent on the lower house by providing for the separate election of senators. And it reduced the ungainly size of the

⁸⁴ Message from the Council on forming a Constitution of Government, 14 Apr 1777, *ibid.*, 79.

⁸⁵ Resolve, 5 May 1777, in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 174-75.

⁸⁶ For a chronology and the number of meetings, see Journal of the Convention, 17 Jun 1777-6 Mar 1778, in *ibid.*, 177-89.

House by raising the minimum number of freeholders that towns needed if they wished to send more than one representative to Boston.⁸⁷

But the convention almost certainly destroyed whatever chances the constitution had of being ratified by including a variety of provisions guaranteed to elicit objections from different fronts while also mandating ratification guidelines that encouraged negative votes. According to the May 5, 1777 resolve, all free inhabitants over 21 were to vote yes or no to the constitution in its entirety. The draft contained no explanation for how the constitution might be amended in the future; nor did the process contain any formal provision for hearing substantive critiques of the draft that might, even in theory, be incorporated into the final version. The Lincoln County town of Bristol encapsulated the dilemma faced by all Massachusetts communities that met to consider the draft. “Sum Artickels ware well approved of,” the town reported, while “others [were] disapproved of.” Yet “as there was no provesion made for us to aprove of the artickels we like and Disapprove and vote against the artickels we Disliked, it is for these Reasons this Town Voted against the Whol [sic] Form of Government.”⁸⁸ Some towns concluded the opposite, with a majority of inhabitants voting to approve the constitution even after listing a few provisions they found objectionable.⁸⁹ Confident that their rights and interests were better protected for the time being under the charter, however, most towns followed Bristol’s model.

The constitution contained no shortage of provisions that betrayed the convention’s failure to synthesize competing, legitimate interests and claims to equity. Many flaws were especially glaring for a state trying to maintain the allegiance of inhabitants during wartime mobilization. Most famously, Bostonians rejected the constitution in some significant degree because of their “full Conviction of the Impropryety of [its] Originating with the General Court”

⁸⁷ For the text of the 1778 constitution, see *ibid.*, 190-201.

⁸⁸ Bristol Return, 29 May 1778, *ibid.*, 287.

⁸⁹ See for instance the return of Rochester, 14 May 1778, *ibid.*, 220-21.

rather than in a separate convention.⁹⁰ The overwhelming majority of other towns focused on other objections, however. Boothbay also thought “a convention of delegates, who held no Seats in either house was the *only* body competent for this work.” But it offered this objection after making the more common point that the General Court should not have attempted to juggle both “the important concerns of war” and the challenge of writing a new constitution.⁹¹ The numerous towns that voiced concerns about the constitution’s provision for the appointment of militia officers by the governor and senate probably hoped the convention was merely distracted. So tone deaf and counterproductive was this attempt to deny the right of militiamen to elect their captains and subalterns that many inhabitants could hardly believe that their leaders would seek to alter what recent experience had shown to be “the most effectual and Speedy way to Raise men without being Obligated to Draft any men,” as the Hampshire County town of Blandford put it.⁹²

The 1778 constitution’s complicated system of property requirements to vote and hold office only gave inhabitants more opportunities to dissent. While familiar with property requirements, the convention had proposed different qualifications to vote for representatives (inhabitants must have paid taxes) and for senators, the lieutenant governor, and governor (£60 estate). It had also proposed a gradually increasing scale of property ownership requirements for those wishing to hold state office. Towns found various reasons to object to the constitution’s

⁹⁰ Boston Return, 8 Jun 1778, *ibid.*, 308-9.

⁹¹ Boothbay Return, 20 May 1778, *ibid.*, 246. Emphasis in original. For other towns that expressed concern that the task of constitution-writing distracted the General Court from mobilization, see returns for Boston and Lexington, as well as the Essex Result. *Ibid.*, 307-10, 319; [Theophilus Parsons], *Result of the Convention of Delegates Holden at Ipswich in the County of Essex, who were Deputed to take into Consideration the Constitution and Form of Government Proposed by the Convention of the State of Massachusetts-Bay*. (Newburyport: John Mycall, 1778), 8.

⁹² Blandford Return, 27 May 1778, in *ibid.*, 282. See also returns for Greenwich, Hardwick, Charlemont, Belchertown, Rochester, Chesterfield, Sutton, New Salem, and Shelburne in *ibid.*, 213, 215-16, 217, 219, 221, 226, 235, 244, 286.

specific requirements, even if they did not oppose all requirements in principle.⁹³ The convention miscalculated as well when it barred free “negroes, Indians, and mullattoes” from ever voting for representatives; numerous towns took issue with this provision of Article V.⁹⁴ The apportionment of representation inevitably raised objections from both smaller, poorer communities that wanted the constitution to privilege the corporate status of all towns regardless of size, as well as from more populous towns that favored a distribution of seats more strictly in line with population.⁹⁵

Conflict over representation was unavoidable; other ill-considered provisions in the constitution could have been made less objectionable if granted greater consideration. Given the wide variety of reasons towns articulated for voting against the constitution, the most that can be said is that a majority of towns and their inhabitants felt safer retaining the charter for the present. The method of all-or-nothing popular ratification, combined with the failure of the convention to offer any precise explanation for how the constitution might be amended in the future, encouraged inhabitants to reject the new plan of government. The charter provided a workable alternative that ironically promised greater opportunity for constitutional reform.

Most important, the constitution’s mode of popular ratification inspired little confidence that the new government would command the compliance of towns and inhabitants throughout the state to a greater degree than did the current charter government. Inhabitants technically voted on the constitution as individuals, as the General Court’s May 5, 1777, resolve demanded. But voting patterns reveal that the vast majority of inhabitants voted in unanimous or nearly

⁹³ For towns that advocated equalizing or eliminating property requirements for voters, see returns for Charlemont, Chesterfield, Lenox, Shelburne, and Pelham. *Ibid.*, 217, 226, 254, 286, 321. See also return for Sutton, *ibid.*, 232. For towns that objected to property requirements to hold office, see returns for New Salem, Boothbay, and Pelham. *Ibid.*, 244, 248-49, 321.

⁹⁴ *Ibid.*, 193. See for instance the returns for Hardwick, Sutton, Boothbay, Georgetown, Blandford, and Spencer. *Ibid.*, 216, 231, 248-49, 277, 282, 302.

⁹⁵ See for example the returns for Belchertown, Upton, Plymouth, Beverly, Boston, and Lexington. *Ibid.*, 220, 262-63, 290, 293-94, 309, 317. See also [Parsons], *Result of a Convention...*, 42-43.

unanimous blocs with their towns. Of the 172 towns and plantations for which we possess returns on the 1778 constitution, 140 (or 81.4 percent) voted to reject it and 32 (or 18.6 percent) stated that they approved it. Of the 140 towns and plantations that rejected the constitution, 81 voted unanimously. This category was led by Boston, whose voters allegedly opposed the constitution 968-0. In only 19 of the 140 “nay” returns did at least 10 percent of the town’s total voters favor approving the constitution. The remaining 40 “nay” towns saw dissenting blocs of less than 10 percent of total voters. Similarly though somewhat less dramatically, of the 32 towns and plantations that voted to approve the constitution, eight voted unanimously, eleven voted nearly unanimously, and thirteen reported some proportion of inhabitants (between 11 and 49 percent of the total, with proportions skewed toward the low end of that spectrum) who voted to reject. All in all, nearly 60 percent of towns voted nearly unanimously. Most of the remaining towns voted overwhelmingly for one side or another. Towns such as Weymouth (34-27), Medfield (33-27), Marlborough (42-34), Ludlow (19-18), Andover (33-32), and Stockbridge (39-31) where the vote even approached an even split represented a very small minority of the total.⁹⁶

This fact about Massachusetts inhabitants’ voting behavior meant that, even if the 1778 constitution had somehow managed to achieve the requisite two-thirds approval for ratification, any dissenting votes would have not been diffused innocuously throughout the entire state. Instead, they were bound to be concentrated in the discrete corporate units that together composed Massachusetts’ political geography—units though which all government necessarily operated. If the votes on the 1778 constitution were reversed and an impressive 81 percent of towns voted to approve the new frame of government—surely a best-case scenario—

⁹⁶ See returns in *ibid.*, 279, 224-25, 280, 301, 210. Data about voting patterns and results have been compiled from the returns printed in *ibid.*, 202-323.

approximately one-fifth of the state's communities would still have entered into the new regime after just having voted, thanks to the all-or-nothing guidelines, to reject the new frame in its entirety. While it can be argued that this minority of inhabitants would have mollified their views, accepted the regime, and complied with its demands, the fact remains that this method of popular ratification would have immediately introduced into Massachusetts possible sources for questioning the legitimacy of the government's authority that did not currently exist under the charter constitution. For the new constitution to be successful, inhabitants needed to believe that a majority of their fellow inhabitants in all communities throughout Massachusetts accepted the new government's commands as binding. The 1778 constitution and the method employed for its popular ratification failed this test.

The Articles of Confederation

As January turned to February in 1778, the General Court continued to debate the draft of a new constitution. Joseph Andrews's main preoccupations included his sheep and the Articles of Confederation. A relatively prosperous farmer in his late forties living near the coastal towns of Hingham and Cohasset not far south of Boston, Andrews recorded his daily activities in a diary he kept for years. His terse, one-line entries document the challenges of the American Revolution and the largely unbroken rhythms of the agricultural calendar. An active participant in the public life of his town, Andrews served as a selectman for Hingham for several years in the 1770s and also frequently helped with the tedious process of making out the town's annual tax valuation. Among his friends and neighbors Andrews counted Benjamin Lincoln, a general in the Continental Army who would eventually receive the sword of Lord Cornwallis during the British commander's surrender at Yorktown in 1781. Andrews made his contributions to the war effort closer to home, training with the local militia and organizing supplies for the town's quota

of ill-equipped soldiers. He regularly attended both church and town meetings. It was to one of the latter that he travelled—after “look[ing] after [his] sheep” in the morning—on Saturday, January 24, 1778, “on acc[ount] of ye Articles of Confederation.” Andrews attended another town meeting on January 30 and yet another on February 2 held for the purpose “of taking into [Consideration] ye Articles of Confederation.” As he and his fellow freeholders likely voted to approve the plan of “perpetual union” between the American states, Andrews could rest assured knowing that his sheep were well-supplied with the hay he had given them earlier in the day.⁹⁷

Andrews’s experience was hardly unusual, for hundreds or perhaps thousands of inhabitants met in towns across Massachusetts in the first months of 1778 to read and deliberate on the Articles of Confederation. As it had with the question of independence, the General Court concluded that prior to instructing the state’s delegates to vote to ratify the Articles in the Continental Congress, it ought first to ask the towns explicitly to empower their representatives to take action that would bind Massachusetts in perpetuity. The popular sanction given to the Articles would enhance Congress’ ability to manage the war effort, bind the other states more closely to Continental authority, and thereby strengthen the hand of government in Massachusetts, which would be alleviated of some of its disproportionate burdens. For inhabitants, the Articles thus represented an important step in the larger process of constitution-making and another attempt to make government more effective.

⁹⁷ Joseph Andrews, Journal, 1774-1781, Pre-Revolutionary diaries microfilm, Massachusetts Historical Society, Boston, Reel 1, no pagination; *History of the Town of Hingham, Massachusetts, Volume II: Genealogical* (Cambridge: University Press, 1893), 13, contains an entry for Joseph Andrews, but lists the date of his death as 1777. His journals continue through 1781. Because the town history does not mention Hingham’s town meeting officially approving the General Court’s resolve concerning the Articles of Confederation, Andrews’s journal represents the only known source for the town’s actions. Based on the pattern of town responses explained below, however, it is extremely likely that the town did approve the Articles at the February 2 meeting that Andrews attended.

Massachusetts' consideration of the Articles has not received much attention from scholars.⁹⁸ The leading historians of the period have emphasized the relative dearth of debate about the Articles at the time. As Gordon Wood argues, "the creation of these Articles of Confederation sparked no extensive exploration into the problems of politics. Throughout the 1770's there was remarkably little discussion in the press or pamphlets of the nature of the union being formed."⁹⁹ Jack N. Rakove and Jack P. Greene both echo Wood's conclusion.¹⁰⁰ Moreover, on the surface there appears to be an almost total absence of sources on town consideration of the Articles. The manuscript holdings in the Massachusetts State Archives contain statements from only a dozen or so of the nearly 300 towns and plantations that existed in 1778.¹⁰¹ Yet a survey of other sources—mostly nineteenth-century town histories—reveals that discussion of the Articles was far more widespread than previously appreciated. The appearance of countless inhabitants like Joseph Andrews at their respective towns' meetings in

⁹⁸ In his influential 1940 study, Merrill Jensen offered a one-paragraph summary of reaction to the Articles in Massachusetts, noting vaguely that "Apparently the document was given thorough consideration, for many changes were suggested by the towns." See Jensen, *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781* (Madison: University of Wisconsin Press, 1970 [orig. 1940]), 189. To support his claim, Jensen cited a 1909 monograph by Charles S. Lobingier, whose one-page treatment of the subject drew upon the handful of town statements about the Articles now housed in the Massachusetts State Archives—statements that represent an important but idiosyncratic fraction of the total number of identifiable responses. Lobingier, *The People's Law*, 167-68. When compiling their documentary history of the Massachusetts constitution in 1966, Oscar Handlin and Mary Handlin chose not to include any mention of the Articles of Confederation—even though the town statements on the Articles are included in the same state archives manuscript volume from which they drew many documents related to the state constitution. Subsequent studies of Massachusetts, many of which rely upon the Handlins's collection, omit discussing the towns' consideration of the Articles. Studies that make no mention of the Articles include Patterson, *Political Parties in Revolutionary Massachusetts* and John L. Brooke, *The Heart of the Commonwealth: Society and Political Culture in Worcester County, Massachusetts, 1713-1861* (Amherst: University of Massachusetts Press, 1991 [orig. 1989]).

⁹⁹ Wood, *Creation of the American Republic*, 354.

¹⁰⁰ Jack N. Rakove, *The Beginnings of National Politics: An Interpretive History of the Continental Congress* (New York, 1979), 185; Jack P. Greene, "The Problematic Character of the American Union: The Background of the Articles of Confederation" in Jack P. Greene, *Understanding the American Revolution: Issues and Actors* (Charlottesville: University Press of Virginia, 1995), 128-63. Rakove notes that "Only in New England were the people at large asked to comment on the Articles, and the town meeting replies that the assemblies received were predictably concerned with the valuation of lands proposed in Article 8." Rakove's source for this claim refers to New Hampshire; as explained below, the Massachusetts towns that did critique the Articles highlighted Article 8 but other aspects of the document as well. See also the discussion in Alison LaCroix, *The Ideological of American Federalism* (Cambridge MA: Harvard University Press, 2010), 126-31 and Adams, *First American Constitutions*, 278-89.

¹⁰¹ See Mass. Arch. 156.

the early months of 1778 demonstrate that Massachusetts' reaction to the Articles of Confederation should not be characterized as one of apathy or ignorance but rather of informed consent. It was not the case in Massachusetts that people did not know the contents of the Articles and therefore dismissed them out of hand. They gave their universal approval of the plan and offered few critiques; any codified frame of government represented an improvement on the present informal arrangement. In short, Massachusetts inhabitants looked on the proposed continental constitution in the same way inhabitants of states that had not possessed adequate, formal frames of government viewed hastily prepared state constitutions early in the Revolution.

The Articles of Confederation arrived in Massachusetts after a lengthy period of composition in the Continental Congress. Massachusetts leaders at home and in Philadelphia began discussing a formal plan of confederation almost immediately after Congress took direction of the war.¹⁰² “An American Parliament with legislative Authority over All the colonies already or that Shall be united Must be established,” asserted Joseph Hawley in December, 1775. “Until that Shall be done we Shall be liable to be divided and broken by the Arts of our intestine enemies and cunning Menoeuvres [sic] of Administration.” Hawley, who a few months later advocated asking the towns to affirm the General Court's instructions for independence, believed that any “plan [of confederation] Must be when formed laid before each Several Assembly or provincial Congress on the Continent and be consented to by all.” Summing up a widely held view, Hawley wrote that “Civil polity and Government Must go hand in hand with military Operations.”¹⁰³ Congress made little progress, however, as debates over independence continued. The confederation, Samuel Adams assured James Warren in January,

¹⁰² See for example Samuel Adams to Elbridge Gerry, 29 Oct 1775, LDC 2: 277-78; John Adams to James Warren, 31 Oct 1775, LDC 2: 281-82.

¹⁰³ Joseph Hawley to John Adams, 18 Dec 1775, PJA 3: 369, 370.

1776, “is not dead by sleepeth.”¹⁰⁴ John Adams continued to ponder plans of union. He and others clearly viewed state constitution-making and a plan of confederation as part of the same interconnected process; the informal union that existed prior to the Declaration of Independence, certainly, was not a long-term solution.¹⁰⁵

Even after independence, Congress moved slowly on confederation. “A kind of Fatality still prevents our proceeding a Step in the important affair of Confederation,” lamented Samuel Adams in late June, 1777.¹⁰⁶ “We every now and then take it into Consideration,” Adams told James Warren, “but such a Variety of Affairs have demanded the Attention of Congress, that it has been impracticable hitherto to get it through.”¹⁰⁷ Only in late October could Adams report that “Most of the important Articles are agreed to.”¹⁰⁸ On November 17, the Congress finally issued a circular letter to the states to accompany copies of the Articles of Confederation. The Congress’ letter struck an apologetic tone in the hope of preempting any objections, admitting freely that “Hardly is it to be expected that any plan, in the variety of provisions essential to our union, should exactly correspond with the maxims and political views of every particular State.” Yet the states, Congress maintained, ought to remember that “this is proposed as the best which could be adapted to the circumstances of all.” With this somewhat tepid endorsement, the Congress urged that the Articles be given “the immediate and dispassionate attention of the legislatures of the respective states.”¹⁰⁹

¹⁰⁴ Samuel Adams to James Warren, 7 Jan 1776, LDC 3: 52. See also Samuel Adams to John Adams, 15 Jan 1776, LDC 3: 94.

¹⁰⁵ John Adams to James Warren, 16 Apr 1776, LDC: 536. See also John Adams to Abigail Adams, 19 Mar 1776, LDC 3: 398-99; John Adams to John Penn, 19-27 Mar 1776, LDC 3: 405; Samuel Adams to Samuel Cooper, 30 Apr 1776, LDC 3: 601; John Adams to Abigail Adams, 17 May 1776, LDC 4: 17-18; John Adams to Patrick Henry, 3 Jun 1776, LDC 4: 122; Josiah Quincy to John Adams, 13 Jun 1776, PJA 4: 303-7; John Adams to John Winthrop, 23 Jun 1776, LDC 4: 299-300; John Adams to Abigail Adams, 11 Jul 1776, LDC 4: 435.

¹⁰⁶ Samuel Adams to Richard Henry Lee, 29 June 1777, LDC 7: 264.

¹⁰⁷ Samuel Adams to James Warren, 30 June 1777, LDC 7: 271.

¹⁰⁸ Samuel Adams to James Warren, 29 October 1777, LDC 8: 209.

¹⁰⁹ JCC 9: 933.

Upon receiving the Articles, most state legislatures debated them internally, as the Congress' letter seemed to recommend, without seeking a broader mandate by other means.¹¹⁰ Such a mode of approval was better suited to meeting the Congress' request that the states' delegates be ready to decide on official ratification in Philadelphia by March 10, 1778. This proposed timeline encountered complications in Massachusetts when the Articles along with the circular letter arrived in Boston on the day the House of Representatives planned to adjourn. As the state's Council explained to Congress' President Henry Laurens, immediate action on ratification was not possible, "many of the Members having return[e]d to their respective Homes." The Council pledged that the full General Court would decide on the issue following the brief recess.¹¹¹

Before the House officially adjourned on December 15 though, it found time in the afternoon to pass a resolve acknowledging the receipt of the Articles and of the Congress' letter. "[I]t is considered by this House as a Matter of great Importance," read the resolve, "and beyond the usual Course of Business expected by their Constituents at the Election of their Representatives." Accordingly, the House "recommended to the several Towns in this State to instruct their Representatives to act and do as they shall judge meet for the Advantage of this and the other United States, relative to this Matter."¹¹² On the one hand, this reference to the Articles constituting a matter over and above the normal business of the General Court suggested that the legislators understood the Articles to possess a constitutional nature that required special treatment. On the other hand, the House established no strict date by which the towns were to instruct their representatives. The Council's initial response to Congress made no mention of

¹¹⁰ See Jensen, *Articles of Confederation*, 185-210.

¹¹¹ The Council of Massachusetts to Henry Laurens, n.d. December 1777, in Harry Alonzo Cushing, ed., *The Writings of Samuel Adams* (New York: G.P. Putnam's Sons, 1907), 3: 418-19.

¹¹² *House Journal* 53: 143.

any process of town instruction. The House apparently hoped that as many towns as possible would respond, but the process lacked organization.

Transmission of the House resolve and of the Articles to the individual towns was certainly haphazard but not negligible. The House ordered that copies of the Articles and of the resolve be printed and given to each member of the assembly, and these copies presumably found their way back to the members' local constituents.¹¹³ The arrival of Congress' circular toward the end of the session probably meant that a significant proportion of members from more distant towns had already departed and never received their copies. This may explain the lack of evidence that towns in some parts of the state considered the Articles. The text of the Articles also soon became available in the newspapers. Boston's *Continental Journal* and *Boston Gazette* published them on January 8 and 19, respectively, while Worcester's *Massachusetts Spy* published the Articles in two parts on January 8 and 15.¹¹⁴

Of the 67 towns whose deliberations on the Articles can be confirmed, 56 (about 84 percent) voted simply to approve the plan of government for the Confederation. No town that considered the Articles unconditionally opposed them. The few towns that proposed amendments did not stipulate that their support for ratification was conditional, or based on adoption of those amendments. Indeed, numerous towns recorded approval of the articles "unanimously."¹¹⁵ Others such as Harvard, in Worcester County, expressed the opinion that the Articles were "well Calculated for the Good of the United States, to support our Independency."¹¹⁶ Boston's instructions described the Articles as "well adapted to cement the

¹¹³ *Ibid.*

¹¹⁴ *Continental Journal*, 8 January 1778; *Boston Gazette*, 19 January 1778; *Massachusetts Spy*, 8 and 15 January 1778.

¹¹⁵ For example, the town of Worcester: see Franklin P. Rice, ed., *Worcester Town Records From 1753 to 1783* (Worcester: Worcester Society of Antiquity, 1882), 310.

¹¹⁶ Quoted in Henry S. Nourse, *History of the Town of Harvard Massachusetts 1732-1893* (Harvard: n.p., 1894), 328-29.

Union of the said States.”¹¹⁷ Some towns, upon first receiving the House resolve, appointed committees to read the Articles more closely and report back to the full meeting a week later—a likely explanation for the multiple meetings attended by Joseph Andrews in Hingham.

Table II. Known Town Votes on the Articles of Confederation, January-February, 1778

County	Simple Approval	Approval with Amendments Suggested	Total Responses
Suffolk	4	2	6
Essex	11	2	13
Middlesex	14	1	15
Hampshire	4	2	6
Plymouth	2	1	3
Barnstable	2	0	2
Bristol	0	2	2
York	0	0	0
Dukes County	0	0	0
Worcester	17	1	18
Cumberland	2	0	2
Berkshire	0	0	0
Lincoln	0	0	0
Totals	56	11	67

Sources: See Appendix II.

Many of these committees, it appears, failed to discover much that their respective towns found worthy of long debate. After a committee in Sutton stated “that in their opinion these [Articles]

¹¹⁷ *Boston Gazette*, 26 January 1778.

should be complied with by this town,” the vote “Passed unanimously in the affirmative.”¹¹⁸

Most towns that considered the question inserted the language of the House resolve back into their representatives’ instructions. Watertown exemplified this response when it “Voted that the Representative be and he is hereby fully Impowered & Instructed to do and act any thing he Shall Judge proper in order to [the Articles] being Rattified & Confirmed.”¹¹⁹

As far as the sources reveal, only a handful of towns chose to write anything resembling a sustained reaction or critique of the Articles of Confederation. Some may have deferred to the General Court on continental issues whose complexity lay out of their immediate experience. When the town of Falmouth in Cumberland County voted in favor of adopting the Articles in January, for instance, it also made clear to its representatives that they ought to use their discretion when it came time for the General Court to deliberate on the Articles since the townsmen “were not acquainted with the arguments against [them].”¹²⁰ But it is possible to identify eleven Massachusetts towns that proposed at least one amendment to the Articles of Confederation. One of these towns, Westborough, complained only that “the Protestant Religion, is not duly Guarded in Said Confederation” and proposed inserting the phrase “Under God.”¹²¹ Lexington offered a more secular critique, pointing out that the Articles made it difficult to propose amendments. “[N]o explicit Provisions appear to be made,” Lexington wrote, “...for any Motion or Proposal, (in future Time) for any Alteration of said Articles of Confederation, (however necessary or advantageous).” States should be able to propose any amendments that “Shall seem most prudent, equitable, or discreet” and that “may appear, upon

¹¹⁸ Quoted in William A. Benedict and Hiram A. Tracy, *History of the Town of Sutton, Massachusetts, From 1704 to 1876...* (Worcester: Sanford and Company, 1878), 110-11.

¹¹⁹ Quoted in *Watertown's Military History* (Boston: David Clapp and Son, 1907), 31.

¹²⁰ William Willis, *The History of Portland From 1632 to 1864...Second Ed.* (Portland: Bailey & Noyes, 1865), 542. See also, for example, the statement of Chelmsford in Wilson Waters, *History of Chelmsford Massachusetts* (Lowell: Courier-Citizen Company, 1917), 214.

¹²¹ Westborough Town Meeting, 22 Jan 1778, Mass. Arch. 156: 299.

Practice and Experience, to be necessary, or expedient.”¹²² The full title of the plan of government, the Articles of Confederation and Perpetual Union, no doubt impressed upon the town the importance of the ability to make alterations.

The first of the main objections found in the town statements concerned Congress’ powers over war and peace. Several towns believed Article IX’s provision that Congress “shall have the sole and exclusive right and power of determining on peace and war” robbed the states of too much power on so important a matter. The town of Palmer asserted vaguely that such a power “ought to be more particularly Vested in the people.”¹²³ Braintree agreed, but offered the more specific suggestion that the Congress should need “first [to] Obtain the Approbation of the Legislative Body of Each of the United States or the Major part of them before they shall Determine on peace or War.”¹²⁴ Amesbury, like Braintree, desired an amendment requiring that Congress consult each state legislature prior to declaring war. It proposed that “the Legislative authority of Nine of the united States Consenting to the Declaration of war” would be sufficient—a more precise condition compared to Braintree’s suggestion of mere majority approval, which would have been inconsistent with Article IX’s provision requiring the approval of nine states in all important matters.¹²⁵ Regarding this nine-state provision of Article IX, the town of Bridgewater complained “We Rather wish it had been Eleven.”¹²⁶ Clearly, among the towns that conveyed their views on the Articles there existed a desire to ensure that Congress would not be able to embroil the states in war easily.

