



THE PLYMOUTH COLONY PATENT: setting the stage

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The legal arrangements under which the Pilgrims journeyed to America and established their colony, and which, ultimately, resulted in the colony's demise in 1692 are among the most confusing aspects of the Plymouth experience. The "correct" way to proceed, as outlined in the surviving documents (and many documents do not survive), did not always reflect how affairs were actually conducted. And the entire system of establishing and governing colonies was so new and experimental that rules were often changed to meet new circumstances (and information on how and why these changes occurred is generally incomplete). As a result, scholars frequently disagree about what actually did happen! What follows is, therefore, not a definitive answer but the scenario that seems most likely.

First, let's set the stage.

In the 16th century, Europe expanded its boundaries as voyages of exploration brought increased geographical knowledge and an interest in faraway lands. At the same time, an increase in personal wealth and the development of capitalism led to the rise of both a very wealthy landed aristocracy and a rich merchant class possessing money (and, therefore, political clout) and the ambition to make even more money. The marriage of these factors resulted in new "financial opportunities" - schemes by which adventuresome aristocrats and rich merchants would make a profit on their money by investing in colonies.

Making money in colonies required a lot of money to begin with, more than even the richest aristocrats or merchants had. So they banded together into "companies," pooling their capital until they had enough to fund a large and potentially profitable project.

Companies were not a new invention; they grew out of medieval guilds. The earliest companies were partnerships, incorporated by a royal patent (or permission), and given monopolies on trade. One early example was the Company of Merchant Adventurers of the City of London, who had an official monopoly on the cloth trade.

Why would the crown grant a royal patent? Because the crown would gain import duties and taxes, and the commercial venture - for the ultimate benefit of the country - would be managed and expanded by knowledgeable people at no expense or risk to the crown. The advantage to the company, of course, was that all business flowed through its hands.

These early companies would vote in members who would pay a fee and then be allowed, using their own

capital, to trade under the rules of the company.

The next organizational development in “companies” was called a “semi-joint stock company,” wherein those members who chose to participate in an individual venture would pool their capital. Each venture would be separately financed.

The third organizational development was the full joint stock company, officially incorporated, receiving a royal patent giving a monopoly to develop ventures in a particular geographic area. Anyone willing to subscribe and become liable for dues and assessments could be a member; the majority were investors who were interested purely in dividends and returns. A small governing council would set policy and determine which ventures the company would back. This was the most powerful form of company and could raise the considerable capital needed for colonization - money for ships, for supplies, to support a settlement in its early years, to pay an ambassador to the crown (patents were not easy or inexpensive to obtain).

The fourth type of company is a voluntary association, in which the members were often referred to as “Associates.” A voluntary association is very similar to the joint stock company but is unincorporated and without a royal patent.

Let’s fast forward now to the year 1615.

A number of joint stock companies with royal charters had been established in England. There was an East India Company, a Muscovy Company and a Bermuda Company. There were also two Virginia Companies, both with royal charters that split the monopoly on colonizing British North America.

The Virginia Company of London was in charge of an area from the Carolinas to northern New Jersey. The Virginia Company of Plymouth (England) was in charge of the area from southern New Jersey to Maine. (Yes, there was an overlap.) In early 1620, however, the Virginia Company of Plymouth went out of business and, when the Pilgrims sailed, the Company was in the process of being reorganized as the Council for New England.

The Virginia Company of London had authorized the settlement at Jamestown. Jamestown was the official arm in North America of the Virginia Company of London and a participant in the Virginia Company’s royal charter. The Virginia Company identified the settlers, outfitted them, sent them over and supported them. The process was slow, however. The settlement was neither cohesive nor well managed, and the colony – and the company - suffered financial difficulties.

So, in 1617, the Virginia Company of London came up with a new idea to help Jamestown out of its financial difficulties: “particular plantations.” Particular plantations were like franchises. Particular plantations were under the jurisdiction of the official governing body (in this case, Jamestown) but had some independent rights. Since particular plantations were not official arms of the Virginia Company, they were not regarded as having a royal patent. The Virginia Company was **not** responsible for the financial well being of the particular plantations; the particular plantations were responsible for themselves and, in fact, would pay taxes to Jamestown.

The first patent obtained for the Pilgrim voyage to America was a patent from the Virginia Company of London for a particular plantation to be settled under the jurisdiction of Jamestown. The patent was granted in the name of John Wyncop, a minister in the household of the Countess of Lincoln (compacts and patents had to be granted in a personal name, they were not granted to corporate groups). John Wyncop died; the process necessarily began again.

The next patent obtained for the Pilgrim voyage to America was a patent for a particular plantation, granted by the Virginia Company of London to John Peirce on February 2, 1620. This is the “First Peirce Patent” and the

text does not survive. We assume, however, that it followed the pattern set down by other patents for particular plantations, which gave permission to attempt a settlement within the jurisdiction of Jamestown.