The other recurring objections related to the connected issues of the apportionment of taxes and representation in Congress. Article VIII mandated that the states would contribute

¹²² Lexington Town Meeting, 12 Jan 1778, Mass. Arch. 156: 295.

¹²³ Palmer Town Meeting, 1 Jan 1778, Mass. Arch. 156: 294.

¹²⁴ Braintree Town Meeting, 2 Feb 1778, Mass. Arch. 156: 294a.

¹²⁵ Amesbury Town Meeting, 3 Feb 1778, Mass Arch. 156: 300.

¹²⁶ Bridgewater Town Meeting, 12 Feb 1778, Mass. Arch. 156: 302.

funds to defray the costs of the “common defense and general welfare...in proportion to the value of all land within each State.” The town of Wrentham criticized Article VIII, and probably supported something similar to Medfield’s proposed amendment of making taxation “in proportion to the number of Polls and all personal estates as well as all lands and buildings within each State.”¹²⁷ Several towns assumed that by including polls—household heads—and personal estates into the calculation of taxation, the tax burden would be distributed more equitably throughout the Confederation. Their analysis of tax apportionment led towns to consider the nature of representation under the Articles. Attleborough contended that the Articles’ one-state, one-vote rule should be replaced by a system that allocated “a voice in Congress proportioned to the number or estate of the different States.”¹²⁸ “[T]he Larger States in this Confederacy Ought to have votes in Congress, in, or near the proportion of the Taxes they pay for the Common Defence,” agreed Essex County’s Haverhill.¹²⁹ “Why may it not be proportioned to the taxation?” asked Springfield about the scheme of representation.¹³⁰ This group of towns thus began to explore some of the same concerns they had about the distribution of burdens within the state on a Continental level.

The Council’s earlier promise to Congress that the assembly would take up the matter of ratification immediately upon the House’s return in early 1778 proved wishful thinking. The assembly was already meeting in a constitutional convention in addition to carrying on pressing normal business. The House initially allotted discussion time for the Articles on January 28, but pushed back consideration on three separate occasions, getting to it only on February 19. On that

¹²⁷ For Wrentham, whose brief statement specifies its objection to Article 8 but fails to elaborate, see Wrentham Town Meeting, 16 Feb 1778, Mass. Arch. 156: 303a; Medfield quoted in William S. Tilden, ed., *History of the Town of Medfield, Massachusetts. 1650-1886* (Boston: Geo. H. Ellis, 1887), 171.

¹²⁸ Quoted in Daggett, *A Sketch of the History of Attleborough* (Boston: Press of Samuel [ill.], 1894), 124-25.

¹²⁹ George Wingate Chase, *The History of Haverhill, Massachusetts, From Its First Settlement, in 1649 to the Year 1860* (Haverhill: n.p., 1861), 405.

¹³⁰ Quoted in Mason A. Green, *Springfield 1636-1886 History of Town and City* (Springfield?: C.A. Nichols & Co., 1888), 288.

day, and again on February 25, the two houses of the legislature deliberated as a committee of the whole, announcing on the latter date that they had “agreed to each and all of the said Articles.”¹³¹ The assembly’s approval of the Articles thus reflected the unanimous approval of the towns that considered the document.

The three amendments the General Court included in its instructions to the Massachusetts delegation in Philadelphia somewhat resembled those proposed by a few of the towns. The legislature first suggested that Article VIII’s provision stating that taxes were to be assessed on the basis of land ought to be amended to allow Congress to vary the mode of taxation “from time to time untill experience has discovered which will be the most equitable plan.” Next, like the town of Bridgewater the General Court decided that the consent of more than nine states should be required to approve important legislation. Rather than eleven states, as Bridgewater had proposed, the General Court suggested the number be ten. It reasoned that the current arrangement would enable “the five smallest States to give a Negative on the most important and necessary business.” Finally, the assembly objected to the method by which Congress proposed to assign quotas of men for the army. In an insightful critique, it noted that basing the quotas on the number of a state’s white inhabitants rather than on its total inhabitants functioned disproportionately “as a Tax” on predominantly non-slaveholding states such as Massachusetts because of “the bounties necessary to be given” to men enlisting.¹³²

The General Court approved the instructions to its delegates on March 11, one day after the deadline Congress had set for states to respond. Massachusetts delegate James Lovell, in attendance at Congress on March 10, considered it “mortifying to hear the Delegates from

¹³¹ *House Journal* 53: 167, 169, 175, 188, 189, 194. Quote on 194.

¹³² Instructions in *Acts and Resolves* 20: 24-25. In its instructions on the Articles, the town of Medfield also complained of the bounties the state needed to offer to fill its quotas, though it blamed a “decay of virtue” for the problems Massachusetts experienced. See the instructions quoted in Tilden, ed., *History of the Town of Medfield*, 171.

several states this day assert that they were instructed respecting the Confederation, while...Massachusetts could produce nothing.” Lovell considered Massachusetts’ delayed response particularly unsatisfactory since “Our State is expected to be found in the Fore-front upon such Occasions.”¹³³ Lovell need not have worried, for Congress did not get around to considering the Articles until June 20. On June 23, the Massachusetts delegation presented its proposed amendments only to watch Congress quickly dismiss each of them—the same fate as all the states’ amendments.¹³⁴ After it became clear that Congress did not intend to consider any alterations, eight states including Massachusetts officially ratified the Articles on July 9.¹³⁵ Writing to James Warren a few days later, Samuel Adams predicted that “there will [be] no Difficulty” in obtaining the ratification of the Articles by the remaining states, “except with Maryland, and she will finally accede.”¹³⁶ Accede Maryland did, but only in 1781 after the states settled lingering concerns over western land claims. Massachusetts newspapers carried brief notices in 1781 announcing “that the State of Maryland hath agreed to the Confederation of the United States, by which means the Confederation is now complete.”¹³⁷

The towns’ easy approval of the Articles in 1778 speaks to the deep-seated desire on the part of inhabitants for effective government at all levels. While they awaited the draft of their own state’s new constitution, inhabitants universally approved of a plan for continental government that promised to affect their lives for the better. The Articles by no means augured radical change, but they comprised a marked improvement over Congress’ currently uncoded powers and obligations. Clearly, the Confederation was to be a qualitatively different kind of

¹³³ James Lovell to Samuel Adams, 10 March 1778, LDC 9: 262.

¹³⁴ JCC 11: 628, 638. See also Rakove, *Beginnings of National Politics*, 188.

¹³⁵ JCC 11: 677.

¹³⁶ Samuel Adams to James Warren, 15 July 1778, *Warren-Adams Letters: Being chiefly a correspondence among John Adams, Samuel Adams, and James Warren* (Boston: Massachusetts Historical Society, 1925), 2: 34.

¹³⁷ *Massachusetts Spy*, 22 February 1781. A similar notice was published, for example, in Boston’s *Independent Chronicle*, 22 February 1781. On Maryland’s eventual ratification, see Rakove, *Beginnings of National Politics*, 189-90.

polity than Massachusetts. Congress under the Articles would not possess the coercive authority over the states that the General Court enjoyed over towns and their inhabitants. Writing in December, 1777, “A Bay-Man” told readers of the *Independent Chronicle* that “A Confederation of States is little other than a Confederation of towns, but upon a larger scale.”¹³⁸ Inhabitants recognized that this was not precisely true at the moment. When considering the Articles they therefore did not hold the Confederation government to the same standards of equity, responsiveness, and legitimacy to which they held their state government. In time, they would. Until the late 1780s, however, Massachusetts’ generally strong degree of compliance with Congress’ requisitions can be traced at least in part to inhabitants’ popular approval of the Articles in 1778.

The Constitution of 1780

After the failure of the 1778 constitution, Massachusetts remained committed to adopting a new frame of government. The likelihood of this occurring rested on two factors. First, a new constitution’s form needed to reflect a more nuanced and deft balance of the state’s competing interest groups. Both smaller communities as well as larger, more commercial towns possessed valid claims to reasonable representation in the new government, especially in wartime when mobilization depended on their continued compliance. The state needed a constitution that acknowledged the contributions of all inhabitants living in the hundreds of diverse communities that comprised Massachusetts’ political geography. Since burdens needed to be distributed equitably, so too did political influence need to be parceled out in a manner that inhabitants would consider equitable enough. No proposed frame of government would completely satisfy the entire populace, however, and thus the second imperative for constitution-making lay in

¹³⁸ *Independent Chronicle*, 11 Dec 1777.

devising a process of ratification that would enable all inhabitants to accept the constitution as legitimate and binding despite some lingering objections.¹³⁹

The General Court made no attempt to initiate a new constitution-writing process until February 20, 1779. The House then asked the towns to report whether “they chuse at this Time to have a new Constitution” and whether they would instruct the representatives to be elected for the coming year to support calling a separate convention that would write the constitution.¹⁴⁰

The proposal of a separate convention removed two significant objections leveled at the 1778 constitution. First, no towns would be able to reject the constitution on the basis of its being drafted by the sitting legislature. Most towns did not reject the 1778 constitution on these grounds, but—most importantly—Boston had cited this as a key factor in its negative vote.

Second, the convention removed the more widespread concern that the General Court could not write an adequate constitution while also conducting the war. As the Essex Result had stated,

¹³⁹ The discussion here of the 1780 constitution builds on and refines the justly influential interpretation offered in 1917 by Samuel Eliot Morison. Morison’s subtle analysis and conclusions have been misunderstood by subsequent scholars who have fixated on his intentionally deflationary opening gambit and some imprecise and poorly worded expressions that imply a greater degree of cynicism on his part than his argument actually conveys. “I had always believed that the greatest and most enduring of the revolutionary constitutions had been ratified by the people with substantial unanimity,” he wrote. “An inspection of the original returns of the towns on the constitution, in the Massachusetts Archives, revealed a contrary condition of affairs.” Morison set out to “analyze and classify” the “numerous” and “interesting” objections to the constitution. Morison, “Struggle Over the Adoption of the Constitution of Massachusetts, 1780,” 354, 355. After describing the various objections towns made to the constitution and the method the convention adopted for ratifying it, Morison acknowledged that some readers would believe he was “bring[ing] a charge of dishonesty against the [convention].” In fact, it is clear that Morison’s own view was more nuanced, as he noted that “No such charge, so far as I know, was preferred against it at the time.” Morison elaborated that the convention adopted the constitution in spite of objections because “Only an efficient government, resting on a constitution that appeared to have popular sanction, could secure obedience to the law, a regular collection of taxes, and an honorable participation by Massachusetts in the war she had done so much to create.” Morison then somewhat confusingly summed up the convention’s actions as “accomplish[ing] much good by a little wrong” and “one more illustration of the fact that right and wrong in history are not the same as legality and illegality.” *Ibid.*, 400, 401. Morison cast his interpretation against the uncritical, overly laudatory accounts that had preceded his. He desired to add a salutary dose of objectivity to the celebratory and self-important narrative of the state’s revolutionary history. He thus characterized the period as a “struggle.” Moving beyond these more provocative and imprecise statements that distract from his real contributions, it is helpful to build on Morison’s suggestive but undeveloped point about the broader wartime and constitutional context in which inhabitants wrote and ratified the 1780 constitution. For the most extreme example of how Morison’s interpretation has been exaggerated, see Patterson, *Political Parties in Revolutionary Massachusetts*, 244-46.

¹⁴⁰ Resolve on the Question of a Constitution, 20 Feb 1779, in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 383.

“the present situation of this State renders it best, that the framing of a Constitution therefor, should be postponed ‘till the public affairs are in a more peaceable and settled condition.’”¹⁴¹ It made little sense to neglect current government affairs while trying to establish a more effective government. A separate convention that could concentrate on the constitution promised to remove this issue.

Towns responded positively.¹⁴² Some smaller towns, such as Petersham in Worcester County, used this opportunity to argue that the distribution of seats in the convention should be “agreeable to the antient Proportion of Representation” rather than the 1776 act that had altered the system in place during the provincial period. Petersham and likeminded towns made a strained argument that the more populous towns could not be trusted with more proportional representation because their “Mercantile nature” inculcated “a Great tendency to Corrupt the Morrals of mankind.” Towns like Petersham, whose wealth derived mostly from “Real Estate,” on the other hand, were “v[a]stly more safe to Trust with the Power of Legislation.”¹⁴³ In mid-June, when the General Court passed a resolve calling for the election of delegates to a convention, it rejected the small towns’ retrograde call for seats to be assigned on the basis of the old apportionment. Its stipulation that towns could send a number of delegates equal to the number of representatives they were qualified to elect for the House blurred the distinction between the legislature and the convention. But the General Court also dropped property requirements and permitted all free men over 21 to vote in the delegate elections.¹⁴⁴ When

¹⁴¹ [Parsons], *Result of the Convention*, 4. See also Boston’s return, 11 Jun 1778, in Handlin and Handlin, *Popular Sources of Political Authority*, 310: “We were, and still are of Opinion, that a *time* of War is not the time to form Constitutions; we feel the ill Consequence of this Matter, having taken up the time of the General Court, while the Army was neglected.”

¹⁴² See the chart in *ibid.*, 389-93.

¹⁴³ Town of Petersham report giving their opinion on the proposed Convention for a new Constitution, 22 May 1779, *Mass. Arch.* 185: 168, 167. See also Shrewsbury Return, 19 May 1779, in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 400.

¹⁴⁴ Resolve, 15-21 Jun 1779, in *ibid.*, 402-3.

determining the process of constitution-making, all actors invoked the fictions associated with the “state of nature” in a highly selective manner. No one desired to divorce the mechanisms of constitution-making entirely from the present system.

The convention that met in September in Cambridge proceeded in a vastly more thorough manner than had the General Court’s convention the previous year. Whereas the General Court had met in convention a total of 37 times in eight and a half months, the new convention met 64 times in six months.¹⁴⁵ Moreover, if the journals of the respective conventions offer even a roughly accurate indication, the 1779-80 convention’s meetings delved into far greater depth and featured much more elaborate discussions and debates. All provisions in the constitution were connected. Deliberations necessarily ranged widely and did not hew to the order eventually finalized in the constitution’s text. Over 250 delegates showed up for the convention’s first week-long September session, but this number quickly dropped so that subsequent meetings comprised anywhere between 30 and 80 men.¹⁴⁶ On September 3, the convention appointed a committee of thirty-one delegates drawn from the counties to write a draft of the constitution.¹⁴⁷ The committee eventually entrusted the task to John Adams and reported to the full convention on October 28.¹⁴⁸

Adams relished writing the draft and he produced a clear, organized proposal well-suited for the convention’s consideration. Adams was undoubtedly well-versed in constitutional thought, but he had also just returned to Massachusetts after serving as a diplomat in France and had missed the attempts to write and ratify the 1778 constitution. He thus included a number of

¹⁴⁵ Number of meetings tabulated from *ibid.*, 177-89; *Journal of the Convention*, 7-185.

¹⁴⁶ Robert J. Taylor, “Construction of the Massachusetts Constitution,” *Proceedings of the American Antiquarian Society*, 90 (1980): 323-24. On Friday, February 18, 1779, for instance, sixty-seven delegates were present. *Journal of the Convention*, 121.

¹⁴⁷ *Ibid.*, 24-25.

¹⁴⁸ Taylor, “Construction of the Massachusetts Constitution,” 326; *Journal of the Convention*, 35.

provisions that the rest of the delegates knew from past experience were impractical or unpopular. A telling incident occurred on November 9 when a delegate proposed that “the word “Massachusetts,” in the first paragraph of the preamble to the Frame of Government be expunged, and that the word “Oceana,” be substituted in its stead.” The motion failed, indicating that the convention aimed to produce a frame of government suited to Massachusetts’ distinctive situation rather than one that adhered too rigidly to any abstract theory.¹⁴⁹

Adams proposed a strong governor in hopes “that he may have power to preserve the independence of the executive and judicial departments.”¹⁵⁰ Experience had demonstrated that the state’s lack of a governor made it difficult to execute and administer the policies enacted by the General Court.¹⁵¹ Adams made the governor stronger than the convention could stomach, however. While willing that he should play some role in the legislative process, the delegates abandoned Adams’s proposed absolute veto in favor of a qualified veto that could be overridden by a two-thirds vote of the assembly.¹⁵² Ironically, Adams retained the charter’s limits provision nearly word-for-word, writing that “the...Governor shall not, at any time hereafter,...transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court.”¹⁵³ The convention added the concession that the governor could march or transport inhabitants between Massachusetts proper and the Maine counties, but it also deleted the power to erect forts that Adams had retained from the charter.¹⁵⁴ Adams betrayed his unfamiliarity with popular opinion in Massachusetts when he proposed that the governor appoint all militia officers, a notion that

¹⁴⁹ *Ibid.*, 43.

¹⁵⁰ “Report of a Constitution or Form of Government for the Commonwealth of Massachusetts,” PJA 8: 242.

¹⁵¹ Schutz, *Legislators of the Massachusetts General Court*, 122-23.

¹⁵² “Report of a Constitution,” PJA 8: 242; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 448-49.

¹⁵³ “Report of a Constitution,” PJA 8: 252.

¹⁵⁴ *Ibid.*; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 458-59.

had elicited widespread condemnation in the returns on the 1778 constitution. The convention quickly fixed this by devising an elaborate scheme whereby militiamen elected their captains and subalterns, who in turn elected the county field officers, who in turn elected brigadier generals—all of whom to be commissioned by the governor. Major generals of the militia would be appointed by the House and Senate, “each having a negative upon the other.”¹⁵⁵

Adams retained the two-chamber legislature, a House and Senate. He apportioned forty total senators among the counties according to “the proportion of public taxes paid.” On the surface, this comprised a concession to the parts of the state that believed financial contributions ought to factor into the distribution of representation. In reality, the senate districts did not immediately represent a marked change from the charter’s method of stipulating the numbers of councilors that needed to come from various parts of Massachusetts. In fact, counties such as Berkshire would now be guaranteed at least two members of the upper house whereas formerly they had possessed no such assurance.¹⁵⁶ To maintain a greater separation between the executive and legislative powers, Adams provided for a council of nine members who would fill largely the same advise and consent roles as the Council had under the charter. Councilors would be elected by joint ballot of the House and Senate from the incumbent councilors and the year’s newly elected senators.¹⁵⁷ A lieutenant governor would serve as *ex officio* member of the Council and as the executive in the governor’s absence.

Adams erred in his provisions for representation in the House by proposing that all incorporated towns that currently possessed fewer than 150 polls lose their right to elect a

¹⁵⁵ “Report of a Constitution,” PJA 8: 252; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 459. See also *Journal of the Convention*, 113-14. Adams may have been influenced by the Essex Result’s argument for the governor’s power of appointing officers. See [Parsons], *Result of a Convention*, 35-37.

¹⁵⁶ “Report of a Constitution,” PJA 8: 244.

¹⁵⁷ *Ibid.*, 254-55; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 262-63.

member. Beginning in 1790, towns would need at least 200. Adams justified this change by citing the need to keep the size of the House manageable and by allowing towns under the minimum threshold to join with other towns to elect a representative. But this offered no solace to inhabitants who would lose one of the traditional privileges of incorporation.¹⁵⁸ Such a plan was particularly ill-advised at a time when the General Court relied on the compliance of these incorporated communities, many of which lay in remote and vulnerable parts of the state, to sustain mobilization. Similarly, the convention rejected the even more radical and impractical suggestions advanced by populous towns to “lay aside the distinction of towns” completely and instead to apportion representatives by newly created districts.¹⁵⁹ After much debate, the convention decided to guarantee that all currently incorporated towns would retain their right to elect a member. This pleased smaller towns. The convention mollified larger towns by allowing them to send an additional representative for every additional 225 polls resided in the towns over and above 150. And by making the towns pay their own representatives, the constitution would dissuade large towns from electing all the representatives they were entitled to send while also making small towns pay a disproportionate cost if they wished to be disproportionately represented.¹⁶⁰ Taken together, the convention settled on perhaps the only scheme of representation that delivered a plausible degree of equity to all inhabitants.

The convention accepted Adams’s proposed property requirement for voters of a £3 freehold or a £60 real and personal estate—a 50 percent increase over the charter’s

¹⁵⁸ “Report of a Constitution,” PJA 8: 247. The convention voted down a proposal to replace “rateable polls” (defined as taxable males over 16) as the basis of representation with taxable males over 21. This would have reduced the number of towns that could meet the minimum threshold for representation. *Journal of the Convention*, 134-35. Voters still needed to be 21. See also Taylor, “Construction of the Massachusetts Constitution,” 341.

¹⁵⁹ Beverly Return, 1 Jun 1778, in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 294. See also [Parsons], *Result of a Convention*, 49-51.

¹⁶⁰ *Journal of the Convention*, 122-24; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 454-55. See also Taylor, “Construction of the Massachusetts Constitution,” 339-41.

requirements.¹⁶¹ The convention slightly softened the property requirements Adams proposed for officeholding by permitting candidates for the House and Senate to qualify based on the value of their total estates instead of just their freeholds.¹⁶²

Adams made perhaps his finest contribution to the constitution by prefacing the frame of government with a declaration of rights. The 1778 constitution had not contained one and some inhabitants—including those in Boston—had objected to the omission.¹⁶³ Adams and the convention declared that “all men are born free and equal,” provided for freedom of the press, and the right to petition. Adams did not write what would become, in the final version of the constitution, the single most controversial provision. Article III continued the church establishment by empowering the legislature to mandate public support of religious ministers.¹⁶⁴ The convention reached its decision on the issue after exhaustive debate.¹⁶⁵

By the end of February, 1780, the convention thus agreed on a frame of government that replicated the basic structure of the charter. A few significant changes—an elected governor, the election of the upper house, the altered apportionment of representation in the lower house—had been made imperative by Massachusetts’ new status as a state whose increased defense and fiscal burdens needed to be distributed as equitably as possible among inhabitants living in approximately three hundred established corporations. The need to sustain mobilization circumscribed radical innovations in the basic structure of government. Inhabitants expected governance within and between all levels of authority to operate in the same manner as they always had. Given the similarities in form between the charter and the new plan, the convention

¹⁶¹ “Report of a Constitution,” PJA 8: 245; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 451.

¹⁶² The constitution stipulated that representatives must possess a £100 freehold or a £200 estate; senators needed a £300 freehold or a £600 estate; the governor needed a £1,000 freehold. “Report of a Convention,” PJA 8: 246, 248, 250; Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 453, 455, 456.

¹⁶³ See Boston Return, 11 Jun 1778, *ibid.*, 309; see also Lenox Return, 20 May 1778, *ibid.*, 257.

¹⁶⁴ See “Report of a Constitution,” PJA 8: 238, 262n.12.

¹⁶⁵ The convention acknowledged this later in its “Address.” See *Journal of the Convention*, 218.

understood that the constitution would deliver more effective government only if inhabitants could reasonably believe that it possessed a superior popular mandate than the status quo. It could not, as the 1778 constitution's method of ratification had done, provide the bases for discrete blocs of inhabitants to question the legitimacy of the governmental authority to be established. The convention therefore made three crucial decisions about the ratification process that allowed the state to accept the constitution with relative ease.¹⁶⁶

First, the convention included in the constitution a concrete mechanism for future revisions. In his draft, Adams had written in Article VII of the Declaration of Rights that "the people alone have an incontestible [sic], unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it."¹⁶⁷ The convention knew that this restatement of common wisdom about the ultimate authority of the people would not satisfy those towns that might balk at approving a frame of government that they could never change except through extraordinary and uncertain means.¹⁶⁸ On March 1 the convention therefore decided that in 1795 the General Court would canvass the towns to determine if a majority of inhabitants wished to hold another convention for revising the constitution. It was the last change the convention made to the text of the constitution before having it printed for statewide distribution.¹⁶⁹

Second, it replaced the 1778 ratification's simple yes-or-no referendum on the constitution by asking inhabitants to identify any specific articles to which a majority of the

¹⁶⁶ Morison, "Struggle Over the Adoption of the Constitution of Massachusetts, 1780," 360-63.

¹⁶⁷ "Report of a Constitution," PJA 8: 239.

¹⁶⁸ In addition to the obvious ideas taken from the Declaration of Independence, Adams drew on the language of the Virginia and Pennsylvania bills of rights for his Article VII. See *ibid.*, 263n.15. The editors of the Adams Papers speculate that Adams failed to include a provision for constitutional amendment "presumably through oversight." *Ibid.*, 271n.139. See also Taylor, "Construction of the Massachusetts Constitution," 344.

¹⁶⁹ *Journal of the Convention*, 134, 156-57. The convention voted down a proposal to set 1800 rather than 1795 as the year in which the General Court would ask the towns about a new convention. It also voted down a proposal to require two-thirds approval instead of a majority to trigger the convention.

town's voters objected, and then "to state their objections distinctly."¹⁷⁰ Unless towns explicitly listed a provision in their returns, the convention would interpret their silence as approval. Moreover, the article-by-article mode of ratification enabled towns to express dissatisfaction with discrete parts of the constitution without putting themselves on record as opposing the entire plan. As the responses would reveal, the vast majority of towns and inhabitants in fact approved the majority of the constitution.¹⁷¹ For inhabitants of a given town, this meant not only that they could acknowledge the new government's authority, but they could also rest assured knowing that every other town would similarly be bound to comply with government's demands. As their experience raising quotas of troops, paying taxes, and implementing other important policies during the war had impressed upon them, the well-being of one's individual town utterly depended on the compliance and proper functioning of all the state's incorporated communities.

Finally, the convention helped ensure ratification by pledging that upon receiving the town returns, it would revise the constitution so that all its articles conformed to the preferences of two-thirds of the inhabitants. The convention would then formally ratify the constitution without sending it back to the towns for another round of voting.¹⁷² This assured towns that their objections would be rectified immediately—even before 1795. Of course, because towns would never know if at least a third of the state shared their views, they would possess no solid grounds for disputing the version of the constitution that the convention ratified.

After months of discussion, the convention probably had little intention of actually revising the constitution based on the returns it received from the towns. The "Address of the Convention" that accompanied the constitution sought to convey deference to popular political

¹⁷⁰ The convention decided on this procedure on February 29. *Ibid.*, 155.

¹⁷¹ For other scholars who have reached the same conclusion, see Morison, "Struggle Over the Adoption of the Constitution of Massachusetts, 1780," 401; Peters, Jr., *Massachusetts Constitution of 1780*, 22-23.

¹⁷² *Journal of the Convention*, 155, 161, 164-65, 169.

authority while reminding inhabitants that “Could the *whole Body* of the People have Convened for [writing the Constitution],...a perfect Unanimity of Sentiments would have been an Object not to be obtained.”¹⁷³ The convention warned that “We may not expect to agree in a perfect System of Government: This is not the Lot of Mankind.”¹⁷⁴ Yet “by accommodating ourselves to each other, and individually yielding particular and even favorite Opinion of smaller moment, to essential Principles, and Considerations of general Utility, the public Opinion of the Plan now before you may be consolidated.”¹⁷⁵ The convention called on inhabitants for “Sacrifice, made for the sake of Union” because “Union strengthened by the social Feeling, would promise a greater Stability to any Constitution, and, in its operation, a greater Degree of Happiness to the Society.”¹⁷⁶ Concerning one of the issues most likely to raise objections, the convention noted that “An exact Representation would be unpracticable even in a System of Government arising from the State of Nature, and much more so in a state already divided into nearly three hundred Corporations.”¹⁷⁷ In short, the convention’s delegates appear genuinely to have believed that they had exhausted all lines of debate and produced the only compromise possible under the circumstances. All that remained was for the towns to grant their sanction to the constitution through an improved method of popular ratification.

In May and June, 1780, towns considered the constitution and expressed a range of views. Although many articles came under attack, the overall picture that emerges is one of broad-based support for the constitution and a desire that it would lead to effective government. By far the most contentious provision, as already noted, was Article III of the Declaration of Rights. As far as can be determined from the convoluted and irregular town returns, Article III

¹⁷³ “Address of the Convention” in *Journal of the Convention*, 216.

¹⁷⁴ *Ibid.*, 217.

¹⁷⁵ *Ibid.*, 216.

¹⁷⁶ *Ibid.*, 217.

¹⁷⁷ *Ibid.*, 219.

probably did not achieve the required two-thirds approval.¹⁷⁸ Regions of the state such as Worcester County, where Baptists were numerous, tended to return objections.¹⁷⁹ While undoubtedly divisive, the issue of a Congregational church establishment remained peripheral to the constitution's other functions. An attempt to abolish the establishment would have resulted in significant internal conflict as well. Massachusetts inhabitants were unlikely to embrace full religious toleration anytime soon. The other significant religious objections concerned the requirement that the governor "declare himself to be of the christian religion."¹⁸⁰ Many towns wanted the constitution to replace Christian with "Protestant" since they considered "it Dangerous Even to leave any the least opening for a Roman Catholick to fill the first Seat in the Government."¹⁸¹

Representation remained predictably controversial, with towns advocating the schemes of apportionment most beneficial to them. The town of Lincoln in Middlesex County, which possessed 172 polls in 1778, maintained that "This State is Constituted of a great number of Distinct and very Unequal Corporations which Corporations are the Immediate Constituant [sic] part of the State and the Individuals are only the Remote parts in many respects." Because "each Corporations [sic] hath a Distinct and seperate Interest Clashing with the Interest of all the rest and so long as Humane Nature remains the same," Lincoln thought each town should get the same number of representatives regardless of its population so that larger towns did not "Tyraniz" over the smaller.¹⁸² Inhabitants in these towns saw no advantage to arguing that

¹⁷⁸ The most thorough analysis is Morison, "Struggle Over the Adoption of the Constitution of Massachusetts, 1780," 354.

¹⁷⁹ Brooke, *Heart of the Commonwealth*, 181.

¹⁸⁰ Constitution of 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 456.

¹⁸¹ Norton Return, 5 Jun 1780, *ibid.*, 525. See also for example returns for Sandisfield, Greenwich, and Palmer in *ibid.*, 491, 561, 588.

¹⁸² Lincoln Return, 5 Jun 1780, *ibid.*, 663. Population figure from Greene and Harrington, *American Population Before the Federal Census*, 33.

Massachusetts existed in a “state of nature”; they instead emphasized the perseverance of corporations established before independence.¹⁸³

A number of towns wanted to alter or abolish property requirements for voting or holding office. Indeed, the large number of men currently in military service led some to question the fairness of such qualifications for voters. “[S]hall these poor polls who have gone before us into the greatest perils, and undergone infinite fatigues in the present war to rescue us from slavery, and had a great hand, under God, in working out the great salvation in our land, . . . some of them leaving at home their poor families, to endure the sufferings of hunger and nakedness,” Northampton asked, “shall they now be treated by us like villains and African slaves?”¹⁸⁴ These towns did not necessarily also express objections to the property requirements to hold office, though some others did.¹⁸⁵ Meanwhile, towns such as Northfield recorded overwhelming support for both voting and officeholding qualifications.¹⁸⁶ Williamsburg, a Hampshire County town with fewer than 150 polls in 1780, favored *increasing* the minimum property requirement for representatives “to prevent any persons being Elected to be A Member of [the House] that has not something to Influence him to Act for the publick good.”¹⁸⁷ Quite a few towns wanted to expand the pool of militiamen eligible to vote in officer elections to include those between the

¹⁸³ For other towns arguing that the constitution’s apportionment was unequal in some way, see for example the returns for Lanesborough, Washington, Greenwich, Southwick, Sunderland, Wilbraham, and Norton in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 478, 501, 565, 603-4, 610, 625, 524.

¹⁸⁴ Northampton Return, 22 May 1780, *ibid.*, 584. For other comments on property requirements to vote, some of them citing military service as a basis for eliminating them, see returns for Tryingham, Dartmouth, Mansfield, Ashfield, Palmer, Wilbraham, Braintree, and Framingham in *ibid.*, 499, 510, 520, 535, 589-90, 622, 767, 643-48.

¹⁸⁵ For towns that objected to property requirements for officeholding, see for example returns for Richmond and Wilbraham in *ibid.*, 488, 622.

¹⁸⁶ Northfield Return, 22 May 1780, *ibid.*, 572. Wareham, for example, also expressed support for property requirements for officeholders on grounds that “no man ought to be advanced to places of Important Trust That has not a Considerable Interest to Share the fate of others in Time of War and other Such General Calamities—as a person having nothing of value to loose [sic] in a State may be Tempted for the Sake of Gain to change sides with Enemies and thereby Endanger its Safety or otherwise Betray the Liberties for his own Emolument.—“ See Wareham Return, 29 May 1780, *ibid.*, 713.

¹⁸⁷ Williamsburg Return, 8 May 1780, *ibid.*, 625. Population figures for 1778 and 1781, both under 150 polls, in Greene and Harrington, *American Population Before the Federal Census*, 33.

ages of 16 and 20, but most towns kept silent on the issue.¹⁸⁸ The returns thus revealed that inhabitants could hold a variety of views on specific provisions. Because they desired effective government most of all, however, they did not insist on relatively minor details that they knew might be altered in time.

Even the handful of towns that proposed more radical structural changes to one or more branches of government should be seen in this context. Buxton, a York County town with approximately 170 adult males in 1780, advocated government by unicameral legislature since “the Inconveniency arising in Negatives [i.e. vetos] and Long debates, is more Injurious to the Good people of this State than Errors which may be Committed without Such Separate branches.”¹⁸⁹ A single house might deliver more efficient and responsive authority than a more cumbersome system. The size of the senate could be reduced, towns such as Dracut and Norton maintained, to save money without decreasing its effectiveness.¹⁹⁰ A small number of towns objected to the governor possessing the power to veto legislation and to march the militia without consulting the legislature.¹⁹¹ Others supported the governor’s veto and thought the constitution placed too many restrictions on the governor’s authority to march the militia, especially on occasions when Massachusetts might need to aid neighboring states in fulfillment of its obligations under the Articles of Confederation.¹⁹²

¹⁸⁸ For returns advocating expanded suffrage in militia elections, see for example the returns for Adams, Hancock, Shelburne, Westhampton, Barnstable, Pelham, and Stockbridge in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 475-76, 478, 596, 617, 716, 590-92, 494-95. For towns advocating appointment of militia officers by the governor, see returns for Eastham, Biddeford, and Wells in *ibid.*, 720, 729-30, 738-39.

¹⁸⁹ Buxton Return, May 1780, *ibid.*, 731-32. Population figures in Greene and Harrington, *American Population Before the Federal Census*, 36. For other towns advocating government by unicameral assembly, see returns for Rehoboth, Ashfield, West Springfield, and Wilbraham in Handlin and Handlin, eds., *Popular Sources of Political Authority*, 528, 535, 620, 622.

¹⁹⁰ Returns for Dracut and Norton in *ibid.*, 641, 524.

¹⁹¹ See for instance returns for Sandisfield, Dracut, Lexington, Medford, and Middleborough in *ibid.*, 490, 641, 661, 669, 699.

¹⁹² See returns for Wells, Groton, Wareham, Boston and Dedham in *ibid.*, 735-36, 648-51, 713, 762, 773.

On the one hand, this outpouring of diverse views in 1780 might suggest deep-seated tensions among Massachusetts inhabitants. At the same time, many clearly offered their amendments as possible alternatives; their present acceptance of the frame of government did not hinge on the incorporation of all of their pet ideas. Inhabitants favored anything that might help achieve their overriding goal: government that could alleviate their burdens, secure their property, and protect their lives. Thus some towns continued to prefer continuation of government under the charter. “The present form of government the Country was used to and answered the purposes both of internal government and carrying on the War,” wrote the Lincoln County town of Pownalborough. “[T]he invasions of the Enemy and the Divisions among ourselves made it improper if not dangerous at this Time to introduce a new mode of government.”¹⁹³ More commonly, towns embraced the new constitution and looked forward to a time in the near future when the lessons derived from experience could be applied to perfect it. The constitution’s provision for a new constitutional convention in 1795 clearly struck many towns as essential; those who objected to its wording usually wanted to be able to revise the constitution sooner.¹⁹⁴

Many towns explicitly asked the convention to ratify the constitution when it was clear that the required two-thirds of inhabitants had approved it, notwithstanding their own proposed amendments. As the town of Barnstable put it, “the Hints given by this Town for some Little alterations therein may not be Disagreeable to the Honorable Convention or militate with the

¹⁹³ Pownalborough Return, 18 May 1780, *ibid.*, 629. See also returns for Freetown and Swansea in *ibid.*, 517-18, 530.

¹⁹⁴ For examples of towns that commented on the provision for constitutional revision, see returns for Southampton, Lexington, Wareham, Buxton, Braintree, and Leverett in *ibid.*, 601, 662, 713, 732, 768, 565-66. Morison writes that “This article received the least favorable vote in the town meetings of any part of the Frame of Government.” See Morison, “Struggle Over the Adoption of the Constitution of Massachusetts, 1780,” 393. Yet by proposing alternative dates for a new convention, towns were hardly rejecting the provision’s central idea.

General Sentiment of the people at Large.”¹⁹⁵ Similarly, Northampton assured the convention that “We do not mean to be so tenacious of our own opinions, as not to approve of any thing that is not done exactly to our taste.”¹⁹⁶ Cambridge encapsulated a central theme of the state’s experience in constitution-making when its inhabitants wrote they were “willing to give up our own opinion in lesser matters in order to obtain a Government whose authority may not be disputed.”¹⁹⁷

Correctly gauging the popular sentiment in favor of adopting the constitution, the convention worked swiftly upon reconvening on June 7. The full convention voted against reading all the returns aloud, trusting a committee to make a report of the contents. Ultimately, 174 towns sent returns.¹⁹⁸ Almost exactly the same number had voted on the 1778 constitution, though the sets of towns differed. The committee informed the convention that 4,564 of 5,776 inhabitants had voted in favor of the constitution as written or if it received the approval of two-thirds of the state. A number of other towns had sent in returns so obscure that it was impossible to determine if “they would accept [the constitution] in case their proposed amendments do not obtain.” The convention opted not to ask the towns for clarification.¹⁹⁹ A week later, the convention was ready to go through each article that had elicited significant comment, asking delegates whether in their “opinion...the people have accepted of this article?” Every article “passed in the affirmative by a very great majority” and the convention declared that the people had “accepted the Constitution as it stands.”²⁰⁰

¹⁹⁵ Barnstable Return, 26 May 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 717.

¹⁹⁶ Northampton Return, 22 May 1780, *ibid.*, 586.

¹⁹⁷ Cambridge Return, 8 May 1780, *ibid.*, 637. See also returns for Pittsfield, Stockbridge, Murrayfield, Medford, Yarmouth, Wells, and Hingham in *ibid.*, 484, 494-5, 571, 670, 724, 739-40, 781.

¹⁹⁸ *Journal of the Convention*, 171, 175.

¹⁹⁹ *Ibid.*, 172, 173.

²⁰⁰ *Ibid.*, 180.

The adoption of the 1780 constitution after a process of popular ratification was clearly a political fiction, but it was not a fraud. The total number of voters the convention reported—5,776—almost certainly undercounted the total number who participated in the town meetings that considered the constitution. Still, if the number is remotely accurate, it would have represented less than 10 percent of the state’s pool of white males over 21. As several towns pointed out, significant numbers of men were currently serving in the militia or Continental Army while the process played out.²⁰¹ Whatever the number of votes the convention tabulated in 1780, however, Massachusetts’ constitution-making process was characterized by a remarkably broad and sophisticated level of participation. The formal constitution-making process grew out of and responded to the populace’s experience of governance during the Revolutionary War. In their petitions, their formal returns on constitutional proposals, and their actions generally, Massachusetts inhabitants revealed their desire for improved government within the state and even at the level of the nascent American Confederation. In Massachusetts, the most “useful piece of machinery” proved to be the process of ratification that enabled the state to adopt a new frame of government and endow it with an enhanced popular mandate. The new government benefitted from a few structural changes, but no one expected that the constitution would change the basic manner in which governance occurred within localities or between the towns and the state. The goal was to reaffirm those links. The inhabitants of a given town would be all the more willing to comply with government’s demands knowing that the rest of their fellow citizens

²⁰¹ Pownalborough, for instance, noted that “a Number of our Brethren, men of Property and understanding, are now from home in the War, who have a right to be consulted and to give their opinion in a matter wherein they and their children are so much interested.” Pownalborough Return, 18 May 1780, Handlin and Handlin, eds., *Popular Sources of Political Authority*, 629. The votes in May and June 1780 came at a time when the state had relatively few men away in Continental or militia service. Continental Army strength reports indicate that only 2,609 and 2,377 Massachusetts men were in New York or New Jersey in these months. Charles H. Lesser, *The Sinews of Independence: Monthly Strength Reports of the Continental Army* (Chicago: University of Chicago Press, 1976), 164-66, 168-70.

were also bound to comply and would face legitimate consequences if they did not.

Constitution-making therefore involved the entire populace and enjoyed broad support.

At the time, the majority of people in Massachusetts did not understand the ratification of the constitution as closing off a set of cherished extralegal practices and rights, such as holding conventions and rioting. They were much more concerned with the institutions and practices of formal government that they hoped the constitution would make more efficient. The majority who actively supported and sought to bolster constitutional government were engaged, thoughtful, and concerned about equity.²⁰² The constitutional mandate granted government authority in Massachusetts worked to the benefit of many. At various times and places, it would also show a capacity to oppress groups within the society who found it difficult or impossible to resist the force of government that enjoyed popular sanction—a theme of United States history generally.²⁰³

The significance of Massachusetts' constitutional achievement remained unclear in 1780. The process the state used to write and ratify a new frame of government would eventually influence all future constitution-making in the United States, including the creation of the federal constitution. Yet more immediately, Massachusetts' constitution threatened to contribute to the dissolution of the Confederation. Ironically, Massachusetts highlighted the Confederation's weaknesses by complying with its requests and by holding it to higher standards of equity, responsiveness, and legitimacy. In the end, even Massachusetts' "excellent" constitution could not survive for long while embedded in a larger polity as dysfunctional as the Confederation. Though the Massachusetts constitution held out the possibility of a constitutional convention in

²⁰² Barbara Clark Smith, *The Freedoms We Lost: Consent and Resistance in Early America* (New York: The New Press, 2010).

²⁰³ See for instance Alan Taylor, *Liberty Men and Great Proprietors: The Revolutionary Settlement on the Maine Frontier, 1760-1820* (Chapel Hill: University of North Carolina Press, 1990).

1795, inhabitants living through the 1780s may have wondered whether they would still possess a functioning government by that date.

Chapter 5

The “Excellent Constitution” and the Confederation: Massachusetts, 1780-1787

When the Reverend Samuel Cooper preached his sermon at the inauguration in Boston of Governor John Hancock on October 25, 1780, he did more than simply review the past half-decade of revolutionary struggle that had culminated in the Massachusetts constitution. Cooper’s sermon also made clear that the constitution had ushered in a new epoch in Massachusetts history. Having rejected the royal charter, that “thin barrier against all-prevailing power” which had served, in a modified form, as the basis of Massachusetts government from July, 1775, to October, 1780, the people of Massachusetts had come to realize that “The True Charter of Liberty” was “Independency supported by Force.” “[T]hough surrounded with the flames of war,” the people had written and adopted a new frame of government which they “judged most conducive to [their] own security and order, liberty and happiness.” Cooper, in other words, imagined the constitution not as a document, but as the people of Massachusetts mobilized in defense of their rights. “[I]t is written upon their own hearts,” he said.¹

Cooper’s sermon serves to remind us that, while in one sense the Massachusetts constitution can be seen as the encapsulation and culmination of revolutionary ideas and experiences, it was envisioned at the time as a functional frame of government that would enable the state, first, to persevere in its still-ongoing war against Great Britain and, second, to ensure a prosperous society once independence was finally and irrevocably secured. Few things were certain in 1780. Most obviously, the War of Independence had not yet been decided—hence Cooper’s allusions to the people in arms were anything but mere rhetorical flourishes.

¹ Samuel Cooper, *A Sermon Preached before his Excellency, John Hancock, Esq. Governour, the honourable the Senate, and House of representatives of the commonwealth of Massachusetts, October 25, 1780. Being the day of the commencement of the Constitution, and inauguration of the new government* (Boston: T.&J. Fleet, 1780), 15-16, 21, 30.

Moreover, the political landscape of the United States remained unclear, the Articles of Confederation not yet having been officially adopted by the states. While everyone knew what the soon-to-be-implemented Articles contained, no one could predict exactly how the system would work in practice.² It is hardly surprising that less than a month after Hancock's inauguration Samuel Adams described the new constitution as a ship whose "Materials are acknowledged to be of the best kind" but about which "There are many Speculations."³ Adams and others viewed the constitution as a sturdy vessel that would allow the people of Massachusetts to keep afloat in a sea of uncertainty.

In key respects, however, Massachusetts appeared to be in an enviable position at the beginning of the Confederation period. First, it possessed "the most legitimate constitution on the continent."⁴ Popular sovereignty in Massachusetts struck a great many contemporary observers as much less of a fiction than it seemed virtually anywhere else. It was obvious to observers that the process by which a convention had written and the people had ratified the Massachusetts constitution had granted it an aura of authority and legitimacy that the other state constitutions, most of which had simply been written and adopted by sitting legislatures, lacked. The state constitution's frame of government, too, was widely praised as an admirable middle way between such radical democratic experiments as the Pennsylvania constitution and some of the more elitist constitutions adopted by the southern states.⁵ In addition, the existence in Massachusetts of strong local government in the form of towns meant that the state enjoyed a

² On the drafting and ratification of the Articles, see Jack N. Rakove, *The Beginnings of National Politics: An Interpretive History of the Continental Congress* (New York: Knopf, 1979), 163-91.

³ Samuel Adams to John Adams, 17 Dec 1780 in Harry Alonzo Cushing, ed. *The Writings of Samuel Adams: 1778-1802* (New York: G.P. Putnam's Sons, 1908), 4: 233.

⁴ Richard Buel, Jr. "The Public Creditor Interest in Massachusetts Politics" in Robert A Gross, ed. *In Debt to Shays: The Bicentennial of an Agrarian Rebellion* (Charlottesville: University of Virginia Press, 1993), 55.

⁵ Gordon S. Wood, *Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969), 434.

convenient and powerful means to implement policies.⁶ This town system had already proven adept at mobilizing the populace for war; now, the legitimacy associated with the local institution of the town was combined with a much more legitimate frame of government for the state as a whole. In October, 1780, one could reasonably assume that the capacity of Massachusetts government had been greatly enhanced.

It is in this context that we must view the attempts by Massachusetts leaders throughout the 1780s to pilot the Commonwealth through the problems of war and its aftereffects. Indeed, people in Massachusetts were convinced that their prized constitution would survive only if the powers it granted were exercised to the fullest extent to meet the crises of the times. The first imperative was, of course, the successful conclusion of the War of Independence. Inextricably linked to this goal, however, was the problem of state finance. Concerns related to finance dominated the period, for at stake was believed to be nothing less than the long-term viability of the republican Commonwealth Massachusetts inhabitants had created in 1780. The main problems were how to deal with the state's own substantial debt, which had been incurred as a result of its exertions in the war, and how to respond to the Confederation Congress' requisitions for money to defray the domestic and foreign debt of the United States.⁷

Throughout the period from 1780 to 1787, leaders in Massachusetts government consistently argued that it was Massachusetts' solemn obligation to maintain its public faith and credit. If Massachusetts did not attempt to place its finances on a sound footing by providing for the funding of its debts and obligations, the government would be permanently incapacitated by

⁶ For the institutional strength of towns, see Barry Levy, *Town Born: The Political Economy of New England from Its Founding to the Revolution* (Philadelphia: University of Pennsylvania Press, 2009), 291, *passim*; also Michael Zuckerman, *Peaceable Kingdoms: New England Towns in the Eighteenth Century* (New York: Norton, 1970).

⁷ Studies that examine financial aspects of the Confederation era include E. James Ferguson, *The Power of the Purse: A History of American Public Finance, 1776-1790* (Chapel Hill: University of North Carolina Press, 1961); Roger H. Brown, *Redeeming the Republic: Federalism, Taxation, and the Origins of the Constitution* (Baltimore: Johns Hopkins University Press, 1993); Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York: Oxford University Press, 2003).

its inability to secure loans in the future. Drawing on concepts found in the law of nations and grounded in their own interpretations of history and experience, leaders imagined Massachusetts' place within a larger American and international context as they deliberated on how they ought to govern Massachusetts. As a result, these years witnessed persistent attempts on the part of the Massachusetts government to raise the revenue required to pay both the state's creditors as well as Congress' requisitions by elaborating its system for the collection of direct and indirect taxes—policies made possible by the enhanced legitimacy granted to the General Court by the new state constitution. Massachusetts, in other words, was preparing for existence as one of the United States by more closely resembling in some significant respects what we would call a fiscal-military state.

Yet Massachusetts' efforts fell short of its aspirations to raise sufficient revenue to secure its finances, with requisitions intended for both state and United States expenses consistently returning a deficiency. The crucial point, however, is that when it came to allocating the blame for the state's dire situation, Massachusetts leaders did not believe that it lay fundamentally with the inhabitants of the Commonwealth. Rather, many in Massachusetts came to believe over the course of the 1780s that they were the victims of a highly dysfunctional Confederation government whose incapacities were, in myriad ways, threatening to undermine the achievements they had purchased with their blood in the war against Great Britain—the Massachusetts constitution foremost among those achievements. When Shays's Rebellion broke out in Massachusetts in the late summer and fall of 1786, it was interpreted first and foremost as a war waged against the state constitution by individuals driven to desperation by policies the state had been compelled to adopt because of the Confederation's ineptitude. In sum, even though it possessed the strongest constitution and, arguably, was the best situated of any of the

states to meet the challenges of the postwar period, Massachusetts inhabitants found that even they would not be safe from anarchy and destruction as long as the larger polity of which their Commonwealth was a part remained dangerously unsettled.

Troops

As the constitution went into effect in October, 1780, there existed in Massachusetts a broadly shared consensus that the top priority of the new regime—the goal to which all else was subordinate—was winning the war against Britain. It bears reminding that although Massachusetts had not been a main theater of the war since the British evacuated Boston in early 1776, people in the Commonwealth by no means felt secure. A large British army was based in New York City, the British and their Indian allies were always a threat to strike from upstate New York and Canada, British forces marched into neighboring Connecticut and Rhode Island, and British troops actually occupied posts in Massachusetts' Maine district. The possibility always existed that Massachusetts would again experience direct enemy attack. As late as September 20, 1782, the General Court requested that the governor put the militia on alert in response to a warning from General Washington that the British might attempt to land troops in Massachusetts and attack French ships in Boston harbor.⁸

Expressions of official and popular support for the war effort and the army abounded in the weeks and months following the constitution's implementation. In his inaugural speech, Governor John Hancock—by virtue of the constitution “Commander-in-chief of the army and navy of the Commonwealth of Massachusetts”—proclaimed that “from every quarter we are loudly called upon to employ the most speedy and strenuous efforts for providing funds that may be depended on, and establishing an army sufficient, by the blessing of Heaven for the compleat

⁸ *Acts and Laws of the Commonwealth of Massachusetts, 1782-83* (Boston: Wright and Potter Printing Company, 1890), Chp. 3, 266.

deliverance of our country.”⁹ The General Court enthusiastically agreed, noting “that no one valuable object of government can be either completely attained or enjoyed unless the defence of the State is first sufficiently provided for.” The legislators promised that “by the most vigorous and decisive measures, we are determined to compleat for the war, and accommodate so far as our proportion of men and supplies shall extend without a moment’s delay, and at any expense.”¹⁰ Similar statements in favor of prosecuting the war against the British appeared in newspapers. The freeholders of one town near Boston “consider[ed] an attention to the army, as a matter of the highest importance” and urged their representative in the General Court “to take immediate steps for filling up our quota during the war, and to provide for the supply of every thing necessary for the comfort and convenience of both officers and men.”¹¹ “Peace for America must be established by the sword,” opined one author, for “Britain will not think of acknowledging our independence...while she can maintain a powerful army in the heart of these States.”¹² “Every thing calls upon us to put our own army on a more permanent footing than ever it has been,” wrote another. “A good army during the war, is, under providence, our only security.”¹³ While the constitution may have contained injunctions against maintaining standing armies in peacetime, that sentiment ought not to be confused with popular sentiment in support of American armies defending the people against British forces.

The outrage provoked throughout Massachusetts in early 1781 by British proposals for peace on terms of reincorporation within the empire further revealed the people’s dedication to achieving complete independence by force of arms. How could Britain “hold out the olive branch” one incredulous author wondered, while the people “are involved in a bloody and

⁹ *Continental Journal*, Boston, 2 Nov 1780.

¹⁰ *Massachusetts Spy*, 23 Nov 1780.

¹¹ *Independent Ledger*, 9 Nov 1780.

¹² *Massachusetts Spy*, 18 Jan 1781.

¹³ *Massachusetts Spy*, 28 Dec 1780.

expensive war”? In this author’s imagination, reconciliation could end only in a bloodbath as Britain took revenge upon its rebellious subjects; the former mother country would begin “by decking each tree with the body of an inactive old man” before proceeding to “sate the cruelty of herself, and her savage allies with the scalps of women, and tender innocents.”¹⁴ Others suggested that Massachusetts would have not only the British to fear following a hypothetical reconciliation, but the United States’ current allies as well. The French would waste no time turning their arms “against the people that had deceived her,” noted one contributor to the *Continental Journal*. Enraged at American betrayal, France would even seek to conquer the individual states “to obtain reparation of the injury” they had done to her. America would become the seat of war between Britain and France as each vied to plunder the inhabitants of their wealth.¹⁵ Indeed, according to the General Court, which addressed the question of reconciliation in one of its periodic messages to the people, France and Spain “would be fully authorised by the law of nations in taking exemplary vengeance on our defection.”¹⁶ While reconciliation had been a remote possibility in Massachusetts for some time by 1781, it seemed all the more absurd in the militant atmosphere created by the establishment of the constitution.