The Pilgrims sailed, landed outside of the jurisdiction of Jamestown and the Virginia Company of London (being north of northern New Jersey). They landed instead in the territory newly under the jurisdiction of the Council for New England. Since they had no legal “paper” giving them permission to settle where they had landed or to construct a government, the Pilgrims drew up the Mayflower Compact as a personal, interim agreement. It governed the conduct of the settlers and was to remain an embodiment of the guiding principles for Plymouth Colony, but had no force in law as recognized by any outside authority.

When the *Mayflower* returned to England in April of 1621, the Pilgrims sent back a request for another patent for a particular plantation. They asked, in effect, for permission to remain where they already were. This time, the request went to the newly established Council for New England, which had jurisdiction over the Plymouth area. Incorporated on November 3, 1620, under the name of “The Council Established at Plymouth, in the County of Devon, for the planting, ruling, ordering, and governing of New England in America,” the corporation consisted of 40 patentees; most were persons of distinction, 13 were peers. The records of the Council are, unfortunately, far from complete. Most of the records are lost; the few remaining records date from 1622-1623.

The Pilgrims’ request was granted in 1621 with the document known as the Second Peirce Patent.

Like the first patent, the Second Peirce Patent gave the Pilgrims permission to attempt a settlement. This “permission to take a chance” was good for seven years. If, at the end of seven years, the settlement were successful then a new “permanent” patent would be issued; if the settlement was NOT successful then all rights reverted back to the Council for New England. The Second Peirce Patent said that the settlement (corporately, not individually) would receive 100 acres for every person who moved to the settlement who managed to stay in the settlement for three out of the seven years, or who died in the attempt. The settlers were responsible for developing their own infrastructure and maintaining magistrates and local government; they had the authority to make laws and govern themselves (limited according to English custom and usage) and, once the seven years were up, could apply for the permanent charter specifying the colony’s actual physical boundaries.

The earliest surviving state document for New England, the Second Peirce Patent is on display in Pilgrim Hall Museum. It is signed by five wealthy, influential and adventurous Englishmen: Lennox, Hamilton, Warwick, Sheffield and Gorges. Click for each of their extraordinary stories!

the finale

The provisions of the Pierce Patent were met by the Pilgrims when their settlement survived for seven years. The Pilgrims, therefore, applied for a new charter from the Council for New England in 1628. The Patent, granted in 1629, is known as the "Warwick/Bradford Patent" because it was signed by the Earl of Warwick and granted in the name of William Bradford, his “heirs and associates.” This patent is also on display at Pilgrim Hall Museum.

The patent, which is very lengthy, reads in part:

"Now know ye that the said Council by virtue and authority of his said late Majesty's letters patent and for and in consideration that William Bradford and his associates have for these nine years lived in New England aforesaid and have there inhabited and planted a town called by the name of New Plymouth at their own proper costs and charges. And now seeing that by the special providence of God, and their extraordinary care and industry they have increased their plantation to near three hundred people, and

are upon all occasions able to relieve any new planters or others of his Majesty's subjects who may fall upon this coast, have given..... "

The Patent then bestows upon the settlement far more than the 100 acres for every person called for in the original Pierce Patent. The lands given consist not only of the area we think of as Plymouth Colony but also territory on the Kennebec in Maine.

In strictly legal terms, the Warwick/Bradford Patent was not a royal patent. The Council for New England held the royal patent, while Bradford and his heirs & associates, as a voluntary association, held a nonroyal patent for a particular plantation within the jurisdiction of the Council for New England.

In 1635, the Council for New England went out of business.

For the next 25 years, Plymouth quietly functioned in a middling sort of way, doing what needed to be done, although often without direct authority from England for its actions.

During this time, "Old" England had been going through dramatic changes, changes that would eventually have considerable impact on Plymouth Colony. James I (King of England in 1620) had been succeeded by his son Charles I. Conflict among differing political and religious views had led to the English Civil War, the execution of Charles I and the government of the Puritan leader Oliver Cromwell. In 1658, Oliver Cromwell died and, in 1660, Charles II was invited to reclaim his father's throne.

Most of the New England colonies, realizing that the newly restored King Charles II might look unfavorably on their Puritan governments, immediately sprang into action. Massachusetts Bay had been established under a royal charter, originally granted by King Charles I. They asked that this royal charter be reconfirmed by his son. Charles II agreed. Connecticut and Rhode Island, in contrast, had charters granted by Oliver Cromwell, the gentleman who had executed the king's father. Realizing their political peril, Connecticut and Rhode Island governors John Winthrop Junior and Roger Williams sailed immediately to England to humbly request new royal charters – which Charles II granted.