It is hardly surprising, then, that the Massachusetts government moved quickly to ensure that the state would continue to contribute men to the army for years to come. In October of 1780, there was already a substantial contingent of Massachusetts troops serving in Washington’s Continental Army in New Jersey. According to records, 4,970 men out of a total of 17,586 on the army rolls for that month were in Massachusetts regiments (28.2 percent).¹⁷

¹⁴ *New-England Chronicle*, 22 Feb 1781.

¹⁵ *Continental Journal*, 15 Feb 1781.

¹⁶ *Acts and Laws of the Commonwealth of Massachusetts, 1780-81* (Boston: Wright and Potter, 1890), chp. 163, 316. Citations to the *Acts and Laws* volumes will include a chapter number (chp.), followed by a page number.

¹⁷ Charles H. Lesser, *The Sinews of Independence: Monthly Strength Reports of the Continental Army* (Chicago: University of Chicago Press, 1976), 184-85.

Many of these enlistments were set to expire, however, and so on December 2, 1780, the General Court passed a resolve for raising 4,240 men to serve in one of the state's Continental lines for three years or the duration of the war. The longer enlistments were meant to solve the problems associated with raising and maintaining a force of new enlistees each year, a process that had "been productive of extravagant expence to towns and individuals" and had "been the great cause of protracting the war."¹⁸ Indeed, while 4,240 men was a significantly lower goal than the 7,816 Massachusetts had fielded in 1777, the General Court was actually imposing a massive burden on communities by demanding multi-year commitments as the conflict was about to enter its sixth year. In many communities throughout the state, every eligible male had already been in military service of some kind over the course of the preceding years, and Continental service, because it was continuous, was a burden that fell disproportionately on those men who did not have families to support.¹⁹

Moreover, the legislature took steps to enforce town compliance with its call for men. In February 1781, the General Court mandated towns adopt a method of "classing" to raise their quotas for the army. In classing, the town assessor along with the town's commanding militia officer divided the community into a number of "classes" equal to the number of men the community as a whole was required to raise. The town assessor and militia commander decided the composition of each class by consulting the most recent "hard-money-tax" assessment, so that by "intermixing the poor with the rich" the classes might be "nearly equal in property and in number of polls as [possible]."²⁰ If a town was deficient in meeting the overall quota that the

¹⁸ *Acts and Laws, 1780-81*, chp. 104, 190-201.

¹⁹ Jonathan Smith, "How Massachusetts Raised Her Troops in the Revolution," *Proceedings of the Massachusetts Historical Society* 3:55 (Oct. 1921-Jun. 1922): 356, 367; Walter Sargent, "Answering the Call to Arms: The Social Composition of the Revolutionary Soldiers of Massachusetts, 1775-1783" (Ph.D. diss. University of Minnesota, 2004).

²⁰ *Acts and Laws, 1780-81*, chp.161, 307-8; *Ibid.*, chp. 104, 195. The resolve of 2 December 1780 gave towns the option of classing; the later resolve made classing mandatory.

General Court had assigned to it, each class in the town that had not yet provided a man would be responsible for doing so, or for paying a fine that would be used by the town to procure a replacement. Towns were authorized to offer bounties to men to enlist in the Continental Army, and while these bounties were substantial sums, they were still a less expensive option than a fine levied by the General Court.

Worcester's *Massachusetts Spy* reported as early as January 4, 1781, that, by offering "great and generous" bounties, "many towns, in this State, have already completed their quota of men for the army to serve for three years, or during the present war."²¹ Other towns, however, were not able to meet the legislature's deadlines. Beginning in October of 1781, the General Court began fining "delinquent" towns £128 9s. 6d., which was about 1.5 times the amount of the average bounty, for each man short the town had fallen of its full quota.²² Towns that were assessed fines for failure to meet their quotas were not without options for redress, however. Throughout the 1780s the General Court received numerous petitions from towns complaining either that they had been fined unjustly (since the town had in fact met its quota) or that the town could not meet its quota due to circumstances out of its control—usually problems arising from the war. In late June and early July of 1783, for instance, the General Court abated the fines it had levied upon Freetown, Ashburnham, Dedham, Braintree, Southborough, and Framingham for deficiencies.²³

Records suggest that while Massachusetts did not field at least 4,240 men as part of the Continental Army at all times, the state still put a considerable number under arms and into service in the 1780s. Continental Army strength reports from 1780 to the time when the army

²¹ *Massachusetts Spy*, 4 January 1781.

²² *Acts and Laws, 1780-81*, chp. 245, 756-59. See also *Ibid.*, chp. 90, 419-20; chp. 38, 621-24; chp. 130 (694-95); chp. 299, 786-87; chp. 344, 812-13; chp. 363, 825-26; chp. 512, 910-19; *Acts and Laws, 1781-82*, 225-27.

²³ *Acts and Laws, 1780-81*, chps. 37, 38, 47, 49, 55, 62, pp. 693-94, 698-700, 702, 706.

was disbanded in 1783 reveal that Massachusetts troops constituted anywhere between around 25 percent to as much as 50.4 percent of the total Army commanded by General Washington. Massachusetts regiments were deployed in various places in New York during these years, including the Hudson Highlands, West Point, and Newburgh.²⁴

Massachusetts was also forced multiple times in these years to augment its forces in the Continental Army with substantial numbers of militia to meet threats closer to home. In 1781, threats to Rhode Island resulted in the General Court requesting the governor to raise, first, 1,200 militia to serve a short stint of 40 days, and then 500 men to serve for five months. Two weeks after the call for 500 militia for service in Rhode Island, the legislature was forced to call for 2,700 men to augment the Continental Army for three months to “enable [General Washington] to carry on the important operations of the present campaign with success.” Smaller bodies of militia were also raised for various assignments, including for guarding the so-called “Convention” army of British soldiers who had surrendered at Saratoga, and for guarding Lincoln County in the Maine District.²⁵

²⁴ Lesser, *Sinews of Independence*, 184-85, 206, 210, 212, 214, 216, 236, 252, 254, 255.

Month, Year	# Men Serving in MA Continental Units	# Total Continental Army	Percentage of Total
Oct, 1780	4,970	17,586	28.2%
July, 1781	3,179	10,265	30.9%
Oct, 1781	3,580	12,921	27.2%
Jan, 1782	3,485	10,687	32.6%
Feb, 1782	3,827	10,510	36.4%
Mar, 1782	3,802	15,085	25.2%
Oct, 1782	4,568	12,011	38.0%
May, 1783	4,464	11,797	37.8%
June, 1783	1,357	2,760	49.1 %
July, 1783	1,305	2,587	50.4%

²⁵ *Acts and Laws, 1780-81*, chp. 178, 324-25; chp. 40, 625-28; chp. 98, 674-79; chp. 120, 689-90; chp. 511, 907-10.

Enlistments and mobilizations trailed off with the formal announcement of peace in 1783, but the period from October, 1780, through 1783 had shown that, to a large extent, the people of Massachusetts were indeed dedicated to the task of defeating the British in order to achieve independence for the United States and security for their own newly-created Commonwealth.²⁶ In the course of attempting to raise troops for the war, there is reason to believe that the General Court's actions had been shaped by the standards of legitimacy recently enshrined in the state constitution. On the one hand, the General Court had mandated procedures by which towns could procure men to fill their quotas as fairly as could reasonably be expected—although it should be acknowledged that some individuals possessed greater means by which to avoid long-term Continental service than others. On the other hand, the General Court apparently evinced little hesitation in fining delinquent towns—a demonstration of authority to be expected from a body empowered by the recent adoption of the constitution. Even here, though, the General Court demonstrated a willingness to rectify incorrect or unbearable demands made on its behalf; as numerous resolves can attest, the legislators were indeed responsive to petitions from individuals and towns. Though zealous in funneling Massachusetts men into the military service—a policy that the people themselves had supported—the state government also operated in accordance with the expectations of the citizens.

Date of Call for Militia	# of Militia	Service Area	Period of Service
28 Feb 1781	1,200	Rhode Island	40 days
16 June 1781	500	Rhode Island	5 months
30 June 1781	2,700	New York – Continental Army	6 months
3 Jul 1781	103	Rutland, MA	6 months
7 Mar 1782	100	Lincoln County, MA	8 months

²⁶ This is the basic argument advanced in Sargent, “Answering the Call to Arms.” In so arguing, Sargent challenges the notion of a dramatic decline in popular support for the war and the army as advanced in works such as Charles Royster, *A Revolutionary People at War: The Continental Army and American National Character, 1775-1783* (Chapel Hill: University of North Carolina Press, 1980) and James Kirby Martin and Mark Edward Lender, *A Respectable Army: The Military Origins of the Republic, 1763-1789* 3rd ed. (Malden, Mass.: Wiley Blackwell, 2015 [orig. 1982]).

State Finance

Going hand in hand with Massachusetts' dedication to the army was significant official and popular support for the adoption of new financial policies. Many viewed the implementation of the constitution as an opportunity to abandon policies that the revolutionary charter government had pursued since the start of the war in 1775. These policies, many argued, had proven disastrous for many individuals and for the state as a whole, and if continued would lead to nothing less than defeat in the war against Britain. As an alternative, a powerful argument emerged that exhorted the state government to reestablish its public credit by ceasing to issue paper money and by levying and collecting direct taxes on inhabitants. This position gained support because its proponents linked the new fiscal measures to the strength of the new constitution, the need to support the army, the outcome of the war, and the long-term viability of the state of Massachusetts.

First of all, numerous commentators agreed that the methods by which Massachusetts had financed its expenses for the past half-decade were not sustainable. In brief, Massachusetts had heretofore relied upon issuing a combination of bills of credit and treasury notes to meet its obligations. The government issued bills of credit to serve as a paper circulating medium, and these bills were made legal tender. "Essentially tax-anticipation notes," bills of credit most often did not pay interest.²⁷ Unfortunately, each emission of these bills rapidly depreciated in value. Bills of credit from neighboring states as well as those emitted by the Continental Congress were also in circulation (Massachusetts having accepted them on par in 1775) and these further contributed to the inflation. Beginning in 1777, the state government began calling in and redeeming the Massachusetts bills of credit issued thus far in return for treasury notes bearing

²⁷ Whitney K. Bates, "The State Finances of Massachusetts, 1780-1789" (M.A. Thesis, University of Wisconsin, 1948), 3.

6% interest. The state resorted to issuing bills of credit only once more, in May, 1780, when it emitted £460,000 worth.²⁸

Massachusetts had also relied upon treasury notes which, in contrast to bills of credit, did bear interest but were not intended to circulate (though they did). Treasury notes “represented either money actually loaned to the government, or promises to pay debts which the government could not immediately satisfy.”²⁹ Between 1775 and May, 1780, the Massachusetts government issued a total of £11,154,250 in treasury notes, most of which bore 6% interest. The largest issue of treasury notes had come as recently as January 1780, when £8,000,000 was issued to make up the depreciation on notes that had already been issued to Massachusetts men for service in either the Continental Army or the militia.³⁰ It should be noted, however, that while the face value on the total debt was over £11,000,000, the real or specie value of the state debt in 1780, once calculated according to the state’s official scale of depreciation, was around £1,150,000.³¹ Yet, this was still a massive sum.

In the months following the installation of the new constitutional regime, many argued that these past policies had destroyed public credit and now threatened the Commonwealth with utter ruin if changes were not made. The means of paying the army and financing the government, one newspaper contributor wrote, were no longer “to be obtained in the easy method that they have been for five years of the war.”³² In other words, Massachusetts had been paying for the war mostly through credit without any serious attempt to make up the deficit.

While the state government had levied direct taxes in the period from 1775 to 1780, its attempts

²⁸ *Ibid.*, 41-50.

²⁹ *Ibid.*, 43.

³⁰ See Appendix II, Table II in *Ibid.*, 156-57.

³¹ *Ibid.*, 52. Bates also writes: “Of this, about £230,000 specie value was for payments to Congress and £150,000 for exchange and redemption. Most of the issues had depreciated by the time they were actually used for state purposes, and some loans were not fully subscribed. So the total specie value of funds from treasury notes available for the state finances was not over £700,000 to £750,000.” *Ibid.*

³² “To the Inhabitants of the Commonwealth of Massachusetts,” *Continental Journal*, 15 Feb 1781.

to collect them had been so lax that “not more than £300,000 in specie value was actually received from taxes in these years.” Those that were collected largely went toward Congress’ requisitions and did not significantly contribute to funding the state’s own debt.³³

Many viewed the legislature’s past decision to make paper bills of credit legal tender and payable for debts as a key blunder that was incapacitating the state. “A Massachusetts Farmer,” writing in March, 1781, condemned the “wretched conduct in our legislative authority that has stabbed to the vitals, and given the public faith and confidence so fatal a wound.” The reliance on paper currency had “prevented thousands from loaning their money to the publick use, for it is notorious to the world that [the legislators] have had no mercy on the property of individuals, nor regard to their public promises and engagements.”³⁴ “But who will lend money while government is without credit?” another writer asked. “No one surely! What then is to be done?” The author advised that the General Court “Restore publick credit” and “knock those iniquitous acts on the head.”³⁵ Indeed, as months went by in 1781, the outrage of the anti-paper money forces did not diminish. “A Friend to Government” reminded readers that the paper money collected to purchase supplies for the army had “so greatly depreciated, that we could not purchase one quarter the quantity of articles we at first calculated for.”³⁶ In sum, these writers maintained that the state’s fiscal policies had alienated current and potential creditors so completely that the state was able to provide neither for its present expenditures nor for future crises requiring loans.

The arrival of the new constitutional regime in October, 1780, gave hope to those who advocated an end to pure borrowing and paper money. Governor Hancock himself made clear in

³³ Bates, “State Finances of Massachusetts,” 53-56, quote on 55.

³⁴ “A Massachusetts Farmer,” *Independent Chronicle*, 1 Mar 1781.

³⁵ “Sidney,” *Massachusetts Spy*, 1 Mar 1781.

³⁶ “A Friend to Government,” *Independent Ledger*, 6 Aug 1781.

his first address after taking the oath that the Massachusetts government would be changing course and taking action. “The support of the public faith stands in close connection to [supporting the army] and indeed is absolutely necessary to it and to the whole interest and honor of the State,” Hancock asserted. “[N]o expedient should be unexplored, no necessary measure unattempted, no nerve in Government or the Community unexerted to maintain our credit and remove all just ground of complaint from the army that protects us, or from those who have in any instance rely’d on the public engagements.” Moreover, the governor noted that renewed attention to building the state’s credit was “not only a clear point of justice from which no Government can in any instance recede without injuring and dishonoring itself, but is of particular importance to the internal peace and good temper, and consequently the safety of the Commonwealth.”³⁷ Hancock’s association of public credit with public safety was in complete agreement with the views of many others who saw the constitution as the last best hope for an overhaul of state finance. In a dialogue that appeared in Worcester’s *Massachusetts Spy* a few months after the governor’s address, a “Schoolmaster” reminded his dimwitted “Farmer” companion that “We are now under a new constitution, and I hope, a good set of rulers.” The Schoolmaster was optimistic that “these in the first place set about rectifying the blunders and clearing away the rubbish of some late [General] courts, (for they left a very dirty house).”³⁸

The consensus regarding the best way to begin “rectifying the blunders and clearing away the rubbish” of past policies was to institute a much more rigorous and effective system of taxation. Advocates of maintaining the public credit explicitly connected the need for vigorous collection of direct taxes to the demands of the war. Indeed, taxation, military service, and independence became hopelessly blurred together in discussions of the issue. Thomas Paine’s

³⁷ *Continental Journal*, 2 Nov 1780.

³⁸ *Massachusetts Spy*, 1 Mar 1781.

essay “The Crisis Extraordinary,” published in Massachusetts newspapers in late 1780 and early 1781, offers one example. For Paine, Americans faced a choice: either pay their taxes to support the war for independence against Britain, or choose not to do so now and later be forced to pay a far greater sum to vindictive British conquerors. “[C]an it then be a question,” he asked, “whether it is better to raise two millions to defend the country, and govern it ourselves, and only three quarters of a million afterwards, or pay six millions to have it conquered, and let the enemy govern it?”³⁹ Many in Massachusetts echoed Paine’s conclusions. When a character in a newspaper dialogue named “Avaricius” moaned that “The RATES, I say the RATES, for the support of the *navy* and *army*, and *other charges* of government, are abominably *great*,” his companion “Justicius” scolded him, telling him to “Remember at the beginning of our contest with Great-Britain, we pledged our properties, yea our very lives, in support of it, and should you murmur [sic]...at parting with only that portion, which [you claim] is more than it ought to be for the support of *our independence*,” then Avaricius, Justicius said, deserved to be a slave.⁴⁰ “This army cannot be raised but by our own exertion, or supported where raised unless our taxes are faithfully and punctually submitted,” a writer with the pseudonym “YOUR BROTHER” asserted. “This is the most important and critical period America ever knew, or I believe ever will know again—a period, at which further emissions of paper money have become useless and ruinous, taxation for the support of the war of course unavoidably necessary.”⁴¹ Yet another writer, “Frugalis Monitio,” summed up the argument the most concisely: “The day is now

³⁹ “The Crisis Extraordinary,” *Independent Ledger* 4 Dec 1780.

⁴⁰ *Continental Journal*, 14 Dec 1780.

⁴¹ “To the Inhabitants of the Commonwealth of Massachusetts,” *Continental Journal*, 15 Feb 1781. Other examples of support for taxation include “Extract from General Order, Head-Quarter, New Windsor,” *Continental Journal*, 1 Mar 1781; “A Massachusetts Farmer,” *Massachusetts Spy*, 1 Mar 1781; Instructions to Nathaniel Baley from the town of Weymouth, *Massachusetts Spy*, 10 May, 1781. For an appeal for loans, see “To the Public,” *Continental Journal*, 22 Mar 1781; *Boston Gazette*, 2 Jul 1781.

arrived on which we begin to feel the burden of taxes occasioned by exigencies arising from war.”⁴²

Crucially, the Massachusetts General Court in this period after the adoption of the constitution also came to embrace taxation and other strategies for restoring the state’s public credit. In its address to the people of February 26, 1781, the legislature announced and justified the £300,000 tax it had just levied, drawing frequent and explicit links between a new approach to finance and the war. “We do not believe that you have lost or can lose sight of the GRAND OBJECT for which you were compelled, reluctantly, to draw the sword,” the message began. The legislature acknowledged that, while it was true that inhabitants might be able to make more money in the short term by investing in trade rather than in public securities or by paying taxes, those windfalls “would serve only to enrich the minions of a conqueror” when the American army succumbed due to lack of supplies and support from the citizenry. The tax burden the legislature was asking the populace to bear was admittedly “far from...small or inconsiderable,” but “taking into view its important objects—the defence of the State against invasion—the payment and supplies of the army—the restoration and establishment of the public credit, and facilitating the loans—and that even our political existence may depend on this exertion,” the people could not fail to act. After all, the existence of “that glorious fabric of FREEDOM which is founded in the blood of your dearest connections” hung in the balance. Fortunately, Massachusetts possessed “experience” in “the art of war” and was “supported by the energy of an excellent political constitution” (not to mention European allies and the blessing of Heaven).⁴³

The General Court’s address was significant because it was that institution more so than any other that would be responsible for attempting to untangle the state’s finances in the years

⁴² “Frugalis Monitio,” *Massachusetts Spy*, 12 Jul 1781.

⁴³ *Acts and Laws, 1780-81*, chp.163, 310, 313, 315, 316, 318.

that followed. The policy decisions members made were clearly influenced and legitimized originally by a pervasive discourse that linked Massachusetts' survival as a state to the support of its military forces and the outcome of the war against the British. With the authority of the constitution now backing its acts and resolves, the state government undertook to create in Massachusetts a revenue system that would restore the state's credit rating by demonstrating its ability to fund the state debt. That system would also be used to raise the sums requested by Congress for paying the domestic and foreign debts of the United States. Indeed, the arguments made in the early 1780s about the need to maintain Massachusetts' credit would increasingly be invoked to argue in favor of measures to improve the credit of the federal government of the United States.⁴⁴

Yet a tension now existed that had not been present as clearly prior to the constitution. The Massachusetts constitution increased the capacity of the state; it was now officially accepted as the embodiment of popular sovereignty, the will of the people of Massachusetts. The governments voters elected each year according to the provisions found in the constitution were,

⁴⁴ Historians who advance a neo-progressive interpretation offer a different view of Massachusetts financial policy in this period. Briefly, these scholars maintain that the Massachusetts constitution established an essentially conservative regime that served the interests of eastern elites. These elites used the disproportionate political power granted to them by the constitution to implement several policies that enriched them at the expense of the majority of the state's inhabitants, especially those living in the underrepresented western counties. These historians point to the government's decision to consolidate the state debt by calculating depreciation according to the issue value rather than the current market value of treasury bonds, a policy that holders of state bonds—especially wealthy elites, many of whom were major creditors—would obviously favor. Creditors opposed paper money and supported a hard money policy, which helped them to consolidate and secure their financial, social, and political dominance. In addition, these historians explain state tax policy (discussed below) in terms of the desire on the part of elite creditors to collect interest payments, regardless of the hardships inflicted on their poorer, cash-strapped fellow citizens. Without denying that inequalities and material interests existed, this chapter advances a different interpretation. See older studies such as Bates, "State Finances of Massachusetts," esp. 150-51; Oscar Handlin and Mary F. Handlin, "Revolutionary Economic Policy in Massachusetts," *William and Mary Quarterly*, Third Series 4:1 (Jan., 1947): 3-26, esp. 25-26; Van Beck Hall, *Politics Without Parties: Massachusetts, 1780-1791* (Pittsburgh: University of Pittsburgh Press, 1972); David P. Szatmary, *Shays' Rebellion: The Making of an Agrarian Insurrection* (Amherst: University of Massachusetts Press, 1980). See also more recent works such as Leonard L. Richards, *Shays's Rebellion: The American Revolution's Final Battle* (Philadelphia: University of Pennsylvania Press, 2002), esp. chp. 4, 63-88; Woody Holton, "'From the Labours of Others': The War Bonds Controversy and the Origins of the Constitution in New England," *William and Mary Quarterly*, Third Series, Vol. 61, No. 2 (Apr., 2004): 271-316; and Holton, *Unruly Americans and the Origins of the Constitution* (New York: Hill and Wang, 2007).

by definition, legitimate. One could disagree with the prudence of particular policies or pieces of legislation, but noncompliance with those decisions on grounds of principle was not a viable option. Such purposeful noncompliance with the demands of a government duly instituted made one an enemy of the constitution and therefore of the people themselves. The Massachusetts government had never possessed a more airtight claim to the right to extract taxes; not only were the taxes being levied by a government that the people had just created, but the preponderance of those taxes, it was made clear, was going to defeat a hated enemy in war and to compensate those who had made that outcome possible in some way, either through offering loans or through arduous military service.

At the same time, however, the constitution placed de facto limits on what the state could legitimately ask of citizens. The government had to be responsive to the inhabitants' capacities to comply with its demands. If its demands were arbitrary or not in accord with what was truly possible given the circumstances that existed in the state at the time, then the people would return a new cohort of representatives and a new governor who would rectify things in the voters' favor. Under the constitution, voters had the opportunity to do just this every spring. Indeed, it is important to note that in the spring of 1787 the voting populace did exert its will in dramatic fashion by electing a new governor and by failing to re-elect 70 percent of the incumbent representatives. So while voters did possess the ability to change the direction of policy, it is telling that they did not choose to exercise that ability in the years from 1781 through 1786. In large part this may be attributable to the fact that, although the legislature was levying heavy direct taxes on inhabitants, it was also taking some significant measures to keep the direct burden individuals faced as light as possible.

Direct taxes levied by the General Court between 1781 and 1786 can be divided according to the different uses to which the legislature intended to put the funds once they were collected. First, some taxes were meant to finance those of the state's war-related debts that needed to be paid off immediately or in the near future. In May 1781, for example, the legislature ordered that £190,000 be raised to reimburse towns for the bounties they had given to militiamen who had volunteered to serve for short periods in 1780. The same May, 1781, tax also allocated £160,000 for the general purpose of "defraying public expenses," which meant that they may have been applied either to state expenses or federal requisitions.⁴⁵ (A tax of £303,634 levied on October 31, 1781, was also listed as intended for "public charges."⁴⁶) 1781 also saw taxes levied to procure "specific articles" for the army: 1,900,497 pounds of beef; 8,000 shirts, pairs of stockings, and pairs of shoes; and 4,000 blankets.⁴⁷ Moreover, as part of the tax acts of July, 1784, and March, 1786, sums of £140,000 and £100,000 were allocated toward paying off the "Army Notes" that were intended to make up the difference between what Massachusetts soldiers were owed in real terms (based on when they were originally supposed to be paid) and what they had actually received in real terms when they had been paid late in depreciated notes.⁴⁸ Additional sums were also allocated toward miscellaneous expenses, such as paying the travel expenses of members of the General Court, the salaries of the governor, other state officials, and Massachusetts' delegates to Congress, and even the cost of constructing lighthouses.

The other main purpose of direct taxation was to meet the state's quota for contributions to the United States government. Because the Congress, operating under the Articles of

⁴⁵ *Acts and Laws, 1780-81*, chp. 43, 84.

⁴⁶ *Acts and Laws, 1780-81*, chp. 16, 503-24.

⁴⁷ *Acts and Laws, 1780-81*, chp. 60, 639-46; *Ibid.*, chp. 61, 648-56.

⁴⁸ *Acts and Laws, 1784-85*, chp. 25, 62-84; *Ibid.*, chp. 74, 580-605.

Confederation, was not permitted to levy taxes directly, it was forced simply to request states contribute a quota of the overall amount the United States government needed to meet its domestic and foreign obligations. Of the \$8,000,000 it determined it needed in 1782 to pay the expenses of the war, Congress decided that Massachusetts was to provide \$1,307,596. To this end, the General Court levied taxes of £200,000 in March of both 1782 and 1783.⁴⁹ Another levy intended for Congress—one that ultimately proved important in setting off widespread unrest in Massachusetts—was made in March, 1786, when the legislature asked for a further £145,655.⁵⁰ When these amounts were combined with the sums levied to defray expenses incurred by the state government, the total for all direct taxation in Massachusetts between 1781 and 1786 came to £1,540,000.⁵¹

Regardless of the intended use of the funds, the state collected direct taxes by the same methods: assessments on polls and estates. With each tax act, the General Court included a list of amounts each town in the Commonwealth would be responsible for contributing toward the total. Town assessors were then responsible for dividing the burden among the community's polls, or eligible tax-payers, with each poll responsible for a flat sum (the "poll" tax) and also for an additional sum based on a valuation of their property.⁵² A town collector or, if the town did not have a collector, the town constable, then had the task of collecting the sums from each individual and ensuring their delivery to the state treasurer. The treasurer in Boston, monitoring the influx of funds, could in turn empower county sheriffs (upon the request of the General Court) to issue "executions" on the collectors of towns in their jurisdictions that had not returned

⁴⁹ *Acts and Laws, 1780-81*, chp. 28, 547-67; *Acts and Laws, 1782-83*, chp. 65, 153-74. The sum of \$1,307,596 was converted into pounds, Massachusetts' currency of account.

⁵⁰ *Acts and Laws, 1786-87*, chp. 74, 580-605.

⁵¹ Bates, "State Finances of Massachusetts," 94. For Congress' revenue powers under the Articles of Confederation, see Ferguson, *Power of the Purse*; Brown, *Redeeming the Republic*, chp. 1, 11-21; and Edling, *A Revolution in Favor of Government*.

⁵² Bates, "State Finances of Massachusetts," 97-99; Harold Hitchings Burbank, "The General Property Tax in Massachusetts, 1775 to 1792," (Ph.D. diss., Harvard University, 1915).

their full quotas of taxes. The unfortunate collectors would then have to watch as their property was auctioned off by the sheriff to make up the difference between the amount levied on the collector's town and the amount that had been delivered to the treasurer. If, for some reason, the county sheriff was also complicit in the delinquency of payment, the treasurer could turn for help to another county magistrate, the coroner.⁵³

Opportunities for discretion existed at every level of this system of collection. Although the General Court obviously wished it could collect the full amount of each tax it levied between 1781 and 1786, state and local officials—including the representatives of the General Court themselves—could not simply ignore inhabitants who seemed to have legitimate reasons for noncompliance. On the local level, collectors and assessors, who were elected by their fellow freeholders, knew as neighbors the people from whom they were oath-bound to extract taxes. Many were understandably reticent to inflict tax burdens on those of the community they knew were already struggling financially. Sheriffs, meanwhile, facing few or no consequences for failing to serve the treasurer's executions against delinquent town collectors, frequently chose not to do so.⁵⁴

Just as important, the General Court itself took measures that acknowledged the hardships inhabitants were enduring as well as the inability of many of them to contribute taxes. Petitions from all over the state arrived in Boston pleading that circumstances prevented their compliance with the legislature's demands. Many cited depredations committed by the British during the war that had destroyed the local economy. In some instances, the General Court formed committees to travel to the petitioning towns in order to verify that these descriptions

⁵³ Brown, *Redeeming the Republic*, 98-99.

⁵⁴ *Ibid.* For a helpful discussion of the concept of "discretion," see Michael J. Braddick, *State Formation in Early Modern England* (Cambridge: Cambridge University Press, 2000).

were accurate. (They often were.⁵⁵) The General Court accordingly abated the taxes it had levied on numerous towns. Indeed, an address issued by the legislature in November 1786 reported that it had abated no less than £111,226 out of a total of £1,407,895 levied since 1781, or about 8 percent.⁵⁶ The General Court also corrected unfair quotas it had assigned to some towns by adjusting or completely revising its master town valuation list. Although it is probably fair to say that the Court was biased in favor of the more populace eastern counties such as Suffolk, Essex, and Middlesex that sent more representatives, petitions from western counties were granted as well.⁵⁷ In other words, between 1781 and early 1786 the General Court attempted to tow a fine line between energetic collection of unprecedentedly large sums in direct taxes, on the one hand, and offering concessions to hard-pressed citizens in towns throughout the Commonwealth in order to demonstrate that its actions were not arbitrary or intentionally oppressive.

The state, therefore, also sought to raise revenue in other ways that would lighten the burden on individual inhabitants but still help to reestablish the public credit. The most important of these were the impost and excise taxes. Between paying the money owed to soldiers (by redeeming the “Army Notes”), towns (for bounties offered to militia enlistees), and Congress (for paying on the national debts), Massachusetts did not have any revenue available to fund its own debt. The first excise tax levied in November, 1781, therefore announced in its title that it was “for the purpose of paying the interest on government securities.” The excise, which would also provide the side benefit of operating “for the suppression of Immorality, Luxury and

⁵⁵ For example, the General Court sent a committee to Yarmouth and Barnstable in 1782: *Acts and Laws, 1780-81*, chp.379, 833-34.

⁵⁶ “Address to the People,” *Acts and Laws, 1786-87*, 147.

⁵⁷ For a table of all towns (by county) that received tax abatements from the General Court in this period, see Robert A. Feer, *Shays's Rebellion* (New York: Garland, 1988 [orig. Harvard University Ph.D. Diss. 1958]), Appendix A, 530.

Extravagance in this Commonwealth,” was a tax on such luxuries as alcohol, tea, and four-wheeled carriages.⁵⁸ Excise collectors appointed for each county were responsible for transferring revenues from these duties to the treasurer, with collectors patrolling counties farther removed from Boston receiving a higher commission.⁵⁹ Similarly, the General Court established an impost duty of five percent ad valorem on imported articles beginning December 10, 1782.⁶⁰ State-appointed “naval” officers, one or two per county, were responsible for inspecting and assessing duties on the goods coming into the Commonwealth from abroad. By November, 1786, the impost and excise had yielded £154,378, which covered about two-thirds of the state’s annual interest payments on its securities.⁶¹

Another method of raising revenue that was sure to gain the approbation of the majority of the populace involved the confiscation and sale of loyalist estates. In 1781, the General Court invigorated a process already under way by appointing committees to liquidate the real estate of “Conspirators and Absentees,” as loyalists were euphemistically termed. Over the following years, the state continued to seek out individuals who refused to take oaths of allegiance as it also defended itself from lawsuits challenging its right to confiscate private property. In 1784, the legislature earmarked the revenue derived from the sale of loyalist estates for paying the interest on the state’s securities.⁶² This revenue amounted to only £25,283 in these years, however. The sale of lands in the Maine District and state lotteries also brought in small sums.

All in all, then, the belief in the imperative necessity of reestablishing the state’s credit in the period following the adoption of the Massachusetts constitution had led to the creation of a significantly more elaborate and powerful state. Town collectors were in frequent contact with

⁵⁸ *Acts and Laws, 1780-81*, chp. 17, 525-33.

⁵⁹ *Acts and Laws, 1782-83*, chp.26, 375.

⁶⁰ *Acts and Laws, 1782-83*, chp. 33, 91-105.

⁶¹ “Address to the People,” *Acts and Laws, 1786-87*, 147.

⁶² *Acts and Laws, 1780-81*, chp. 429, 858; *Acts and Laws, 1784-85*, chp. 58, 234.

state officials now as they delivered (or did not deliver) the sums levied by the General Court. Excise collectors and “naval” officers, who assessed and collected the impost duties, were entirely new and brought the state into taverns and to the waterfront in unprecedented ways. And yet, in spite of all these innovations, “deranged” was the adjective used most frequently to describe the finances of Commonwealth.⁶³ The treasurer, looking over the accounts of the taxes paid into his office, could see that a sizeable proportion of them had not been collected.⁶⁴ Since these taxes were intended to pay predominantly for either immediately pressing state expenses or for Congress’ requisitions, the state was not even attempting to begin to pay off the principal of its state debt.

Massachusetts leaders noted these deficiencies, but they did not blame the people of the state. It was common knowledge that perhaps the most important factor preventing people from paying their taxes was the scarcity of specie. The problem had arisen because the various taxes levied by the General Court were payable in different forms of currency, largely depending on their intended purpose. While some were payable in more obtainable loan office certificates or in various other notes, several taxes were payable only in specie. The taxes levied in response to federal requisitions fell into this latter category. Unfortunately, specie was very hard to come by for many inhabitants. “In every quarter of the Commonwealth, we hear men complaining of the times, and of the scarcity of cash,” James Swan, a Scot who had emigrated before the Revolution and was active in Massachusetts government, explained in a 1786 pamphlet. “Ask the collector of taxes why the list committed to him to collect is not discharged—and he will tell you, there is no money in the country: hence, the cause of the treasury being empty,—As a man to pay his just debt—full the same answer is at hand.—No money. That circulating specie is scarce, there is no

⁶³ For example, “Address to Governor Bowdoin from the Merchants and Traders in the Town of Boston,” 4 June 1785, in *Bowdoin and Temple Papers*, Part II, in *Collections of the Massachusetts Historical Society*, 6 (1907): 50.

⁶⁴ For the amounts and percentages of arrears, see Brown, *Redeeming the Republic*, 101-2.

denying...”⁶⁵ Some, such as Swan, blamed the lack of specie at least in part on merchants and other wealthy individuals who purchased imported goods—often luxury goods—and used specie to pay for them, thus decreasing the amount in circulation.⁶⁶ Swan proposed that the state should radically increase its impost rates to limit imports and keep as much hard money in Massachusetts as possible. After all, Swan insisted, “Every wise government in Europe has prohibitory laws respecting the exporting of bullion, or coined silver or gold.”⁶⁷ Regardless of the future long-term solution to the lack of specie, however, government leaders still needed a way to raise revenue in the present. Their official position was that the mass of the people of the Commonwealth were not paying their full quotas of taxes not because they were opposed in principle to the taxes, but rather because they truly did not have enough of the acceptable forms of payment.⁶⁸

If the people could contribute to alleviating the overall tax burden in ways that were readily available to them, this view stated, then they would readily do it. Many in Massachusetts government accordingly proposed or supported various plans to have inhabitants pay their taxes in goods. Swan proposed one such plan, which he premised on the existence of “the virtuous yeomanry, the farmer, the independent freeholder, whose exertions have effected the late glorious revolution, and whose valour and public spirit, I trust in God, will protect the happy and equal constitution we have chose [*sic*].” Only these sturdy citizens of the Commonwealth

⁶⁵ [James Swan], *National Arithmetick: Or, Observations on the Finances of the Commonwealth of Massachusetts, with Some Hints Respecting Fincanciering and Future Taxation in this State: Tending to Render the Public Contributions More Easy to the People. By a Late Member of the General Court* (Boston: Adams and Nourse, [1786]), 82.

⁶⁶ *Ibid.*, 27.

⁶⁷ *Ibid.*, 72, 83.

⁶⁸ Edling notes that “It is, of course, difficult to judge whether the farmers were merely putting on the pour mouth or if they were in genuine distress” but that “there is good reason to believe that the taxes levied and collected brought hard times on the people.” *A Revolution in Favor of Government*, 156. The point advanced here is simply that Massachusetts leaders and officials believed and claimed the taxes levied in response to Congressional requisitions did place inhabitants in difficult circumstances.

possessed the ability to “make the government stable, and...preserve its honour, peace, and credit.”⁶⁹ Swan’s plan was designed to harness that public spirit and direct it toward solutions that would be to the benefit of all. “It is found to be very difficult for the Collector to persuade a labouring man, against whom he has a tax bill, to resign to the public, all, or the greatest part of the money he has been able to collect in the year,” Swan wrote. “But let the Collector go to a shop-keeper, and offer to take the amount of his taxes in broad-cloth and gauze, gladly would he discharge them at the first request.”⁷⁰ In Swan’s view, Massachusetts was overflowing with readily obtainable natural resources that the people already possessed; the government simply needed to facilitate the process whereby commodities such as beef and flax-seed were converted into specie. State officials located in central shire towns could oversee the shipment of such articles to foreign markets, where they would be exchanged for specie that would be applied to solve the state’s financial woes.⁷¹

In offering such a plan, Swan was by no means an eccentric or idiosyncratic outlier. None other than James Bowdoin proposed a similarly elaborate scheme to the General Court immediately upon being inaugurated as governor for the first time in 1785. Bowdoin, normally considered an out-of-touch elitist as a result of his later role in overseeing the stricter collection of taxes and the suppression of Shays’s Rebellion, formulated a plan to alleviate the tax burden of specie-poor inhabitants by having the state collect and sell potash and pearl ash. According to the plan, each town or collection of towns would set up a small facility that would receive from tax-payers a particular quantity of wood ashes and then process them into potash or pearl ash fertilizer. This potash and pearl ash would, in turn, be sold both domestically and to foreign markets in return for specie. Aside from its impracticality, the scheme had numerous

⁶⁹ Swan, *National Arithmetick.*, vi-vii.

⁷⁰ *Ibid.*, 26.

⁷¹ *Ibid.*, 24-25, 85-86.

advantages. Foremost among these was the easy and equitable burden it would impose. “[E]very family in the State,” Bowdoin noted, “from the necessary consumption of wood, and without additional expence, can furnish ashes towards their share of the tax.” Sale of potash and pearl ash would bring gold and silver (“the only proper currency or medium of exchange”) into the state. But it would also “restore public credit; beget a confidence in government; make loans on future occasions obtainable; clear our lands; encourage agriculture; promote industry; furnish the merchant with a valuable export for remittance; increase our navigation and commerce; and...remove many of the difficulties of which, at present, there is so much reason to complain.”⁷² Unfortunately for Bowdoin and for Swan, despite their protests to the contrary, by 1785 the members of the legislature found plans such as theirs to be too ambitious and difficult for the government to attempt in any serious way.⁷³

The General Court had in fact already attempted once before to allow inhabitants to pay taxes in the form of enumerated goods. In its March, 1782, act for levying a tax of £200,000 to pay Massachusetts’ portion of Congress’ requisition, it had included a provision permitting payment in “any such specific Articles as may be necessary for the Support of the Army, especially Rum, Salt, Beef, Pork, [and] flour.”⁷⁴ That provision was quickly repealed just a few months later in July upon protest by the Congress, which informed the Massachusetts legislature that its system of finance would be greatly complicated if it continued to accept payment in such goods instead of in specie.⁷⁵

⁷² “June 2, 1785,” *Acts and Laws, 1784-85*, 711-13.

⁷³ On 8 February 1786 the General Court did pass a resolve empowering the governor to appoint pot ash inspectors throughout the state, but there is no other record of any actions taken pursuant to Bowdoin’s plan. *Acts and Laws, 1784-85*, chp. 7, 828. In his pamphlet, written after Bowdoin made his proposal to the General Court, Swan argues that such a scheme would be practical. See Swan, *National Arithmetick*, 72.

⁷⁴ *Acts and Laws, 1780-81*, chp. 28, 566.

⁷⁵ *Acts and Laws, 1782-83*, chp. 17, 43-44; On Congress’ policy of allowing payment of requisitions in specific articles, see Ferguson, *Power of the Purse*, 48-50.

This one instance of the Congress preventing the Massachusetts government from contributing its quota by a method more amenable to its citizens may not have been that significant taken by itself—the majority of tax-payers were probably not taking advantage of the provision to contribute specific articles for the army. Yet it does remind us that it was Congress’ requisitions that were perceived to be the principle source of financial distress among Massachusetts citizens and of the “derangement” of the state’s public finances. The state possessed a sizeable debt of its own, to be sure, and some tax revenue was going to pay for state expenses. The state impost and excise were paying the interest on the state debt. But a preponderance of direct taxes—and, just as important, a preponderance of the taxes that needed to be paid in specie—were those the state was raising for Congress.

As we have seen, Massachusetts leaders did not blame the state’s own inhabitants for the failure of the state government to collect all of the taxes that had been levied. Indeed, it would have been problematic to make such a claim. To do so would have been akin to admitting that after only a half-decade the people of Massachusetts were willfully disobeying the laws made by their duly-elected government and were thus violating the compact they had entered into in 1780 when they had ratified their state constitution. If the state’s finances were most often described in popular and official statements as “deranged,” the state constitution itself was most often prefixed by adjectives such as “happy” and “excellent.”⁷⁶ It simply did not follow that an “excellent” constitution could produce such seemingly intractable financial woe. Massachusetts farmers must be suffering for reasons not of their making.

Blaming Congress and the Confederation

Convinced of the legitimacy and capacity of their own constitution and government, Massachusetts leaders and officials accordingly turned their gaze outward to the Confederation

⁷⁶ For example, Samuel Osgood to James Bowdoin, 20 June 1786, *Bowdoin and Temple Papers* 2: 55.

Congress and to the other states when attempting to explain their own state's troubles. Throughout the 1780s, they consistently maintained both that Congress was unfairly taking advantage of Massachusetts' willingness to contribute to the war and its burdens, and that Congress was doing nothing to prevent the states from adopting selfish policies that inhibited Massachusetts from meeting its obligations. While there can be no doubt that these men were completely biased in their state's favor, always portraying Massachusetts' conduct in the best possible light, they also by no means invented the problems they identified. At the same time that they interpreted every issue so that Massachusetts came out blameless in the final tally, they also recognized the systemic nature of the problems that existed.⁷⁷

First, Massachusetts leaders believed that Congress had incorrectly apportioned the amount Massachusetts was obliged to contribute for federal requisitions. According to the eighth of the Articles of Confederation, money needed for common purposes was to be raised by state legislatures in proportion to the value of the real property in the state. As early as March, 1781, the General Court sent a letter to the President of Congress politely questioning whether "by some accident or mistake" the inhabitants of Massachusetts, who were already strenuously exerting themselves in the war on their own initiative, would not be "called upon in an undue proportion to their abilities" according to the valuation Congress had announced. "We shall...readily concur in any measures for establishing funds," the legislature concluded, provided these measures did not result in "unequal burden[s], operating very heavily on some States and with little weight on others."⁷⁸ Unfortunately, many in Massachusetts believed that this is precisely what happened in following years. "We are overburdened in our proportion of

⁷⁷ Many of the issues discussed below from a Massachusetts perspective would also be identified by James Madison in his "Vices of Political System of the United States" in 1787. See Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence: University of Kansas Press, 2003), 211-19.

⁷⁸ "A Letter to the President of Congress," *Acts and Laws, 1780-81*, chp. 249, 373-74.

Taxes,” Massachusetts delegate to Congress Elbridge Gerry wrote bluntly in 1785. “What makes this demonstrable is, that a Farm of equal Value on the other side ye Line of our neighbouring States, does not pay above 2/3 the Tax of one on the Massachusetts side.”⁷⁹

Gerry’s friend and fellow delegate Rufus King agreed that the quotas Congress imposed did not conform to reality, noting that “[S]outh] Carolina, in the apportionment of the eight millions, stands at the same sum as New Hampshire.”⁸⁰

In determining the amount Massachusetts ought to pay, many believed, Congress did not take into account the impact of the war on the state’s economy and finances. The war had severely damaged the state’s fishing industry, for example.⁸¹ Massachusetts delegates tried their best to get the state’s quota lowered and the General Court passed along its suggestions for alterations to Article Eight.⁸² Unlike the General Court, which responded in these years to countless petitions from towns complaining of hardship or incorrect valuations, Congress continued to ask Massachusetts to contribute what many believed to be an unfairly large sum.

To Massachusetts leaders, the state’s exorbitant quota seemed even more unjust in light of Congress’ refusal to credit the state for what its representatives argued were expenses incurred for the common defense. The first of these items was the money that had been paid, initially by towns, in bounties to Massachusetts men who had enlisted in the state’s Continental lines. In 1781, the General Court informed Congress that it was unsure if this cost was to be borne by the Confederation or by the state. “[W]e find it impossible to distinguish what ought to be settled by officers of Congress, and what by us,” it wrote.⁸³ By 1783, Massachusetts, at least, had

⁷⁹ Elbridge Gerry to Rufus King, 23 April 1785, *Life and Correspondence of Rufus King: Vol. I: 1755-1794* Charles R. King, ed. (New York: G.P. Putnam’s Sons, 1894), 89-90.

⁸⁰ Rufus King to Elbridge Gerry, 27 May 1785, *ibid.*, 99-100.

⁸¹ Swan, *National Arithmetick*, 1, 5.

⁸² Rufus King to Elbridge Gerry, 31 Mar 1785, *Life and Correspondence of Rufus King*, 86; *Acts and Laws, 1784-85*, chp. 16, 451-52.

⁸³ *Acts and Laws, 1780-81*, chp. 249, 374.

determined that these bounties were a national expense.⁸⁴ The large sum Massachusetts leaders believed the state was owed for bounties was surpassed only by what they insisted they were owed for organizing and launching the ill-fated Penobscot expedition against British forces in the Maine District in 1779. While Massachusetts had undertaken this expedition on its own initiative, it had been “of national concern” since the British were planning to use Penobscot as a base “to annoy the commerce of the United States.” “As the States were all interested in this expedition,” the General Court pleaded in 1783, “Congress will not let the whole burden of it fall an intolerable load on those who generously engaged in it.”⁸⁵ In other words, just as the state would reimburse a local militia that had mobilized to deal with an immediate threat, Massachusetts ought to be credited for taking measures that Congress would have approved eventually anyway.

The inaction Massachusetts’ requests were met with in Congress was deeply resented by those who felt that their state had, from start to finish, been in the vanguard of the war effort against Britain.⁸⁶ It was insulting enough that Massachusetts was being both overtaxed proportionate to its abilities while at the same time not being credited for expenses already incurred. Even worse in the eyes of many, however, was Congress’ inability to compel other states to contribute their (already unfairly low) quotas into Congress’ coffers. “[S]ome States in the Union have paid no part of the last requisition of Congress,” the General Court complained in July, 1785, also noting that “others have applied the monies raised for the use of Congress, to the

⁸⁴ See *Acts and Laws, 1782-83*, chp. 16, 744-45: “Resolve directing the selectmen of towns to make returns of bounties paid to soldiers serving in the armies of the United States... Whereas it is necessary that the Legislature should be furnished with an account of all bounties paid to soldiers during the war, in order that a charge thereof may be made against the United States.”

⁸⁵ “Letter to Congress, relative to the old emission of money, Penobscot Expedition, and Bounties,” *Acts and Laws, 1782-83*, chp. 99, 795-96.

⁸⁶ The United States did not credit Massachusetts for the expense of the Penobscot expedition until 1793. See James T. Leamon, *Revolution Downeast: The War of American Independence in Maine* (Amherst: University of Massachusetts Press, 1993), 118.

payment of the particular demands of their own citizens against the *United States*.⁸⁷ This problem only kept getting worse as time wore on. In 1786, many agreed with Rufus King when he avowed, “That there exists a criminal neglect of several of the states in their most important duties to the confederacy cannot be denied... The people generally through the confederacy remark that we are at a crisis.”⁸⁸

Moreover, many in Massachusetts believed that the other states, in addition to not contributing their own quotas, were pursuing policies that were making it much more difficult for Massachusetts tax-payers to meet their own state’s quota. Perhaps the most important issue concerned the redemption of Continental bills of credit which were circulating throughout the United States at vastly depreciated rates. In early 1780, Congress had requested that each state make provisions to tax these bills of the “old emission,” as they were called, out of circulation. Massachusetts had complied with Congress’ request and removed its quota of about \$30 million in bills from circulation by 1782. Other states, by contrast, especially neighboring Connecticut and Rhode Island, had done little to nothing to meet their quotas in this regard.⁸⁹

Because the continuing circulation of large amounts in old bills contributed significantly to inflation, Massachusetts legislators insisted as early as July, 1781, that the noncompliance of other states was “operat[ing] to the great injury of this Commonwealth; and unless effectual measures are taken to relieve us from those embarrassments which are hereby continually

⁸⁷ “Letter to the delegates of this commonwealth in Congress, relative to the settlement of the public accounts of this state, &c. &c.,” *Acts and Laws, 1784-85* chp. 119, 690. For example, Elbridge Gerry accused Pennsylvania of using money raised for Congress inappropriately and thus causing “Irregularity in the payment of the publick Creditors, Injustice, Confusion & Discontent. See Elbridge Gerry to Rufus King, 23 April 1785, *Life and Correspondence of Rufus King*, 89.

⁸⁸ Rufus King to John Adams, 5 May 1786, *Life and Correspondence of Rufus King*, 172. See also the General Court’s statement of 5 July 1786: “And whilst some of the States make voluntary exertions, to comply with such requisitions, those exertions have been, and must continue to be ineffectual thro the want thereof in other States.” *Acts and Laws, 1786-87*, chp. 17, 47. See also, Hendrickson, *Peace Pact*, 187.

⁸⁹ Farley Grubb, “State Redemption of the Continental Dollar, 1779-90,” *William and Mary Quarterly* 69:1 (January, 2012): 147-80, *passim*, 166.

increasing upon us, inevitable ruin will attend many of the inhabitants of this State.” So strongly did the members of the General Court feel about the negative effects of the old bills still in circulation that they even requested that Congress allow them to redeem additional sums of “the old money now in the hands of their constituents” and to deduct the amount it would cost the state to do so from the “requisitions made by Congress on this Commonwealth for hard money and specific articles.”⁹⁰ Massachusetts representatives continued to complain throughout the 1780s about the reluctance of other states to redeem the Continental currency, going so far in 1782 as to inform Congress that Massachusetts would in all likelihood not be able to fulfill its quotas of “present and future taxes” because of it. When Massachusetts did fail to meet its quota, the Massachusetts legislators warned, it would be “not from indisposition but real inability in the people, who are sinking under a pressure of a weight which we presume should be borne by others.”⁹¹ A related concern also present in Massachusetts at this time involved the possibility that other states were valuing gold and silver at artificially high rates and thus providing incentives for people to take their specie out of the Commonwealth.⁹²

The ultimate failure of attempts to implement a uniform impost establishment throughout all the states served as perhaps the most convincing proof for those in Massachusetts who were becoming more and more adamant that they were the victims of other states’ callous disregard for the common good. In May, 1782, in response to an earlier request from Congress, the General Court granted to the Confederation “a permanent revenue, for the purpose of discharging the debts which had arisen or may arise in prosecuting the present war with Great Britain.” An

⁹⁰ *Acts and Laws, 1780-81*, chp. 142, 702-3.

⁹¹ “Letters to the honorable president of congress, and to the delegates of this commonwealth in congress,” *Acts and Laws, 1782-83*, chp. 74, 304. For more complaints about the failure of other states to redeem the old emission, see “Letter to Congress, relative to the old emission of money, Penobscot Expedition, and Bounties,” 28 October 1783, *Acts and Laws, 1782-83*, 794-95; “Instructions to the Hon. Elbridge Gerry, Esq; and others, delegates in Congress from this state,” 8 March 1785, *Acts and Laws, 1784-85*, chp. 109, 378-81.

⁹² *Acts and Laws, 1784-85*, chp. 26, 84-85.

impost duty of 5 percent on all goods imported into the state would go directly to the Congress, leaving the state to levy direct taxes to cover the remainder of Congress' requisitions as well as its own expenses and debts.⁹³ This plan, if implemented, would have reduced the amount of specie individual inhabitants would have had to produce. The plan collapsed, however, when Rhode Island failed to approve it, its assembly preferring instead to keep using the revenue from its impost duties to fund its state debts. The following year, 1783, a planned convention between Massachusetts, New Hampshire, Rhode Island, Connecticut, and New York to discuss establishing "a uniform system of taxation by impost and excise" fell through when two of the states failed to appoint delegates.⁹⁴ The General Court tried yet again in late 1783 to do its part to establish a permanent revenue for Congress by passing another act granting Congress impost duties.⁹⁵

The stated purpose of this October, 1783, act granting Congress impost revenue suggests why leaders in Massachusetts government found the other states' behavior so frustrating. Even though the revenue was to be applied "for the purpose of paying the principal and interest of the debt contracted in the prosecution of the late war with Great Britain," and even though "impost duties, unless universally agreed to by all the States," were useless (because merchants would gravitate toward ports in states which charged lower or no duties), other states refused to cooperate. That earnest appeals invoking the need for solidarity in shouldering the burdens brought on by a long and expensive war for mutual survival could be brushed aside by other

⁹³ *Acts and Laws, 1780-81*, chp. 37, 589-90.