Plymouth, which had never had a royal charter, did not ask for one. Instead, Plymouth sent – not the governor, not even a deputy – but a letter! And that letter, asking Charles II to confirm the Warwick/Bradford Patent, seems to have been lost.

Plymouth decided not to pursue the matter.

Charles II's "Restoration" of 1660 marked a new period for England and its colonies. Once England was at internal peace, it could begin to see the importance of the colonies as potential sources of strength in England's struggle for European leadership. The crown, therefore, began to seriously and methodically look at its commercial and colonial policies. And it was horrified by what it found! The colonies, long left to their own devices, were operating independently and in their own interests, not those of the Mother Country. The Crown, therefore, began to try to centralize authority and to institute uniform systems of administration so that England could profit from its colonies.

In 1664, England sent four commissioners to visit Massachusetts, Connecticut, Plymouth and Rhode Island. Their mission was to begin to reassert royal control over the colonies. The Commissioners visited Plymouth in 1665. Plymouth petitioned the Commissioners for a royal charter for Plymouth. The Commissioners instead suggested that Plymouth might be given more secure rights in return for allowing the King to appoint a governor (who would hold a three to five year term) from a list of three men nominated by the Colony.

Plymouth did not accept this proposal and the Commissioners evidently saw no useful purpose in pursuing the matter.

The situation remained at this impasse for more than a decade. King Philip's War, however, brought Plymouth to the attention of the Crown once again.

King Philip's War had been very costly for the Colony - in manpower, in property losses, in the problems of financing an expensive war from a diminished tax base. Perhaps more significant, from the viewpoint of relations between Plymouth and England, however, was the criticism of Plymouth for provoking Philip into starting the uprising. In 1677 Governor Josiah Winslow wrote to King Charles to answer the charges and sent as a gift "King Philip's crown." Winslow gave the letter and gift to his brother-in-law Waldegrave Pelham - who failed to deliver them.

In 1680, Winslow died and was succeeded as governor by Thomas Hinckley. Hinckley sent Deputy Governor James Cudworth, to London to plead for a royal charter. Cudworth, who was over the age of 70, died shortly after he arrived in England. Hinckley then asked that the Rev. Mr. Ichabod Wiswall of the Duxbury Church be sent to England to act as the Colony's agent, but the Duxbury Church voted not to release him.

Even if Hinckley and Plymouth had made more diligent efforts, however, they would probably not have been successful.

It had come to the attention of the Crown that Massachusetts Bay had - among other offenses - been refusing to enforce the Acts of Trade & Navigation. The Crown took this opportunity, therefore, to revise the charter of Massachusetts Bay and reduce its independence. Massachusetts Bay resisted and, in 1684, an English court ruled Massachusetts's charter forfeit.

This was just the opening salvo in an intense effort to consolidate, regularize and centralize all the American colonies. In 1684, the New England colonies - Massachusetts, Maine, Plymouth, Connecticut, Rhode Island, and New Hampshire, plus New York and New Jersey two years later - were consolidated into the "Dominion of New England." Self-governance was replaced with an appointed royal governor and council, who were charged with enforcing all English laws (including religious toleration, a modern virtue not held in high regard in colonial New England). The new dominion claimed title to all New England lands, which were then reissued with fees attached.

Some in New England resisted and resented this effort. Others saw it as a welcome measure of stability in a time of political and financial anarchy, particularly since the first interim governor, Joseph Dudley, declined to exercise many of his new powers.

The accession of a new English king - James II, brother of Charles II - however, brought a new royal governor for the Dominion of New England - Sir Edmond Andros.

Not only did Andros institute policies that were seen as a threat to civil liberties, he was personally arrogant and unyielding. Some of the changes most unpleasant to Plymouth were: taxes imposed without the approval of an elected assembly, imposition of taxes previously instituted in Massachusetts but new to Plymouth, limitations on town meeting that deprived residents of the power of local self-government, annual rent owed by new landholders to the crown, fees for the reconfirmation of previous grants and all estate probates and writs issued only from Boston.

There was no institutional redress. Smuggling became the norm and there were growing incidents of civil disobedience. Then, in 1689, in what is known as the "Glorious Revolution," James II was overthrown and William and Mary came to the throne.

When news of the "Glorious Revolution" reached Massachusetts, Bostonians overthrew Andros, proclaimed William & Mary rulers, and reverted back to separate colony status, establishing committees to govern and

preserve order. In effect, representative government was reestablished by will of the people.