⁹⁴ *Acts and Laws, 1782-83*, chp. 41, 382; *ibid.*, chp. 218, 482-83.

⁹⁵ *Acts and Laws, 1782-83*, chp. 18, 541-43.

states with such alacrity baffled Massachusetts leaders who thought the connection was so obvious as hardly to need explanation.⁹⁶

By 1786, Massachusetts leaders had lost nearly all confidence in Congress' abilities to do anything to address the state's grievances regarding apportionment, reimbursement, lack of state compliance in meeting Congress' requisitions, or the impost issue. The General Court and Massachusetts' delegates to Congress were also exasperated at Congress' extremely slow handling of the state's jurisdictional dispute with New York arising from Massachusetts' more or less spurious claims to lands west of the Hudson.⁹⁷ To a large extent, Massachusetts leaders understood why Congress had done so little, even if the reason only enraged them further: Congress often did not meet for months at a time due to its failure to achieve a quorum. "Seven states only have been represented in Congress since October [1785]," Rufus King told John Adams in February, 1786. "[O]f consequence very few questions of national importance have been under the examination of this Assembly."⁹⁸ In June, 1786, Massachusetts delegate Nathan Dane wrote to Governor James Bowdoin of his "anxiety... arising from the present feeble administration of the federal government owing principally to the want of attendance of the delegates from several of the States."⁹⁹ To be sure, Massachusetts leaders did not believe the Confederation Congress had done much even when it was sitting; but now even the remote possibility of action was snuffed out. Remarking on Congress' inability to achieve a quorum, Governor Bowdoin could console the members of the General Court by noting only that they had "the satisfaction of knowing that this deficiency is in no part of it attributable to this

⁹⁶ For attempts during this period to establish a Confederation-wide impost, see Ferguson, *Power of the Purse*, 116-17, 152-54, 175-76; Brown, *Redeeming the Republic*, 22-24.

⁹⁷ See for example *Acts and Laws, 1780-81*, chp. 116, 211; *Acts and Laws, 1782-83*, chp. 77, 778-79; *Acts and Laws, 1784-85*, chp. 60, 159-60. Also, Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787* (Philadelphia: University of Pennsylvania Press, 1983), 95, 125.

⁹⁸ Rufus King to John Adams, 1 February 1786, *Life and Correspondence of Rufus King*, 154.

⁹⁹ Nathan Dane to James Bowdoin, 10 June 1786, *Bowdoin and Temple Papers* 2: 98-99.

Commonwealth.”¹⁰⁰ In fact, Bowdoin’s assurance that “this deficiency is in no part of it attributable to this Commonwealth” essentially summarizes the official Massachusetts view on most of the problems that arose in the era of the Confederation.

While Massachusetts may not, from the perspective of Bowdoin and others in government, have been party to the problems of the Confederation, that only gave it all the more reason to support initiatives to find a solution. Accordingly, on July 1, 1785, the General Court passed a resolve recommending a convention of all the states. Explaining that “the present embarrassed situation of our public affairs, must lead the mind of the most inattentive observer to realize the necessity of a revision of the powers vested in the Congress of the United States, by the Articles of Confederation,” the legislature proposed a convention “at some convenient place, as soon as may be, for the sole purpose of revising the confederation, and reporting to Congress how far it may be necessary to alter or enlarge the same.”¹⁰¹ This call for a convention apparently fell on deaf ears, with the General Court countermanding its own resolve the following 25 November.¹⁰² Yet the support for a convention by no means dissipated. On March 24, 1786, the legislature, upon the request of Governor Bowdoin, would announce that it would send delegates to a convention to be held in Annapolis in September.¹⁰³

This, then, was the situation in which Massachusetts leaders found themselves by late 1785 and early 1786: governing a state that they readily acknowledged was overtaxed; carrying on sometimes uneasy relations with neighboring states they accused of pursuing narrow-minded

¹⁰⁰ “Message from his excellency the governor, by the secretary,” 14 February 1786, *Acts and Laws, 1784-85*, chp. 14, 834. Other examples of remarks about the lack of a quorum in Congress, see “Message from his excellency...” 10 March 1786, *Ibid.*, chp.92, 884-85; and John Adams to Rufus King, 14 June 1786, *Life and Correspondence of Rufus King*, 182.

¹⁰¹ *Acts and Laws, 1784-85*, chp. 76, 666.

¹⁰² *Acts and Laws, 1784-85*, chp. 97, 789.

¹⁰³ *Acts and Laws, 1784-85*, chp. 199, 947-48. For a discussion of the movement toward a constitutional convention well before Shays’s Rebellion, see Robert A Feer, “Shays’s Rebellion and the Constitution: A Study in Causation,” *William and Mary Quarterly* 42:3 (Sep., 1969): 388-410.

policies; and openly hoping that the Articles of Confederation would be revised and strengthened sooner rather than later. Yet, they could not simply ignore larger issues that affected the state; as ineffective as they believed the Congress to be, it did not follow that the Massachusetts government should suddenly begin ignoring its requests.

By far the most important request Congress made to the states in this period was its requisition of September 27, 1785, in which it called for a total of \$3,000,000 to pay for interest on the domestic and foreign debts of the United States. Two-thirds of the total was intended to pay domestic creditors, and therefore could be paid in Loan Office Certificates, while the other one-third was destined for Europe and mostly French and Dutch creditors. This portion needed to be paid in specie. Congress apportioned the amounts each state was to supply, Massachusetts receiving the second-highest quota (\$448,854 out of the \$3,000,000 total); only Virginia was asked for a larger contribution (\$512,974), though Pennsylvania (\$410,378) came close to Massachusetts.¹⁰⁴ When news of the requisition arrived in Massachusetts, in spite of all their reservations about Congress, Governor Bowdoin and the members of the General Court determined to comply and attempt to collect the sum. In late 1785 and early 1786, the General Court was overseeing the creation of a new state valuation list that would ensure that any future tax burdens were distributed as correctly as possible, and so it could not pass a tax act immediately.¹⁰⁵ The valuation complete, the legislature levied a tax on the inhabitants of Massachusetts totaling £300,439 on March 23, 1786.¹⁰⁶

Massachusetts attempted to collect this tax because its leaders—especially Governor James Bowdoin—and the representatives in the General Court were convinced that the credit of

¹⁰⁴ 27 September 1785, *Journals of the Continental Congress*, 766-71.

¹⁰⁵ “Order, appointing a committee to wait on his excellency the governor, with an answer to his excellency’s speech, &c.,” 1 December 1785, *Acts and Laws, 1784-85*, chp. 151, 815-16.

¹⁰⁶ *Acts and Laws, 1784-85*, chp. 74, 580-605.

the United States would be irrevocably ruined if Congress was not able to pay at least the interest payments that had become due.¹⁰⁷ Bowdoin was without question the most vociferous in advocating the need for a tax, informing the legislature in February, 1786, that he had received news from Congress “that the funds in the treasury are scarcely sufficient to defray the daily incidental charges.” While two-thirds of the requisition was destined for domestic creditors, it was the need to pay the interest on the foreign debts that seemed to be foremost in the thoughts of many. Congress, Bowdoin continued, was “called upon to make provision for the payment of the foreign interest, which becomes due in the month of February, and in June and November next [1786].” If the states did not make “immediate and vigorous exertions...to pay up the specie proportions required by the requisitions of the last and present year,” then, “without such payment, our credit with Holland in particular (which we are bound, from motives of interest as well as honour, to cherish with the nicest circumspection) will be inevitably destroyed.”¹⁰⁸

Indeed, for Bowdoin and for others in Massachusetts who shared his view, the issue of the requisition was inextricably linked to the long-term viability of United States and, by extension, the protection of the gains that had been secured by the people during the war. In many ways, what Bowdoin and the General Court were arguing now about the need to maintain the public faith of the United States was what many had argued in 1780 and 1781 about financial policy in Massachusetts. Massachusetts could not continue as a viable state, the argument had gone, unless it made attempts in good faith to satisfy its creditors. Massachusetts’ constitution was intended to help the state in doing just that. Now, according to Bowdoin,

the crisis has arrived, when the people of these United States, by whose will, and for whose benefit the federal government was instituted, must decide, whether they will support their rank as

¹⁰⁷ For works arguing that taxes were imposed in Massachusetts in this period at the behest of public creditors motivated by self-interest, see Holton, “From the Labours of Others”; Richards, *Shays’s Rebellion*.

¹⁰⁸ “Message from the governor, by the secretary,” 3 February 1786, *Acts and Laws, 1784-85*, chp. 2 822.

a nation, by maintaining the public faith at home or abroad; or whether, for want of a timely exertion in establishing a general revenue, and thereby giving strength to the Confederacy, they will hazard, not only the existence of the Union, but of those great and invaluable privileges, for which they had so arduously, and so honourably contended.¹⁰⁹

It was not that Bowdoin believed that the current Confederation government was particularly well-suited to this task of maintaining the public credit. Clearly, it was not; the developments of the previous half-decade had demonstrated to many in Massachusetts and elsewhere that the Articles of Confederation were deeply flawed and needed to be revised in some way.

But that was beside the point in early 1786. The immediate focus needed to be on raising the revenue for creditors at home and abroad, for if the United States did not meet these obligations, according to Bowdoin, there would be no opportunity to modify the Confederation since it would have had disintegrated completely by then. Matters of internal government were in this sense secondary to the United States' image as it was perceived by foreign observers. In asking, "Shall the union cease to exist? Shall our rank as a nation become extinct? Shall freedom and independence,— shall the privileges and blessings derived from them, be relinquished as things of no value? Shall breach of contract and public faith compel our allies, who rank with the first powers of Europe, to become our enemies?"¹¹⁰ Bowdoin was merely being consistent with a discourse that had already been well-established in Massachusetts by 1786. In addition to the arguments made early in the decade about the Massachusetts constitution's role in establishing the state on a sound financial basis, many commentators throughout the 1780s had argued that it was crucial that the United States be able to make a

¹⁰⁹ "Message from his excellency..." 27 February 1786, *Acts and Laws, 1784-85*, chp. 49, 856. For explications of the later Federalist arguments for the necessity of maintaining public credit, see Edling, *A Revolution in Favor of Government*, 163-74.

¹¹⁰ *Ibid.*, 857.

plausible claim to stand “among the nations of the earth,” as the General Court’s annual resolve celebrating the Declaration of Independence put it.¹¹¹

Samuel Adams, sometimes portrayed as obsessed mainly with republican Whig questions concerning the virtue or licentiousness of the people, made some of the strongest statements of this position in the 1780s. “A punctual Fulfillment of Engagements solemnly enter[e]d into by Treaty is the Justice, the Honor & Policy of Nations,” Adams wrote to John Adams in November, 1783. “If we, who have contracted Debts, were influenced only by Motives of Sound Policy, we should pay them as soon as possible & provide sure & adequate Funds for the Payment of Interest in the mean time.”¹¹² As he stated the following year, Adams believed that “By Gods Blessing on the Councils & the Arms of our Country, we are now rank’d with Nations...Great Pains are yet to be taken & much Wisdom is requisite that we may stand as a Nation in a respectable Character...The World have given us an exalted Nation, & thus have laid on us a heavy tax! They have raised Expectations from us!”¹¹³

The consequences of failing to meet the “raised Expectations” that attended nation status would be far greater than mere loss of face. Many in Massachusetts envisaged anarchy and war breaking out. Never mind the fact that a number of the other states were showing little or no urgency in their attempts to fulfill their quotas¹¹⁴; Massachusetts still ought to do everything in its power to avert the disaster that would follow from the United States defaulting on its loans.

¹¹¹ See for example the General Court’s 1 July 1784 resolve in *Acts and Laws, 1784-85*, chp. 60, 235-36: “on the fourth day of July, A.D. 1776, the United States of America, were delivered from a low and humiliating dependence on a foreign power, and by the directing hand of Providence, assumed a station among the nations of the earth, and became a sovereign and independent people, which day will be forever marked as the era when their political existence commenced ...render thanks to Almighty God, for the signal and unmerited interposition of his Providence, in bringing to pass this great event, in supporting these States through a cruel and bloody war, in establishing them in peace and continuing to bestow his innumerable blessings upon them: and also humbly to implore us to receive the divine favor and benediction on all our national affairs...”; also, Eliga Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge, Mass.: Harvard University Press, 2012).

¹¹² Samuel Adams to John Adams, 4 November 1783, *Writings of Samuel Adams*, 4: 289-90.

¹¹³ Samuel Adams to Richard Henry Lee, 23 December 1784, *Writings of Samuel Adams*, 4: 309.

¹¹⁴ Holton, “From the Labours of Others”; Brown, *Redeeming the Republic*, 14, Table I.

Rufus King, writing from the national capital in New York City in April, 1786, conjured a nightmare scenario. “[D]issolve our Government will unless the several States immediately exert themselves in its favor,” King argued. “I am not prone to imagine evils[] which are improbable,” he continued, “on the other hand, placed in a situation in a high degree responsible, ought I to be silent when my Judgment convinced me that the greatest Danger is near?” Impressed by the direness of the situation, King wondered, “Can there be no means devised whereby Massachusetts can yield something to the common Treasury?” As of the date of writing, “the State has paid *nothing*.”¹¹⁵ No one was more aware of this fact than Governor Bowdoin, who wrote in June, 1786, of his conviction “that unless the States are more attentive to the requisitions of Congress and do exert themselves to pay the arrearage-taxes...the federal government must cease and the union with it.”¹¹⁶

It was therefore with the specter of the collapse of the union and the possibility that Massachusetts would become embroiled in conflict with the other states, angry foreign creditor nations, or both, that the state government launched the most vigorous campaign yet to collect both the new tax as well as previous taxes that were still owed. The principal change the General Court made to the system of tax collection was to eliminate the opportunity for discretion on the part of sheriffs, who had previously been able to make judgment calls on whether or not to issue the treasurer’s executions against delinquent collectors and constables. In fact, sheriffs themselves would now be liable to have their property confiscated and sold (by the county coroner) to make up the amount in arrears that the collectors in their jurisdictions had failed to

¹¹⁵ Rufus King to Elbridge Gerry, 30 April 1786, *Life and Correspondence of Rufus King*, 134-35. On King’s position regarding the possibility of a constitutional convention in these years, see Feer, “Shays’s Rebellion and the Constitution,” 400-3. The possibility of the collapse of the union followed by the outbreak of anarchy and war is the major theme of Hendrickson, *Peace Pact*.

¹¹⁶ James Bowdoin to Nathaniel Gorham, 24 June 1786, *Bowdoin and Temple Papers 2*: 104.

produce.¹¹⁷ These and other administrative measures conveyed the urgency of the state's need for tax revenue to those required by law to collect it.

Shays's Rebellion and the Threat to the Massachusetts Constitution

It was not long, however, before the renewed efforts of magistrates to collect taxes provoked resistance on the part of specie-poor inhabitants in the western counties of Massachusetts. There had been resistance to taxation in Hampshire County several years before, in 1782, but the protests that began in the summer of 1786 far outstripped this earlier episode in scale and seriousness.¹¹⁸ Beginning in Hampshire County in August, a series of county conventions—in Worcester, Middlesex, Berkshire, and Bristol—were held for inhabitants to express their grievances against the state, which included but were not limited to the unbearable burden caused by strict collection of taxes.¹¹⁹ To ensure that the government in Boston took notice, large numbers of the discontented proceeded to arm themselves and converge on courthouses on court days and prevent the judges of the Common Pleas and General Session of the Peace from conducting business.

The governor and General Court took full notice of the protests, condemning them immediately and promising to exercise all the means at their disposal to maintain the integrity of the state government. At the same time, however, these first few months of Shays's Rebellion (named for a principal leader of the insurgents) were characterized for the most part by governmental restraint. While the legislature did pass an act empowering various town and

¹¹⁷ *Acts and Laws, 1784-85*, chp. 40, 510-20; *Acts and Laws, 1786-87*, chp. 88, 313-14; Brown, *Redeeming the Republic*, 108-12.

¹¹⁸ For "Ely's Rebellion," see *ibid.*, 103-8.

¹¹⁹ Hampshire County Convention Petition in George Richards Minot, *The History of the Insurrections in Massachusetts* 2nd Ed. (Boston: James W. Burditt & Co., 1810 [orig. 1788]), 33-36. For Shays's Rebellion, see Feer, *Shays's Rebellion*; Szatmary, *Shays' Rebellion*; Richards, *Shays's Rebellion*; Robert Gross, ed., *In Debt to Shays*; and Gross's historiographical essay, "White Hats and Hemlocks: Daniel Shays and the Legacy of the Revolution" in Ronald Hoffman and Peter J. Albert, eds., *The Transforming Hand of Revolution: Reconsidering the American Revolution as a Social Movement* (Charlottesville: University Press of Virginia, 1995), 286-345.

county magistrates to disperse riotous assemblies, and while it did also suspend habeas corpus, it also backed off its earlier policy of holding sheriffs accountable for uncollected taxes and it also deferred the date on which the one-third of the latest tax (the part payable in loan office certificates) was to come due from January 1 to April 1, 1787.¹²⁰ Significantly, in November it also passed an act allowing inhabitants to pay back taxes (those levied before 1784) that were originally payable only in specie in a wide variety of goods to be credited at listed rates.¹²¹ Evoking attempts earlier in the 1780s by the General Court to allow goods to be paid in lieu of specie for federal requisitions, this action on the part of the legislature once again suggested that many in government recognized that the rebels were voicing a legitimate grievance. Indeed, leaders such as Bowdoin were inclined to believe that the rebellion was so widespread only because “artful and wicked men” had succeeded in deluding a naturally understanding and responsible populace.¹²² An act of indemnity passed on November 15 therefore promised “clemency, to all such deluded persons” who had thus far taken part in the rebellion and who renounced their actions by January 1, 1787.¹²³

What neither the governor nor the legislature could tolerate was what they viewed as the rebels’ unwarranted and outrageous attack on the Massachusetts constitution. First of all, those on the side of the government in this period argued that the rebels were completely out of line when they organized and assembled in county conventions around the Commonwealth. Such conventions had of course been a prominent part of the protest and resistance movement against Britain in the 1770s, but with the creation of the state constitution in 1780, authorities agreed,

¹²⁰ *Acts and Laws, 1786-87*, chp. 87, 87-90; *ibid.*, chp. 100, 392.

¹²¹ *Acts and Laws, 1786-87*, chp. 39, 90-97. For the government’s actions in late 1786, see Brown, *Redeeming the Republic*, 117-19.

¹²² Governor Bowdoin’s address to the General Court, 28 September 1786, *Acts and Laws, 1786-87*, chp. 1, 930. For another example of blaming the rebellion on “the misrepresentations of designing men,” see Minot, *History of the Insurrections*, 55.

¹²³ *Acts and Laws, 1786-87*, chp. 44, 111-13.

they no longer served a purpose. Samuel Adams railed against conventions in 1784, telling Noah Webster “that as we now have constitutional and regular Governments and all our Men in Authority depend upon the annual & free Elections of the People, we are safe without them. To say the least, they are become useless.”¹²⁴ Now, when conventions were serving to organize armed rebellion against the state, they had become a positive evil to be extirpated. The rebels should have brought up their grievances through acceptable channels in the General Court, Governor Bowdoin maintained, “all other modes of redress” being “anticonstitutional.”¹²⁵ Bowdoin grew only more adamant that the rebel leaders were not animated by “a misguided zeal to promote the public happiness” but rather by “a settled determination to subvert the Constitution and put an end to the Government of this Commonwealth.”¹²⁶

At the deepest level, those who supported the government claimed to find the Shaysites so deluded because they seemed to be casually rejecting and making a mockery of the wartime sacrifices of the people to secure the constitution. The constitution was more than a written document, Bowdoin and the General Court insisted. It was a blood covenant. The pro-government town meeting in Boston, for example, “held up the sacred pledges of life and fortune, made to support a constitution, which was as inestimable as the blood that had purchased it.”¹²⁷ Governor Bowdoin had reminded the people in his inaugural address in 1785 that “so much of their blood and wealth has been expended to put them in a situation to obtain” the constitution, and now, in September, 1786, he reiterated that “for the obtaining of” the

¹²⁴ Samuel Adams to Noah Webster, 30 April 1784, *Writings of Samuel Adams* 4: 305-6.

¹²⁵ Governor’s address to the General Court, 28 September 1786, *Acts and Laws, 1786-87*, chp. 1, 929. For the state government’s attitude toward secession conventions in the Maine District in this period see James T. Leamon, “In Shays’s Shadow: Separation and Ratification of the Constitution in Maine” in Gross, ed. *In Debt to Shays*, 281-96.

¹²⁶ “General Court’s declaration, that a horrid and unnatural rebellion exists within this commonwealth,” 4 February 1787, *Acts and Laws, 1786-87*, chp. 5, 424-25.

¹²⁷ Minot, *History of the Insurrection*, 45.

constitution, “this people have expended so much of their wealth, and, what is more valuable, so much of their blood.”¹²⁸

The Reverend Samuel Cooper had suggested in 1780 that, at its core, the constitution was the people mobilized in defense of their rights. The present rebellion, the governor insisted, would be a test of that concept. Bowdoin repeatedly emphasized that “the preservation of [the constitution] must depend on the people themselves.” The constitution was nothing “independent of their own exertion.” Though the constitution granted the governor “ample powers” to ensure “the peace, security and welfare of the Commonwealth,” “the exercise” of those powers “must be through the medium of the people.”¹²⁹ And while some units of pro-government militia were intimidated early in the rebellion by Shaysite forces, in the following months the militia acquitted itself in a way that seemed to lend credence to Cooper and Bowdoin’s interpretation of the constitution’s true meaning. Placing white slips of paper in their hats to represent the notion that they had mobilized to defend the state constitution, militia units engaged in tense but nonviolent standoffs with rebels at several courthouses around the state. Wealthy pro-government men, many of whom were holders of public securities, also earned praise for their support of the constitution after they loaned the money needed to finance the state’s response to the rebellion. Matters finally came to a head in late January and February, 1787, when militia under General Benjamin Lincoln fired upon rebels near the Springfield

¹²⁸ *Acts and Laws, 1784-85*, 707; Address of Governor Bowdoin, 28 September 1786, *Acts and Laws, 1786-87*, chp.1, 929-30. For works that emphasize the importance of “blood” in American rhetoric, mostly in later years, see Charles Royster, “Founding a Nation in Blood: Military Conflict and American Nationality,” in Ronald Hoffman and Peter J. Albert, eds., *Arms and Independence: The Military Character of the American Revolution* (Charlottesville: University Press of Virginia, 1984), 25-49, and Sarah J. Purcell, *Sealed With Blood: War, Sacrifice, and Memory in Revolutionary America* (Philadelphia: University of Pennsylvania Press, 2002).

¹²⁹ *Acts and Laws, 1784-85*, 929-31. For another statement of the people’s role, see *Acts and Laws, 1786-87*, chp. 58, 369.

Armory, killing four. Lincoln then pursued the Shaysites west, dispersing the main rebel force for good at Petersham on February 4.¹³⁰

At the time, Shays's Rebellion seemed to convey at least two messages to Massachusetts' leaders, one encouraging and one strongly discouraging. On the one hand, the response of the majority of the populace, if not always as energetic or immediate as might be hoped, appeared to show that the people were still committed to the constitution they had adopted less than a decade before. While the Shaysites had gained significant support in counties such as Worcester, Hampshire, Berkshire, and even Middlesex, a clear majority in the state was either tacitly or actively in favor of the government side.¹³¹ It was still possible and plausible to understand the constitution as the people in arms in defense of their government.

On the other hand, something was clearly wrong if the people needed to mobilize to defend against themselves. In 1780, the British had been the threat against which the people, united, needed to be mobilized. According to George Richards Minot, a state government official who wrote the first—and very much pro-government—history of Shays's Rebellion, “the adoption of the frame of government” in 1780 had been a product of an “unusual spirit and mutual condescension and domestic harmony...which resulted in great measure, from a danger of foreign invasion.”¹³² But since then something had occurred that caused the people to splinter to such an extent that “horrid and unnatural REBELLION and WAR” had broken out and threatened a constitution “which has been most solemnly agreed to, and established by the Citizens of this Commonwealth.”¹³³ A frame of government adopted in the belief that it would

¹³⁰ See Minot, *History of the Insurrections*; Richards, *Shays's Rebellion*, 23-42.

¹³¹ Gross, “A Yankee Rebellion?: The Regulators, New England, and the New Nation,” *New England Quarterly* 82: 1 (March, 2009), 132-33.

¹³² Minot, *History of the Insurrection*, 67-68.

¹³³ “General Court's declaration, that a horrid and unnatural rebellion exists within this commonwealth,” 4 February 1787, *Acts and Laws, 1786-87*, chp. 5, 425-26.

help Massachusetts return to peace by enabling the people to secure independence from Britain had proven unable to prevent the return of war.

A clue to how leaders in Massachusetts government understood the situation lies in their strikingly different views concerning the legitimacy of different kinds of conventions.

Throughout the 1780s and especially during Shays's Rebellion, these men condemned county conventions in the strongest terms. After all, calling a convention in this period signified a belief that something was desperately out of order, that a state of nature in some sense prevailed, and that extraordinary means were necessary to achieve redress. Conventions had ceased to be legitimate in Massachusetts in October, 1780, when the "excellent" and "happy" state constitution had been adopted and had taken the people out of the state of nature. Yet at the same time that many were railing against conventions *within* Massachusetts, these leaders were desperately attempting to organize conventions among the states to discuss commercial matters or, potentially, even revisal of the Articles. Indeed, there is little evidence to suggest that anyone saw this as a contradiction. Because the states that made up the confederation seemed to operate as if they existed in a state of nature with regard to one another, conventions were an acceptable recourse in this particular case.¹³⁴ Put another way, compared to the Massachusetts constitution, the Confederation Congress and the Articles of Confederation seemed woefully illegitimate.

In the aftermath of Shays's Rebellion, the people of Massachusetts took measures that reaffirmed their commitment to the state constitution even as these measures came at the expense of the Confederation. Participants in the rebellion were offered pardon on certain conditions—that they promise to conduct themselves as good citizens for a period of years, for example. In the spring elections, Governor Bowdoin was voted out in favor of the more popular John

¹³⁴ For James Madison's conclusion that the states existed in a state of nature with regard to one another, see Hendrickson, *Peace Pact*, 216.

Hancock, who had decided to come out of retirement. Moreover, the House of Representatives experienced a turnover rate of 71 percent as a result of the election. Many towns from the more rebellious western counties of the state which had not sent a representative to the General Court previously now did so. When the General Court met in May, it decided that it would be best if the state not try to collect any more taxes for the foreseeable future. It is tempting to interpret these developments—the landslide election, the immediate staying of laws for the enforcement of taxation—as manifestations of popular discontent directed at the state government and ultimately the constitution. Every county convention, after all, had articulated an extensive list of grievances against both. Yet it is also important to remember that by electing representatives and pursuing policy change within the established channels of governance, these representatives with Shaysite sympathies were only adding to the constitution’s legitimacy; they were doing precisely what Bowdoin had said was permitted by the constitution. In addition, the eastern and generally pro-government towns still enjoyed a majority of representation in the legislature; these towns’ representatives were the deciding factors in passing legislation designed to avoid more violence and opposition to government. They took these measures because they feared that further attempts to collect taxes would almost certainly lead to the destruction of the constitution.

Massachusetts’ decision not to comply with its requisition of specie obviously dealt a further blow to the Confederation, whose treasury was receiving next to nothing in revenue.¹³⁵ Many still firmly believed that the United States must maintain its public credit, but in Massachusetts many now also believed that this could be done only by plunging the state back into the depths of violence. The immediate imperative was to preserve Massachusetts. From this perspective, the Confederation’s deficiencies in terms of its capacity and legitimacy were so profound that they had nearly succeeded in toppling the most legitimate state constitution that

¹³⁵ For sums deposited into the Confederation treasury, see Brown, *Redeeming the Republic*, 26.

existed. In 1780, the people of Massachusetts had adopted their constitution with the expectation that it would allow them to confront and overcome the challenges of both the wartime and post-war world. By 1787, the “excellent” and “happy” state constitution had proven inadequate to meet these challenges, which were far too complex for any one state to confront alone.

Conclusion

The Federal Union

Between January 9 and February 6, 1788, over 350 delegates from across Massachusetts met in Boston to ratify the United States Constitution.¹ Exactly ten years before, in the midst of war, inhabitants like Joseph Andrews of Hingham had trudged to town meetings to discuss the Articles of Confederation. The Constitution proposed a vastly different federal republic. This new frame of government did not propose to abolish the states—a point that proponents of the Constitution took great pains to emphasize. Massachusetts would retain its territorial integrity, its constitution, and its government. In fact, Federalists argued powerfully, the Constitution represented the only means by which inhabitants could ensure the survival of their states. If left in their current disorganized and “imbecilic” confederation—one that more and more approximated the geopolitical “state of nature” Massachusetts inhabitants, especially, were familiar with—then they would soon succumb to internal rebellion, civil war, foreign conquest, or some combination of these terrible fates.²

But while the Constitution promised the preservation of the states, it also proposed a significant transformation to the larger polity that encompassed them. If the Constitution were implemented, Massachusetts and all the other states would find themselves integrated into

¹ Pauline Maier offers the best narrative of ratification in Massachusetts based on an exhaustive reading of the sources collected in the *Documentary History of the Ratification of the Constitution*. See Maier, *Ratification: The People Debate the Constitution* (New York: Simon and Shuster, 2010), 138-213. See also Merrill Jensen, John P. Kaminski, et al., eds., *The Documentary History of the Ratification of the Constitution*. (Madison: University of Wisconsin Press, 1976—), vols. IV-VII. Other accounts of ratification in Massachusetts include John J. Fox, “Massachusetts and the Creation of the Federal Union, 1775-1791” in Patrick T. Conley and John P. Kaminski, eds., *The Constitution and the States: The Role of the Original Thirteen in the Framing and Adoption of the Federal Constitution* (Madison: Madison House, 1988), 113-30 and Van Beck Hall, *Politics Without Parties: Massachusetts, 1780-91* (Pittsburgh: University of Pittsburgh Press, 1973), 256-320.

² For the Federalist argument that the Constitution would preserve the states without destroying them, see Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York: Oxford University Press, 2003). For the contemporary fears that the confederation would soon experience a violent dissolution, see David C. Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence: University of Kansas Press, 2003).

something resembling a single corporate whole—perhaps one ordained by nature to emerge, some thought.³ In its basic frame of government, the U.S. Constitution resembled a state constitution far more closely than did the Articles of Confederation: an executive and a bicameral legislature would possess the power to levy taxes, make laws, and act directly on inhabitants.⁴ In this sense, the relationship between Massachusetts and its citizens, on the one hand, and the United States, on the other, would become more analogous to the relationship between Massachusetts’ various towns and the state government. Although some New England towns in past extreme circumstances had asserted their sovereignty, the far more common, less presumptive understanding was that the towns possessed a corporate and historical integrity that deserved official recognition of some kind in the structure of government, usually in the provisions for representation. Like towns in Massachusetts, the states comprised a diverse set of units that would not lose their integrity. The Constitution provided reassurance on this score, for example, by giving the states equal representation in the Senate. But the states and their citizens would nonetheless be subject to an overriding authority. Although Americans knew the Constitution obviously portended momentous changes, they could also easily comprehend, on a basic conceptual level, by drawing on familiar analogies, what the Constitution intended to create.⁵

When they read the Constitution, then, Massachusetts inhabitants’ first impulse was to critique it as they would any constitution. They inevitably viewed the U.S. Constitution in light of the state constitution they had adopted in 1780. Just as predictably, they found the federal

³ James D. Drake, *The Nation’s Nature: How Continental Presumptions Gave Rise to the United States of America* (Charlottesville: University of Virginia Press, 2011), 261.

⁴ Peter S. Onuf, “Reflections on the Founding: Constitutional Historiography in Bicentennial Perspective,” *William and Mary Quarterly* 46 (1989): 367.

⁵ For another discussion, focusing on law, that stresses the conceptual and ideological advances necessary for Americans to embrace federalism, see Alison LaCroix, *The Ideological Origins of American Federalism* (Cambridge Mass.: Harvard University Press, 2010), 132-74.

plan wanting by comparison. Many objected that the terms of office for federal elected officials—two years for representatives, four years for the president, and six years for senators—were dangerously long. In Massachusetts, the executive and the entire legislature faced reelection every year.⁶ Likewise, Article I Section 2’s provision that “The Number of Representatives shall not exceed one for every Thirty Thousand” struck many as completely unacceptable. The 1780 state constitution, after all, had set 150 freeholders as the minimum threshold for representation in the Massachusetts House, with some incorporated towns guaranteed a representative even if they could not surpass that low bar.⁷ Other common concerns focused on the possibility that the federal government’s powers would prove fatal to the state’s own authority. The federal government’s ability to levy direct taxes on citizens might take away the state’s tax base and eventually lead to “consolidation.”⁸ Congress’ power to alter the states’ regulations for electing representatives and senators seemed to some an unnecessary intrusion.⁹ These were understandable concerns given inhabitants’ points of reference.

By transforming the confederation into a different kind of polity, however, inhabitants also realized that they would gain another level of responsive, equitable government—a government similar to the one they demanded for their own state. The Constitution restricted the federal government to levying “uniform” taxes and duties, which like Congress’ various quotas might fall harder on some than on others. But the federal government’s ability to enforce compliance with all of its demands immediately made it appear more equitable in the eyes of Massachusetts inhabitants who were convinced that they had routinely been the victims of other states’ recalcitrance. This enhancement of the federal government’s authority resonated broadly

⁶ Maier, *Ratification*, 151, 170-71.

⁷ *Ibid.*, 176.

⁸ *Ibid.*, 179.

⁹ *Ibid.*, 172-73, 178.

with ordinary people, not just with elites.¹⁰ As a result of their own experiences of governance in the recent past—when, for instance, they explained their town’s inability to raise its quota of soldiers, or to meet its tax bill, as the consequence of other towns not fully exerting themselves—inhabitants demanded that government exercise authority. In so doing, the Constitution could help alleviate their burdens. The federal government would also possess a far greater capacity to protect their coasts and frontiers—something Congress certainly had not done during the War of Independence.

Just a few decades earlier, Massachusetts colonists had expected the British Empire to carry out equivalent functions. During the French and Indian War, colonists believed that Britain was only being equitable when it reimbursed their relatively weak province for contributing disproportionately to the struggle against France. To a large extent, the Empire had shielded them from invasion and attack. And though British authorities never proved capable of consistently forcing other colonies to mobilize their proportions of troops, the Empire made up for this failure through the sheer power and resources it could summon from across the Atlantic. A union of relatively weak, underdeveloped states would have to find other means to accomplish these same tasks. A constitutional government endowed with popular legitimacy offered an alternative means to mobilize power in a world of imposing monarchical states.

The ratification process has obscured Massachusetts inhabitants’ broad consensus in favor of the United States Constitution. The populace was arguably just as well disposed toward the new plan as it had been toward the state constitution in 1780. The Philadelphia Convention and the Confederation Congress, which transmitted the document to the state governments, mandated that each state hold a convention of elected delegates who would vote simply to

¹⁰ See Roger H. Brown, *Redeeming the Republic: Federalists, Taxation, and the Origins of the Constitution* (Baltimore: Johns Hopkins University Press, 1993); Calvin H. Johnson, *Righteous Anger at the Wicked States: The Meaning of the Founders’ Constitution* (New York: Cambridge University Press, 2005).

approve or reject the Constitution without making ratification contingent on any amendments.¹¹ Holding a convention to ratify a constitution in this way marked a departure, even a retrograde move, for Massachusetts. In 1780, the state convention did not ratify the constitution but had only declared that the people voting in their towns had indeed ratified it. Towns were expected and in fact instructed to offer amendments to provisions they disapproved on the understanding that the convention would take them under consideration. Moreover, the 1780 ratification had improved on the 1778 process by enabling towns to identify the specific articles they wanted to reject. The overall result had been that the populace, after voting directly on ratification, easily accepted that the constitution had been approved by the requisite two-thirds of voters. The Philadelphia convention concluded that such a system was unworkable on a continental level. In most states, ratification by a special convention represented a conceptual and democratic advance, especially since only Massachusetts and New Hampshire—the latter on the fourth try—had successfully submitted a constitution for more direct popular approval.¹² The Philadelphia convention also did not wish to promise a second convention to amend the Constitution in accord with widely divergent suggestions.¹³ Understandable though they were, these ratification guidelines threatened to doom the Constitution's chances in Massachusetts artificially. Showing the same tendencies they had in 1778, some towns found particular aspects of the Constitution they did not like, elected delegates who agreed with the local majority, and in some instances tried to bind them through instructions to vote a certain way at the convention.¹⁴ Most towns,

¹¹ Maier, *Ratification*, 52-59.

¹² On New Hampshire, see Jere Daniell, "Ideology and Hardball: Ratification of the Federal Constitution in New Hampshire" in Conley and Kaminski, eds., *The Constitution and the States*, 184-85.

¹³ Maier, *Ratification*, 66-68.

¹⁴ *Ibid.*, 144-47.

simply uncertain of how the convention would play out, sent off their delegates without instructions but with a clear sense of the town's various objections.¹⁵

As the delegates proceeded to consider the Constitution in detail, Federalists hit upon the idea—one not explored in the five states that had already met—that the convention should adopt recommendatory amendments at the same time that it unconditionally ratified the Constitution. Perhaps the first Congress could add the amendments at its first meeting. This plan held considerable appeal because it essentially recreated the method of 1780, when towns knew the amendments they proposed would be considered only if two-thirds of the total voters also rejected a given article of the state constitution. The idea gained further traction when John Hancock endorsed it and proposed nine amendments that, though certainly not trivial in the eyes of delegates, hardly suggested intractable opposition to the new Federal Constitution. These included an explicit guarantee that powers not delegated to the federal government would be reserved by the states (the eventual Tenth Amendment); some reassurance that the ratio of representation in the House would not exceed one for every thirty thousand too rapidly; and a provision stating that Congress would not levy direct taxes on the people of the states except at times when the revenue from impost duties proved insufficient.¹⁶ Nevertheless, some delegates still did not know how they should vote; they either felt bound by their town's initial instructions or wanted additional time to consult their neighbors about what they had heard at the convention. The vote was therefore close: 187-168 in favor of ratification. Immediately, however, those who voted against ratification accepted the result as legitimate and many expressed their intentions to justify it to their towns. The anti-ratification vote did not correspond to a vote of confidence in

¹⁵ *Ibid.*, 147-53.

¹⁶ For the proposal of nonbinding amendments, *ibid.*, 187, 192-93, 196-97. For the convention's amendments, *ibid.*, 196-97, 200-1.

the Confederation, which almost everyone regarded as inadequate.¹⁷ Nor did it portend resistance to the federal government's authority.¹⁸ In this context, voting against ratification equated more precisely with a desire to be on record as offering a critique of the Constitution that would be implemented.

The ratification of the United States Constitution in Massachusetts serves as an appropriate endpoint for a study that has argued that Americans appreciated constitutions as ways to create and channel power to achieve common goals and practical ends. This study has also attempted to demonstrate how changes in the larger geopolitical frameworks that comprehended the individual colonies-turned-states decisively affected all Americans, compelling them to seek new ways to endow their formal governments with sufficient capacity to meet their needs. By exploring the experience of one political community—Massachusetts—as its inhabitants experienced governance most directly in the course of their efforts to sustain military mobilization, we see that constitution-making was a collective enterprise that involved the entire populace. Constitution-making enjoyed the broad support of inhabitants who

¹⁷ *Ibid.*, 202-11. For the argument that “anti-federalists” “Generally...admitted that a more efficient federal government was needed, although they qualified this admission in a variety of ways” and that “they accepted the broad outlines of the picture painted by the friends of the Constitution” about the inadequacies of the Confederation, see Herbert J. Storing, *What the Anti-Federalists Were For: The political thought of the opponents of the Constitution* (Chicago: University of Chicago Press, 1981), 25, 26. See also Onuf, “Reflections on the Founding,” 371, 374-75. For the varieties of “Anti-Federalists” and their influence throughout American history see Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1828* (Chapel Hill: University of North Carolina Press, 1999). Cornell views opponents of ratification as more firm in their resistance to the creation of a stronger federal government.

¹⁸ In Chapter 4, I argued that the yes-or-no method of ratification employed for the failed 1778 constitution would have made the constitution, even if successfully ratified, less authoritative than the charter it was trying to replace. It would have introduced new sources for questioning the legitimacy of the state's constitutional government where no such significant bases had previously existed. Due to the common practice by which inhabitants voted in blocs with their towns, ratification would have left whole towns as newly on record as having opposed the entire constitutional authority of the state. While both ratifications featured all-or-nothing votes, a principal difference between 1778 and 1788 lay in the fact that in 1778 the charter continued to command widespread compliance. In 1788, widespread *noncompliance* with Congress' authority under the Articles already existed. In the aftermath of Shays's Rebellion, Massachusetts itself stopped trying to collect the Continental taxes. Thus there was little chance towns whose delegates voted against ratification of the U.S. Constitution would later defy its authority, for they would have been advocating a return to a system that no longer existed. In addition, the presence of a ratifying convention in 1788 suggested that ratification was more ambiguously the act of “the people of Massachusetts” than did direct ratification by towns.

recognized that their constitutions' ultimate ideological or symbolic meanings remained inextricably linked to and indistinguishable from their practical ability to deliver effective government. To appreciate the extent of this support, it is necessary to transcend traditional canons of sources and conventional questions. We must try to recapture the wider contexts Revolutionary Americans inhabited, always attuned to the entire range of challenges they faced as well as their sophisticated assessments of possible solutions.

Massachusetts experienced conflict and uncertainty in the decades following the adoption of the Constitution. The assumptions, suspicions, stereotypes and real differences between the colonies that had caused such worry for Massachusetts leaders in 1774 and 1775, when the province had sought continent-wide support while in a "state of nature," did not disappear immediately when the federal republic came into existence.¹⁹ The emergence of national political party politics in the era of the Early Republic led to internal contention and nearly regional disunion during the War of 1812, as Massachusetts and the other New England states opposed what they believed to be the inequitable policies of Jefferson and Madison.²⁰

Yet, in a more fundamental sense, the federal union benefitted Massachusetts and all the states incalculably. With astonishing rapidity, it solved the fiscal issues that had made it so difficult for the states to stay solvent by their own resources alone. By 1795, the direct tax burden on Massachusetts inhabitants plummeted 70 percent in nominal value—probably 50

¹⁹ John M. Murrin, "A Roof Without Walls: The Dilemma of American National Identity" in Richard Beeman, Stephen Botein, and Edward C. Carter II, eds., *Beyond Confederation: Origins of the Constitution and American National Identity* (Chapel Hill: University of North Carolina Press, 1987), 333-48. See also D.W. Meinig, *The Shaping of America: A Geographical Perspective on 500 Years of History: Volume I: Atlantic America, 1492-1800* (New Haven: Yale University Press, 1986), 421-54.

²⁰ See Ronald P. Formisano, *The Transformation of Political Culture: Massachusetts Parties, 1790s-1840s* (New York: Oxford University Press, 1983); John L. Brooke, *The Heart of the Commonwealth: Society and Culture in Worcester County, Massachusetts, 1713-1861* (Amherst: University of Massachusetts Press, 1992 [1989]), 233-68; Alan Taylor, *Liberty Men and Great Proprietors: The Revolutionary Settlement on the Maine Frontier, 1760-1820* (Chapel Hill: University of North Carolina Press, 1990); James M. Banner, Jr., *To the Hartford Convention: The Federalists and the Origins of Party Politics in Massachusetts, 1789-1815* (New York: Alfred A. Knopf, 1970).

percent in real terms—as revenues from the federal impost funded the nation’s Revolutionary War debt without requiring Congress to apportion quotas on the states.²¹ Though the federal government revealed its weaknesses at times, it also proved strong enough to meet international expectations for the government of a sovereign state—one worthy of recognition and respect. The federal government managed, among other things, to negotiate foreign treaties, maintain its borders, and subdue and relocate powerful groups of Native Americans.²² It also obtained, organized, and provided for citizens to settle huge swaths of land, implementing the basic system for creating new states—each with its own state constitution; each equal to the original thirteen in all respects—first outlined by the Confederation Congress in the 1780s.²³ Although the federal government’s operations were often subtle and not immediately visible, they nonetheless provided Massachusetts an essential framework for stability and prosperity. Tellingly, the state passed on the opportunity, provided for in the 1780 constitution, of holding a new constitutional convention in 1795; conventions in 1820 and 1853 considered minor amendments and submitted them for popular vote.²⁴

The Federalist Massachusetts administration remained uncooperative with President Madison during the War of 1812, refusing to call state militia troops into federal service for the defense of the coast.²⁵ U.S. Army recruiters fared better with individual Massachusetts

²¹ Max M. Edling, *A Hercules in the Cradle: War, Money, and the American State, 1783-1867* (Chicago: University of Chicago Press, 2014), 63-64. On the central importance of the impost to the Federalist fiscal regime and argument for the Constitution, see *ibid.*, 17-107; *idem.*, *Revolution in Favor of Government*.

²² On these themes see Eliga H. Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge MA: Harvard University Press, 2012), 111-218; Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America* (New York: Cambridge University Press, 2009); Patrick Griffin, *American Leviathan: Empire, Nation, and Revolutionary Frontier* (New York: Hill and Wang, 2007).

²³ Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987), 44-108.

²⁴ Walter Farleigh Dodd, *The Revision and Amendment of State Constitutions* (Baltimore: The Johns Hopkins University Press, 1910), 43; Formisano, *Transformation of Political Culture*, 137, 330.

²⁵ J.C.A. Stagg, *The War of 1812: Conflict for a Continent* (New York: Cambridge University Press, 2012), 72-73.

inhabitants, however, persuading an indeterminate but significant number to enlist voluntarily.²⁶ Massachusetts revived some semblance of past practice when the state readily responded to the Polk administration's request for one regiment of federal volunteers for service in Mexico. The status of federal volunteers lay on a spectrum between short-term militia—which were under command of the governor and could be recalled to within the state's limits by the General Court—and long-term, regular United States Army soldiers. 1,057 total men mustered into the regiment beginning in February, 1847, under the command of Colonel Caleb Cushing. The regiment returned in July, 1848, having seen no fighting but nonetheless suffering 78 deaths by disease, 4 deaths by accident, and at least 253 desertions.²⁷ Those with a detailed knowledge of Massachusetts military history might have recalled the expedition of a century before when Massachusetts volunteers accompanied the British to the Caribbean. At the time, the harsh losses from disease only further impressed upon the General Court the importance of the province's charter right to place geographical restrictions on inhabitants' service.

The power of constitutional government saw its most fearsome demonstration in the Civil War. The distinctive federal state that emerged from the fragments of British colonial America continued to be riven by tensions, none more divisive than the debate over the future of slavery. In a sense, the sectional conflict cost Massachusetts a portion of its territory in 1820. The Union admitted Maine, whose inhabitants had long agitated for a separation, as a free state during the Missouri Compromise. When southerners determined that Abraham Lincoln's election placed the future of slavery at risk, South Carolina faced a dilemma similar to that encountered by Massachusetts in 1774 and 1775. South Carolinians debated whether to initiate hostilities with

²⁶ *Idem.*, "Soldiers in Peace and War: Comparative Perspectives on the Recruitment of the United States Army, 1802-1815," *The William and Mary Quarterly* 57, no. 1 (2000): 96-97.

²⁷ 513 men total are listed as mustering out in 1848. See U.S. Congress, House, *Military Forces Employed in the Mexican War: Letter from the Secretary of War*, 31st Cong., 1st ses., 1850, Exec. Doc. No. 24, 22a.

the Federal government and trust that sympathetic states would join them in the common cause, or to practice self-restraint lest their aggression alienate reluctant potential allies.²⁸ Ultimately eleven southern states left the Union. Notwithstanding their dubious fealty to strict state rights, Confederates enjoyed a remarkable advantage over their Revolutionary ancestors: they immediately adopted a federal constitution, modeled almost exactly on the document written in Philadelphia in 1787 and enjoying an equal degree of popular legitimacy. Through their ersatz federal republic and constitution, Confederates proceeded to mobilize an unprecedented 75 to 85 percent of their military age manpower: between 750,000 and 850,000 men.²⁹ These Confederate armies confronted even larger forces raised by the remainder of the Federal Union, whose citizens exploited their Constitution's capacity to mobilize power in a successful effort to defeat those who sought their Constitution's destruction.³⁰

²⁸ William W. Freehling, *The Road to Disunion, Volume II: Secessionists Triumphant, 1854-1861* (New York: Oxford University Press, 2007), 375-94. See also the essay by Don Higginbotham that makes other comparisons: "Fomenters of Revolution: Massachusetts and South Carolina," *Journal of the Early Republic* 14 (Spring 1994): 1-33.

²⁹ Gary W. Gallagher, *The Confederate War* (Cambridge Mass.: Harvard University Press, 1997), 28. On the Confederate constitution, which was not submitted for ratification, see George Rable, *The Confederate Republic: A Revolution Against Politics* (Chapel Hill: University of North Carolina Press, 1994), 60-61, and 39-63, *passim*. The conventions of most Confederate states did not submit new state constitutions or secession ordinances for popular approval. See Dodd, *Revision and Amendment of State Constitutions*, 65-66.

³⁰ See Gary W. Gallagher, *The Union War* (Cambridge MA: Harvard University Press, 2011); Richard Franklin Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1990); Edling, *Hercules in the Cradle*, 178-221.

Appendix

List of Massachusetts Towns Voting for Independence or the Articles of Confederation, with Citations

County	Town	Declaring Independence	Articles of Confederation
Suffolk	Boston	<i>Boston Gazette</i> 10 Jun 1776	<i>Boston Gazette</i> 26 Jan 1778
	Roxbury	Francis S. Drake, <i>The Town of Roxbury: Its Memorable Persons and Places, Its History and Antiquities with Numerous Illustrations of its Old Landmarks and Notes Personages</i> (Roxbury: "Published by the author at 131 Warren Street", 1878), 36.	Francis S. Drake, <i>The Town of Roxbury: Its Memorable Persons and Places, Its History and Antiquities with Numerous Illustrations of its Old Landmarks and Notes Personages</i> (Roxbury: "Published by the author at 131 Warren Street", 1878), 36.
	Dorchester	Dorchester Antiquarian and Historical Society, <i>History of the Town of Dorchester, Massachusetts</i> (Boston: Ebenezer Clapp, Jr., 1859), 337.	
	Milton	A.K. Teele, ed., <i>The History of Milton, Mass. 1640-1887</i> (Boston: Press of Rockwell & Churchill, n.d.), 437	
	Braintree		Samuel A. Bates, ed., <i>Records of the Town of Braintree 1640-1793</i> (Randolph, Mass.: Daniel H. Huxford, 1886), 487.
	Weymouth	<i>Sketch of the Town of Weymouth, Massachusetts, From 1622 to 1884</i> (Weymouth: Weymouth Historical Society, 1885), 62. [Note: No mention of vote in town history -- just that "The Declaration of Independence was entered in full upon the town records, and read from both pulpits upon the next Lord's day after its reception..."]	
	Dedham	Erastus Worthington, <i>The History of Dedham, from the Beginning of its Settlement...</i> (Boston: Dutton and Wentworth, 1827), 67.	Erastus Worthington, <i>The History of Dedham, from the Beginning of its Settlement...</i> (Boston: Dutton and Wentworth, 1827), 68.
	Medfield	William S. Tilden, ed., <i>History of the Town of Medfield, Massachusetts. 1650-1886</i> (Boston: Geo. H. Ellis,	William S. Tilden, ed., <i>History of the Town of Medfield, Massachusetts. 1650-1886</i>

		1887), 166.	(Boston: Geo. H. Ellis, 1887), 170-72.
	Wrentham	A.E. Foss & Co., <i>History and Directory of Wrentham and Norfolk, Mass. for 1890</i> (Boston, Brown Bros., 1890), 62.	
	Brookline	Inhabitants of Brookline, <i>Muddy River and Brookline Records. 1634-1838</i> (n.p.: J.E. Farwell & Co., 1875), 253.	
	Needham	George Kuhn Clarke, <i>History of Needham Massachusetts 1711-1911</i> (Cambridge, Mass.: University Press, 1912), 465.	
	Stoughton	Daniel T.V. Huntoon, <i>History of the Town of Canton, Norfolk County, Massachusetts</i> (Cambridge, Mass.: University Press, 1893), 390.	
	Stoughtonham	Jeremiah Gould, "Annals of Sharon, Massachusetts" (1830) published in <i>Publications of the Sharon Historical Society of Sharon, Massachusetts</i> No. 1 (Apr. 1904), 14.	Jeremiah Gould, "Annals of Sharon, Massachusetts" (1830) published in <i>Publications of the Sharon Historical Society of Sharon, Massachusetts</i> No. 1 (Apr. 1904), 14.
	Bellingham	George F. Partridge, <i>History of the Town of Bellingham Massachusetts 1719-1919</i> (n.p.: "Published by the town," 1919), 126.	
	Chelsea	Mellen Chamberlain, <i>A Documentary History of Chelsea Including the Boston Precincts of Winnisimmet Rumney Marsh, and Pullen Point</i> Vol. II (Boston: University Press, 1908), 538.	
Essex	Salem	Joseph B. Felt, <i>The Annals of Salem, from its First Settlement</i> (Salem: W & S.B. Ives, 1827), 499.	Joseph B. Felt, <i>The Annals of Salem, from its First Settlement</i> (Salem: W & S.B. Ives, 1827), 502.
	Danvers	J.W. Hanson, <i>History of the Town of Danvers, From its Early Settlement to the Year 1848</i> (Danvers: n.p., 1848), 95.	J.W. Hanson, <i>History of the Town of Danvers, From its Early Settlement to the Year 1848</i> (Danvers: n.p., 1848), 96.