If they were going to maintain their newly recovered civil liberties, the officials of Massachusetts Bay had to immediately demonstrate to the new monarchs that they were not insubordinate anti-royalist anarchists. They wrote to England, justifying their rebellion against a royal official by claiming that Andros was a usurper imposed on them by James II. By committing these acts in the name of William & Mary, they made it possible for William & Mary agree to the separate status of the individual colonies. Andros was sent back to England (he regained favor and later became governor of Virginia).

Thomas Hinckley assumed the governorship of Plymouth Colony again.

That same year (1689), hostilities broke out between the English colonies and the French and their Native allies. Perhaps as a way of showing their loyalty to the new monarchs, the colonies launched a poorly planned expedition against Canada. Plymouth troops participated in an expedition to Quebec in 1690. The campaign was a disaster resulting in severe financial losses and the death of 22 Plymouth men out of a force of 200. The war was not popular and there was disagreement among the towns in Plymouth Colony as to who should lead the troops. Debt was high, taxes rose, the currency became depreciated. Some residents refused to pay the taxes levied to pay for the costs of the war. Matters were not improved by a drought in 1690.

The Colony seemed headed for a complete breakdown in authority and Thomas Hinckley seemed unable to provide leadership for the demoralized and divided residents. John Cotton wrote to Hinckley “Sir, I doubt not of your faithfulness and solicitous care to promote the best interest of this poor Colony ... yet, good sir, I hope you will overlook all such discouraging considerations, and at this day stand forth and play the man.”

It was at this low point in Plymouth’s history that the English government - now under the new King William III - began once again to systematically look at the status of all the New England colonies.

Massachusetts was very active in lobbying the Crown. Among its agents in England was the eloquent Increase Mather.

Plymouth, however – the most vulnerable of all the colonies – took almost no action. Increase Mather advised Governor Hinckley that if Plymouth wanted a charter, it should send money to England immediately to pay for fees. Mather warned “You may do it too late: you cannot do it too soon.” Hinckley proposed to the Plymouth General Court that money be raised but his proposal was denied.

Plymouth Colony faced three possibilities: being annexed by Massachusetts Bay, being annexed by New York, or self-government under a royal charter.

Massachusetts Bay, having been told that any move for a separate charter for Plymouth might jeopardize their charter, had been lobbying for Plymouth to be joined to it. The effort was not entirely unopposed.

Among the representatives from Massachusetts Bay presenting petitions to the English crown on behalf of the Bay Colony was a Plymouthean – the Rev. Mr. Ichabod Wiswall of Duxbury. Wiswall was in favor of an independent charter for Plymouth and managed to stall the movement to annex Plymouth to Massachusetts Bay. He received little support from Plymouth Governor Hinckley, however. Hinckley was reluctant to give strong support to a move for an independent charter. Because of the colony’s internal unrest, he felt that self-government, even if it could be achieved, was not likely to last and he feared above all being annexed to New York.

Governor Henry Slaughter of New York (a crown appointee) was known to be harsh towards any signs of colonial independence. It was even said that Slaughter was urging Plymouth Colony residents not to pay their taxes, in an effort to foment trouble and make annexation by New York easier.

Massachusetts was ultimately successful in 1691 in obtaining a compromise royal charter that granted many – but not all – of the liberties it sought. The new Massachusetts royal charter guaranteed property rights and many aspects of representative government, but kept the crown-appointed royal governor. And the new charter, with little official opposition from Plymouth, included Plymouth as part of the Massachusetts Bay Colony.

Although officially granted in 1691, the new charter did not arrive in Massachusetts – or take effect – until 1692. The dates of Plymouth Colony are, therefore, usually listed as 1620-1692.

SELECTED BIBLIOGRAPHY:

Charles M. Andrews. *The colonial period of American history. Volume 1: The settlements.* New Haven: Yale University Press, 1934.

Jeffrey P. Brain. “The Popham Colony, an historical and archaeological brief” in the *Maine Archaeological Society Bulletin*. Volume 43:1, Spring 2003.

Oxford Dictionary of National Biography: from the earliest times to the year 2000. Oxford University Press, c2004.

Richard Arthur Preston. *Gorges of Plymouth Fort.* Toronto: University of Toronto Press, 1953.

Records of the Council for New England. Reprinted from the Proceedings of the American Antiquarian Society for April 1867. Edited by Charles Deane. Cambridge: Press of John Wilson & Son, 1867.

Sir Ferdinando Gorges and his Province of Maine. Edited with a memoir and historical illustrations by James Phinney Baxter. Boston: Prince Society, 1890.

Alan Stewart. *The cradle king: a life of James VI & I.* London: Chatto & Windus, c2003.

Lawrence Stone. *The crisis of the aristocracy, 1558-1641.* London: Oxford University Press, 1967.

James Taylor. *Great Historic Families of Scotland.* Originally published in London: J.S. Virtue & Co., 1887.

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