	Ipswich	Joseph B. Felt, <i>History of Ipswich, Essex, and Hamilton</i> (Cambridge: Charles Folsom, 1834), 133.	Joseph B. Felt, <i>History of Ipswich, Essex, and Hamilton</i> (Cambridge: Charles Folsom, 1834), 134.
	Newbury	Joshua Coffin, <i>A Sketch of the History of Newbury, Newburyport, and West Newbury, From 1635-1845</i> (Boston: Samuel G. Drake, 1845), 253.	Joshua Coffin, <i>A Sketch of the History of Newbury, Newburyport, and West Newbury, From 1635-1845</i> (Boston: Samuel G. Drake, 1845), 254.
	Newburyport	Joshua Coffin, <i>A Sketch of the History of Newbury, Newburyport, and West Newbury, From 1635-1845</i> (Boston: Samuel G. Drake, 1845), 253.	
	Marblehead	Samuel Roads Jr., <i>The History and Traditions of Marblehead</i> (Boston: Houghton, Osgood and Company, 1880), 124.	Samuel Roads Jr., <i>The History and Traditions of Marblehead</i> (Boston: Houghton, Osgood and Company, 1880), 129.
	Andover	Abiel Abbot, <i>History of Andover From Its Settlement to 1829</i> (Andover: Flagg and Gould, 1829), 61.	Abiel Abbot, <i>History of Andover From Its Settlement to 1829</i> (Andover: Flagg and Gould, 1829), 62.
	Beverly	Edwin M. Stone, <i>History of Beverly, Civil and Ecclesiastical, From Its Settlement in 1630 to 1842</i> (Boston: James Munroe and Company, 1843), 67-68.	Edwin M. Stone, <i>History of Beverly, Civil and Ecclesiastical, From Its Settlement in 1630 to 1842</i> (Boston: James Munroe and Company, 1843), 68.
	Rowley	Thomas Gage, <i>The History of Rowley, Anciently Including Bradford, Boxford, and Georgetown, From the Year 1639 to the Present Year</i> (Boston: Ferdinand Andrews, 1840), 252.	Thomas Gage, <i>The History of Rowley, Anciently Including Bradford, Boxford, and Georgetown, From the Year 1639 to the Present Year</i> (Boston: Ferdinand Andrews, 1840), 259.
	Haverhill	George Wingate Chase, <i>The History of Haverhill, Massachusetts, From Its First Settlement, in 1649 to the Year 1860</i> (Haverhill: n.p., 1861), 394.	George Wingate Chase, <i>The History of Haverhill, Massachusetts, From Its First Settlement, in 1649 to the Year 1860</i> (Haverhill: n.p., 1861), 404-5.
	Gloucester	John J. Babson, <i>History of the Town of Gloucester, Cape Ann, Including the Town of Rockport</i> (Gloucester: Proctor Brothers, 1860), 408.	John J. Babson, <i>History of the Town of Gloucester, Cape Ann, Including the Town of Rockport</i> (Gloucester: Proctor Brothers, 1860), 415.
	Topsfield	<i>Town Records of Topsfield Massachusetts Volume II 1739-1778</i> (Topsfield, Mass: Topsfield	<i>Town Records of Topsfield Massachusetts Volume II 1739-1778</i> (Topsfield, Mass: Topsfield

		Historical Society, 1920), 258.	Historical Society, 1920), 384.
	Amesbury	Joseph Merrill, <i>History of Amesbury Including the First Seventeen Years of Salisbury, to the Separation in 1654: and Merrimac From Its Incorporation in 1876</i> (Haverhill: Franklin P. Stiles, 1880), 261.	Joseph Merrill, <i>History of Amesbury Including the First Seventeen Years of Salisbury, to the Separation in 1654: and Merrimac From Its Incorporation in 1876</i> (Haverhill: Franklin P. Stiles, 1880), 273-74.
	Bradford	Gardner B. Perry, <i>History of Bradford, Mass. from the Earliest Period to the Close of 1820</i> (Haverhill, Mass.: C.c. Morse & Son, 1872), 26-27.	
	Methuen		Joseph S. How, <i>Historical Sketch of the Town of Methuen, From Its Settlement to the Year 1876</i> (Methuen, Mass.: E.L. Houghton & Co., 1876), 32.
	Boxford	Sidney Perley, <i>The History of Boxford, Essex County, Massachusetts, From the Earliest Settlement Known to the Present Time: A Period of about Two Hundred and Thirty Years</i> (Boxford, Mass.: n.p., 1880), 227.	
Middlesex	Cambridge	Lucius R. Paige, <i>History of Cambridge, Massachusetts. 1630-1877 with a Genealogical Register</i> (Boston: H.O. Houghton and Company, 1877), 160.	
	Weston	<i>Town of Weston Records of the First Precinct, 1746-1754 and of the Town, 1754-1803</i> (Boston: Alfred Mudge & Son, 1893), 222.	<i>Town of Weston Records of the First Precinct, 1746-1754 and of the Town, 1754-1803</i> (Boston: Alfred Mudge & Son, 1893), 244.
	Ashby	Massachusetts Archives 156: 117½	
	Watertown	<i>Watertown's Military History</i> (Boston: David Clapp & Son, 1907), 23.	<i>Watertown's Military History</i> (Boston: David Clapp & Son, 1907), 31.

	Newton	S.F. Smith, <i>History of Newton, Massachusetts. Town and City From Its Earliest Settlement to the Present Time. 1630-1880</i> (Boston: American Logotype Company, 1880), 356.	
	Reading	Lilley Eaton, <i>Genealogical History of the Town of Reading, Mass. Including the Present Towns of Wakefield, Reading, and North Reading with Chronological and Historical Sketches From 1639 to 1874</i> (Boston: Alfred Mudge & Son, 1874), 182.	Lilley Eaton, <i>Genealogical History of the Town of Reading, Mass. Including the Present Towns of Wakefield, Reading, and North Reading with Chronological and Historical Sketches From 1639 to 1874</i> (Boston: Alfred Mudge & Son, 1874), 184.
	Marlborough	Charles Hudson, <i>History of the Town of Marlborough, Middlesex County, Massachusetts, From Its First Settlement in 1657 to 1861; with a Brief Sketch of the Town of Northborough, A Genealogy of the Families in Marlborough to 1800, and an Account of the Celebration of the Two Hundredth Anniversary of the Incorporation of the Town</i> (Boston: T.R. Marvin & Son, 1862), 175.	Charles Hudson, <i>History of the Town of Marlborough, Middlesex County, Massachusetts, From Its First Settlement in 1657 to 1861; with a Brief Sketch of the Town of Northborough, A Genealogy of the Families in Marlborough to 1800, and an Account of the Celebration of the Two Hundredth Anniversary of the Incorporation of the Town</i> (Boston: T.R. Marvin & Son, 1862), 175-76.
	Billerica	Peter Force, ed., <i>American Archives</i> , 4th Series, Volume VI (Washington, D.C.: M. St. Clair Clarke and Peter Force, 1846), 556.	Henry A. Hazen, <i>History of Billerica, Massachusetts, with a Genealogical Register</i> (Boston: A. Williams and Co., 1883), 241.
	Lexington	Charles Hudson, <i>History of the Town of Lexington Middlesex County Massachusetts From Its First Settlement to 1868</i> Vol. I -- History Rev. Ed. (Boston: Houghton Mifflin, 1913), 227.	Charles Hudson, <i>History of the Town of Lexington Middlesex County Massachusetts From Its First Settlement to 1868</i> Vol. I -- History Rev. Ed. (Boston: Houghton Mifflin, 1913), 232.
	Chelmsford	Wilson Waters, <i>History of Chelmsford Massachusetts</i> (Lowell: Courier-Citizen Company, 1917), 209.	Wilson Waters, <i>History of Chelmsford Massachusetts</i> (Lowell: Courier-Citizen Company, 1917), 214.
	Sherburn	William Biglow, <i>History of Sherburne, Mass. From Its Incorporation...</i> (Milford: Ballou & Stacy, 1830), 43-44.	

	Malden	Deloraine Pendre Corey, <i>The History of Malden Massachusetts 1633-1785</i> (Malden: n.p., 1899), 765-66.	
	Weston	<i>Town of Weston Records of the First Precinct, 1746-1754 and of the Town, 1754-1803</i> (Boston: Alfred Mudge & Son, 1893), 222.	<i>Town of Weston Records of the First Precinct, 1746-1754 and of the Town, 1754-1803</i> (Boston: Alfred Mudge & Son, 1893), 244.
	Medford	Charles Brooks, <i>History of the Town of Medford, Middlesex County, Massachusetts, From Its First Settlement in 1630 to 1855</i> Rev. ed. James M. Usher (Boston: Rand, Avery, & Company, 1886), 163.	
	Littleton	Herbert Joseph Harwood, <i>An Historical Sketch of the Town of Littleton</i> (n.p.: n.p, 1891), 16.	
	Hopkinton	Samuel Adams Drake, <i>History of Middlesex County, Massachusetts, Containing Carefully Prepared Histories of Every City and Town in the County, by Well-Known Writers; and A General History of the County, From the Earliest to the Present Time</i> Vol. I. (Boston: Estes and Lauriat, 1880), 490.	
	Westford	Edwin R. Hodgman, <i>History of the Town of Westford, in the Country of Middlesex, Massachusetts, 1659-1883</i> (Lowell: Morning Mail Company, 1883), 114.	Edwin R. Hodgman, <i>History of the Town of Westford, in the Country of Middlesex, Massachusetts, 1659-1883</i> (Lowell: Morning Mail Company, 1883), 119.
	Waltham	D. Hamilton Hurd, compiler, <i>History of Middlesex County, Massachusetts...</i> (Philadelphia: J.W. Lewis & Co., 1890), 712.	D. Hamilton Hurd, compiler, <i>History of Middlesex County, Massachusetts...</i> (Philadelphia: J.W. Lewis & Co., 1890), 712.
	Stow	D. Hamilton Hurd, compiler, <i>History of Middlesex County, Massachusetts...</i> (Philadelphia: J.W. Lewis & Co., 1890), 652.	D. Hamilton Hurd, compiler, <i>History of Middlesex County, Massachusetts...</i> (Philadelphia: J.W. Lewis & Co., 1890), 652-53.
	Townsend	Ithamar B. Sawtelle, <i>History of the Town of Townsend, Middlesex County, Massachusetts, From the Grant of Hathorn's Farm, 1676-1878</i> (Fitchburg: Blanchard & Brown, 1878), 184-85.	Ithamar B. Sawtelle, <i>History of the Town of Townsend, Middlesex County, Massachusetts, From the Grant of Hathorn's Farm, 1676-1878</i> (Fitchburg: Blanchard & Brown, 1878), 205.

	Dracut		Massachusetts Archives 156: 301.
	Bedford	Abram English Brown, <i>History of the Town of Bedford, Middlesex County, Massachusetts, From Its Earliest Settlement to the Year of Our Lord 1891</i> (Bedford: n.p., 1891), 25.	
	Holliston	Samuel Adams Drake, <i>History of Middlesex County, Massachusetts, Containing Carefully Prepared Histories of Every City and Town in the County, by Well-Known Writers; and A General History of the County, From the Earliest to the Present Time</i> Vol. I. (Boston: Estes and Lauriat, 1880), 474.	Samuel Adams Drake, <i>History of Middlesex County, Massachusetts, Containing Carefully Prepared Histories of Every City and Town in the County, by Well-Known Writers; and A General History of the County, From the Earliest to the Present Time</i> Vol. I. (Boston: Estes and Lauriat, 1880), 474.
	Acton	Massachusetts Archives 156: 272	Massachusetts Archives 156: 302a.
	Dunstable	Elias Nason, <i>A History of the Town of Dunstable, Massachusetts, From Its Earliest Settlement to the Year of Our Lord 1873</i> (Boston: Alfred Mudge & Son, 1877), 119.	Elias Nason, <i>A History of the Town of Dunstable, Massachusetts, From Its Earliest Settlement to the Year of Our Lord 1873</i> (Boston: Alfred Mudge & Son, 1877), 130.
Hampshire	Springfield		Mason A. Green, <i>Springfield 1636-1886 History of Town and City...</i> (Springfield?: C.A. Nichols, 1888), 288-89.
	Amherst	<i>The History of the Town of Amherst, Massachusetts</i> Volume II (Amherst: Carpenter & Morehouse, 1896), 75.	
	Pelham	C.O. Parmenter, <i>History of Pelham, Mass. From 1738 to 1898 Including the Early History of Prescott</i> (Amherst, Mass.: Carpenter & Morehouse, 1898), 131.	

	Northampton	James Russell Trumbull, <i>History of Northampton Massachusetts From Its Settlement in 1654</i> Vol. II (Northampton: n.p., 1902), 393. [Note: "A great majority of the towns voted in favor of independence, but there is nothing on record intimating that the town of Northampton ever took action on this question...Possibly it was the clerk who neglected to make the record, and not the people who forgot to vote."]	Massachusetts Archives 156: 298.
	Whatley	James M. Crafts, <i>History of the Town of Whatley, Mass, Including a Narrative of Leading Events from the First Planting of Hatfield: 1661-1899</i> (Orange, Mass.: D.L. Crandall, 1899), 219.	
	Deerfield	George Sheldon, <i>A History of Deerfield, Massachusetts... Volume II</i> (Deerfield: n.p., 1896), 715.	
	Monson	Alfred Minot Copeland, ed., <i>Our County and Its People A History of Hampden County Massachusetts Volume III</i> (n.p.: Century Memorial Publishing, 1902), 272.	
	Sunderland		John Montague Smith, <i>History of the Town of Sunderland, Massachusetts, Which Initially Embraced Within Its Limits the Present Towns of Montague and Leverett</i> (Greenfield, Mass.: E.A. Hall & Co., 1899), 129-30.
	Chesterfield	<i>History of the Connecticut Valley in Massachusetts</i> (Philadelphia: Louis H. Everts, 1879), 496.	
	Palmer	J.H. Temple, <i>History of the Town of Palmer, Massachusetts, Early Known as the Elbow Tract...</i> (Springfield: Clark W. Bryan, 1889), 176-77.	J.H. Temple, <i>History of the Town of Palmer, Massachusetts, Early Known as the Elbow Tract...</i> (Springfield: Clark W. Bryan, 1889), 185.

	Murrayfield	Alfred Minot Copeland, ed., <i>Our County and Its People A History of Hampden County Massachusetts</i> Volume III (n.p.: Century Memorial Publishing, 1902), 362.	
	Shelburne	<i>History of the Connecticut Valley in Massachusetts</i> (Philadelphia: Louis H. Everts, 1879), 645.	
	Greenfield	D. Willard, <i>History of Greenfield</i> (Greenfield: Kneeland & Eastman, 1838), 63.	D. Willard, <i>History of Greenfield</i> (Greenfield: Kneeland & Eastman, 1838), 66.
	Bernardston		Lucy Cutler Kellogg, <i>History of the Town of Bernardston, Franklin County, Massachusetts 1736-1800 with Genealogies</i> (Greenfield: E.A. Hall & Co., 1902), 81.
	Hatfield	Daniel White Wells and Reuben Field Wells, <i>A History of Hatfield, Massachusetts</i> (Springfield: n.p., 1910), 194.	
	Warwick	Jonathan Blake, <i>History of the Town of Warwick, Massachusetts, From Its First Settlement to 1854</i> (Boston: Noyes, Holmes, and Company, 1873), 54.	
Plymouth	Scituate	Samuel Deane, <i>History of Scituate, Massachusetts, From Its First Settlement to 1831</i> (Boston: James Loring, 1831), 135-36.	
	Duxbury	Justin Winsor, <i>A History of the Town of Duxbury, Massachusetts, with Genealogical Registers</i> (Boston: Crosby & Nichols, 1849), 135.	Justin Winsor, <i>A History of the Town of Duxbury, Massachusetts, with Genealogical Registers</i> (Boston: Crosby & Nichols, 1849), 140.
	Marshfield	D. Hamilton Hurd, <i>History of Plymouth County, Massachusetts...</i> (Philadelphia: J.W. Lewis, 1884), 1157.	D. Hamilton Hurd, <i>History of Plymouth County, Massachusetts...</i> (Philadelphia: J.W. Lewis, 1884), 1158.
	Bridgewater		Massachusetts Archives 156: 302.
	Abington	Aaron Hobart, <i>An Historical Sketch of Abington, Plymouth County, Massachusetts</i> (Boston: Samuel N. Dickinson, 1839), 121.	

	Hanover	Jedidiah Dwelley and John F. Simmons, <i>History of the Town of Hanover Massachusetts with Family Genealogies</i> (Hanover: n.p., 1910), 146.	
	Rochester	<i>Rochester, Massachusetts...</i> (New York: The Grafton Press, 1907), 131.	
Barnstable	Barnstable	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 374-75. [Note: In a vote of the town meeting, Barnstable voted 35-30 against supporting independence.]	<i>Barnstable Town Records</i> in <i>Library of Cape Cod History & Genealogy</i> no. 105 (Yarmouthport Mass.: C.W. Swift, 1910), 60. [Note: A committee was appointed on February 3, 1778, to consider the Articles and then the meeting was adjourned to March; it is likely the committee's report was read and voted on at a later date.]
	Sandwich	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 287.	
	Yarmouth	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 466.	
	Wellfleet	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 790.	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 795.
	Eastham	Peter Force, ed., <i>American Archives</i> , 4th Series, Volume VI (Washington, D.C.: M. St. Clair Clarke and Peter Force, 1846), 706.	
	Falmouth	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 638.	
	Chatham	Simeon L. Deyo, ed., <i>History of Barnstable County, Massachusetts</i> (n.p.: n.p., 1890), 591.	
Bristol	Taunton	Peter Force, ed., <i>American Archives</i> , 4th Series, Volume VI (Washington, D.C.: M. St. Clair Clarke and Peter Force, 1846), 698-99.	
	Norton	George Faber Clark, <i>A History of the Town of Norton, Bristol County, Massachusetts, From 1669 to 1859</i> (Boston: Crosby, Nichols, and	

		<i>Company, 1859</i>), 398.	
	Attleborough	John Daggett, <i>A Sketch of the History of Attleborough From Its Settlement to the Division</i> (Boston: Press of Samuel Usher, 1894), 123.	John Daggett, <i>A Sketch of the History of Attleborough From Its Settlement to the Division</i> (Boston: Press of Samuel Usher, 1894), 124-25.
	Dighton	George Faber Clark, <i>A History of the Town of Norton, Bristol County, Massachusetts, From 1669 to 1859</i> (Boston: Crosby, Nichols, and Company, 1859), 226.	
	Freetown	<i>A History of the Town of Freetown, Massachusetts</i> (Fall River: J.H. Franklin & Company, 1902), 22-23.	
	Easton	William L. Chaffin, <i>History of the Town of Easton, Massachusetts</i> (Cambridge: John Wilson and Son, 1886), 217.	
	Wrentham	Massachusetts Archives 156: 150-6.	Massachusetts Archives 156: 303a.
York	York	George Alex Emery, <i>Ancient City of Gorgeana and Modern Town of York From Its Earliest Settlement to the Present Time Also Its Beaches and Summer Resorts</i> 2nd Ed. (Boston: G. Alex Emery, 1874), 77.	
	Berwick	<i>History of York County, Maine</i> (Philadelphia: Everts & Peck, 1880), 297.	
Worcester	Worcester	Franklin P. Rice, ed., <i>Worcester Town Records From 1753 to 1783</i> (Worcester: Worcester Society of Antiquity, 1882), 278.	Franklin P. Rice, ed., <i>Worcester Town Records From 1753 to 1783</i> (Worcester: Worcester Society of Antiquity, 1882), 310.
	Mendon	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 379.	<i>History of Worcester County, Massachusetts...</i> Vol. II (Boston: C.F. Jewett and Company, 1879), 48.

	Brookfield	J.H. Temple, <i>History of North Brookfield, Massachusetts. Preceded by an Account of Old Quahaug, Indian and English Occupation, 1647-1676; Brookfield Records, 1686-1783</i> (Boston: Rand Avery Company, 1887), 233.	
	Oxford	Mary de Witt Freeland, <i>The Records of Oxford, Mass. Including Chapters of Nipmuck, Hugenot and English History from the Earliest Date, 1630 with Manners and Fashions of the Time</i> (Albany, N.Y.: Joel Munsell's Sons, 1894), 367.	Mary de Witt Freeland, <i>The Records of Oxford, Mass. Including Chapters of Nipmuck, Hugenot and English History from the Earliest Date, 1630 with Manners and Fashions of the Time</i> (Albany, N.Y.: Joel Munsell's Sons, 1894), 368.
	Charlton	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts... Vol. I</i> (Philadelphia: J.W. Lewis & Co., 1889), 754.	
	Sutton	William A. Benedict and Hiram A. Tracy, <i>History of the Town of Sutton, Massachusetts, From 1704 to 1876...</i> (Worcester: Sanford & Company, 1878), 97-98.	William A. Benedict and Hiram A. Tracy, <i>History of the Town of Sutton, Massachusetts, From 1704 to 1876...</i> (Worcester: Sanford & Company, 1878), 110-11.
	Leicester	A.H. Coolidge, <i>A Brief History of Leicester, Massachusetts</i> (n.p.: n.p., 1890), 13.	
	Spencer	James Draper, <i>History of Spencer, Massachusetts, From Its Earliest Settlement to the Year 1860...</i> 2nd Ed. (Worcester: Henry J. Howland, 1860), 50-51.	James Draper, <i>History of Spencer, Massachusetts, From Its Earliest Settlement to the Year 1860...</i> 2nd Ed. (Worcester: Henry J. Howland, 1860), 53.
	Oakham	Henry Parks Wright, <i>Soldiers of Oakham Massachusetts in the Revolution War, The War of 1812, and the Civil War</i> (New Haven: Tuttle, Morehouse, & Taylor, 1914), 22.	<i>History of Worcester County, Massachusetts... Vol. II</i> (Boston: C.F. Jewett and Company, 1879), 163.
	Hubbardston	J.M. Stone, <i>History of Hubbardston, Worcester County, Mass...</i> (Hubbardston: n.p., 1881), 43.	

	New Braintree	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 677.	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 677.
	Lunenburg	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 772. [Note: A town vote is implied but not noted explicitly.]	
	Uxbridge	<i>History of Worcester County, Massachusetts...</i> Vol. II (Boston: C.F. Jewett and Company, 1879), 425.	
	Northbridge	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 141.	
	Harvard		Henry S. Nourse, <i>History of the Town of Harvard Massachusetts 1732-1893</i> (Harvard: n.p, 1894), 328-29.
	Sturbridge	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 113.	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 113.
	Hardwick		Lucius R. Paige, <i>History of Hardwick, Massachusetts, with a Genealogical Register</i> (Boston: Houghton, Mifflin and Company, 1883), 115.
	Western	Solomon B. Stebbins, <i>An Account of the One Hundred and Fiftieth Anniversary of the Incorporation of the Town of Warren...</i> (Ware: Chas. W. Eddy, 1890?), 26.	
	Grafton	E. Frank Howe, <i>Historical Oration Delivered by Rev. E. Frank Howe, at the Centennial Celebration Held at Grafton, Mass., July 4th, 1876</i> (Worcester: Chas. Hamilton, 1878), 30-31.	E. Frank Howe, <i>Historical Oration Delivered by Rev. E. Frank Howe, at the Centennial Celebration Held at Grafton, Mass., July 4th, 1876</i> (Worcester: Chas. Hamilton, 1878), 31.

	Petersham	Mabel Cook Coolidge, <i>The History of Petersham Massachusetts</i> (Hudson, Mass.: Powell Press, 1948), 88.	
	Westminster	William Sweetzer Heywood, <i>History of Westminster Massachusetts...</i> (Lowell: Vox Populi Press, 1893), 159-60.	William Sweetzer Heywood, <i>History of Westminster Massachusetts...</i> (Lowell: Vox Populi Press, 1893), 188.
	Templeton	D. Hamilton Hurd, <i>History of Worcester County, Massachusetts...</i> Vol. I (Philadelphia: J.W. Lewis & Co., 1889), 130.	Massachusetts Archives 156: 297.
	Fitchburg	<i>History of Worcester County, Massachusetts...</i> Vol. I (Boston: C.F. Jewett and Company, 1879), 472.	<i>History of Worcester County, Massachusetts...</i> Vol. I (Boston: C.F. Jewett and Company, 1879), 474.
	Douglas	Wm. A. Emerson, <i>History of the Town of Douglas, (Massachusetts) From the Earliest Period to the Close of 1878</i> (Boston: Frank W. Bird, 1879), 75.	
	Princeton	Francis Everett Blake, <i>History of the Town of Princeton in the County of Worcester and Commonwealth of Massachusetts 1759-1915, Volume I</i> (Princeton: n.p., 1915), 221.	
	Hutchinson [Barre]	<i>History of Worcester County, Massachusetts...</i> Vol. I (Boston: C.F. Jewett and Company, 1879), 345.	
	Northborough	Joseph Allen, <i>Sketches of the Town of Northborough...</i> (Worcester: W. Lincoln & C.C. Baldwin, 1826), 41.	
	Westborough	Heman Packard DeForest and Edward Craig Bates, <i>The History of Westborough, Massachusetts</i> (Westborough: n.p., 1891), 165.	Massachusetts Archives 156: 299.
	Ashburnham	Ezra S. Stearns, <i>History of Ashburnham Massachusetts...</i> (Ashburnham: n.p., 1887), 146.	Ezra S. Stearns, <i>History of Ashburnham Massachusetts...</i> (Ashburnham: n.p., 1887), 155.
	Lancaster		Henry S. Nourse, <i>The Military Annals of Lancaster Massachusetts, 1740-1865</i> (Lancaster: n.p., 1889), 155.

	Winchendon	A.P. Marvin, <i>History of the Town of Winchendon...</i> (Worcester: n.p., 1868), 92.	A.P. Marvin, <i>History of the Town of Winchendon...</i> (Worcester: n.p., 1868), 94.
	Leominster	William A. Emerson, <i>Leominster Massachusetts Historical and Picturesque</i> (Gardner, Mass.: Lithotype, 1888), 90.	
Cumberland	Falmouth (ME)	William Willis, <i>The History of Portland From 1632 to 1864...</i> Second Ed. (Portland: Bailey & Noyes, 1865), 527.	William Willis, <i>The History of Portland From 1632 to 1864...</i> Second Ed. (Portland: Bailey & Noyes, 1865), 542.
	North Yarmouth	<i>History of Cumberland Co., Maine...</i> (Philadelphia: Everts & Peck, 1880), 341.	
	Cape Elizabeth	<i>History of Cumberland Co., Maine...</i> (Philadelphia: Everts & Peck, 1880), 253. [Note: Declaration of Independence copied into town records.]	<i>History of Cumberland Co., Maine...</i> (Philadelphia: Everts & Peck, 1880), 253.
	Gorham	Josiah Pierce, <i>A History of the Town of Gorham, Maine</i> (Portland: Foster & Cushing, 1862), 122.	
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