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

\(^1\)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.


peaceable submission to a new form of government.”

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 assumed that Hutchison 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.”

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.

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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.
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
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 province-wide military mobilization, created the conditions necessary for the outbreak of war. 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 sociocultural 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”

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THE ATTACHMENT OF THE PEOPLE

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."

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." 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."


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 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. 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. 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.

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

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12 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. *From Resistance to Revolution*, pp. 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), pp. 286-87.
to fear, but they did not prescribe an obvious, immediate program to pursue once inhabitants reached their tipping point.\textsuperscript{13} The ordinary American “insurgents” Breen rightly restores to a prominent role certainly set out to “preserve their rights” 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.\textsuperscript{14}

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.\textsuperscript{15} 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.\textsuperscript{16}

\textsuperscript{13}Bushman, \textit{King and People}, p. 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, \textit{Revolutionary Politics}, pp. 231-33 notes that in 1774 some suggested the possibility of returning to the 1629 charter.

\textsuperscript{14}Breen, \textit{American Insurgents}, pp. 242-43.


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 with ordinary inhabitants as with the more lawyerly colonial elites. 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.

In Massachusetts, defending corporate rights meant preserving the charter. 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

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17 Breen, “Ideology and Nationalism,” p. 31 and American Insurgents, p. 4.
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 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’ 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 post-war 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 males—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’ 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

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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.

Charter Rights

On the eve of the Seven Years’ War, Massachusetts colonists imagined themselves on the edge of a vast imperial frontier. The province accepted its role as the region’s guardian against sporadic raids by Indians and Canadians. At the start of the new conflict, however, Massachusetts faced the concerted forces of imperial France. The specter of French aggression combined with the seemingly intractable geopolitical inequities of the British colonial system—some colonies were “covered” by others and failed to contribute to the common defense—underscored the province’s vulnerability. Bay colonists assumed that they could not resist the French threat without substantial metropolitan assistance. “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 [sic] will not be plac’d upon the ability of his majesty’s Subjects in America for their own Defence.”21 Massachusetts’ leaders, mindful of the enormity of the task ahead of them and the unpredictable dynamics of inter-colonial cooperation, sought to regulate their province’s military efforts in the best interests of both colony and empire. They turned to the privileges and rights guaranteed by the Charter of 1691.22 Constitutional arrangements within its “limits” determined how Massachusetts would participate in

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22 In late 1754 and early 1755, the Massachusetts General Court considered various draft proposals for the Albany Plan of Union. See, Robert C. Newbold, The Albany Congress and Plan of Union of 1754 (New York: Vantage Press, 1955), pp. 143-55. For the reception of the Albany Plan and other proposals in Massachusetts, see Timothy
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 during the Glorious Revolution. Massachusetts agents petitioned the new Protestant monarchs King William and Queen Mary to “re-establish their corporation and grant them their laws and former privileges.”

When William and Mary granted the 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.

The legitimacy that clung to the charter as a consequence of its post-revolution origins proved a fortunate safeguard for Massachusetts, not least because the frame of government appeared more idiosyncratic as time passed, resembling an amalgam of

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23Quoted in Henry R. Spencer, Constitutional Conflict in Provincial Massachusetts (Columbus, Ohio: Press of Fred J. Herr, 1905), p. 15.

royal and corporate government. Under the new charter, the governor was appointed by the Crown, not elected as he had been under the 1629 charter. Although the presence of this royal official appeared to reduce the colony’s autonomy, the charter offered colonists important offsetting concessions. Foremost was the charter’s explicit establishment of a House of Representatives. 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 and mandated their election by the members of the House voting 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.

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 Martial 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. As impressive


\[^{26}\text{Spencer, Constitutional Conflict, p. 17.}\]

\[^{27}\text{In addition, a 1726 “Explanatory Charter” was issued to resolve disputes between the House and the governor over the House’s right to adjourn itself and the governor’s right to veto the House’s selection for speaker. The House voted on and accepted the Explanatory Charter. Bushman, King and People, pp. 77-78.}\]

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.”

This power over the province’s purse enabled the General Court to dictate both the size and period of service 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 funds raised by the General Court were “to be Issued and disposed of by Warrant under the hand of the Governor...with the advice and Consent of the Councill.” Governors assumed this meant they could use province funds at their discretion. Yet the House persisted and the controversy was only resolved in the early 1730s when the Privy Council issued an instruction denying that the charter granted the House the right to approve warrants. Conceding this specific point, the House proceeded thereafter to exploit a loophole in the Privy Council’s instruction that acknowledged the representatives’ power to insert “one or more clauses of appropriation” in their supply bills. Thereafter, the House composed lists stating 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.”

By mid-century, the House had grown accustomed to leveraging its financial powers into control over important aspects of defense policy, including the size

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of frontier garrisons and expeditionary forces as well as the wages of officers and men in the province pay.\textsuperscript{31}

The Massachusetts charter granted inhabitants another, even more unassailable means to control military affairs by qualifying the governor’s power to lead forces both “within or without the limitts” of Massachusetts, 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.”\textsuperscript{32} This “limits provision” found its way into the final version of the 1691 charter because of the efforts of the agents who pressed for its inclusion during negotiations with the Committee of Trade.\textsuperscript{33} The provision contrasts sharply with the language of the 1688 commission that empowered the detested governor of the Dominion, Sir Edmund Andros, “to tranferr” 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.\textsuperscript{34}

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 passed laws at mid-century “restrict[ing] their militias to service within their respective colonies.” The imperial administration undoubtedly viewed these laws as detrimental to good governance. When

\textsuperscript{31}Spencer, \textit{Constitutional Conflict}, pp. 120-21. Thomas Pownall, in the winter of 1757-58, questioned the assembly’s right to set the terms of the province’s garrisons, arguing that this fell to the governor; he eventually acquiesced to the House’s bill. Pencak, \textit{War, Politics, and Revolution}, p. 157.

\textsuperscript{32}Thorpe, ed., \textit{Federal and State Constitutions}, 3:1884.


the Virginia Burgesses tried in the mid-1750s to insert a stipulation in its appropriations bills restricting the colony’s forces from marching beyond the colony’s borders, they received a rebuke from the Board of Trade that persuaded them to drop the restriction in future years.\textsuperscript{35} 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 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.”\textsuperscript{36} The charter’s limits provision also enabled the General Court to determine whether men could be impressed into the service. The requirement that the governor first obtain “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.\textsuperscript{37} Authorization for the size of the forces, the length of their service, their destination, and the manner by which they were raised rested in the House of Representatives and the elected Council.

Both before and during the Seven Years’ War, the province’s governors largely concurred with the General Court in its

\textsuperscript{35}Greene, \textit{Quest for Power}, pp. 299, 306.


\textsuperscript{37}William Douglass, \textit{A Summary Historical and Political, of the First Planting, Progressive Improvements, and Present State of the British Settlements in North-America}, 2 vols. (London: R. Baldwin, 1755), 1:474. Moody and Simmons, eds., \textit{Glorious Revolution in Massachusetts}, pp. 544, 561. 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 Seven Years’ War, but the provision’s wording left impressment to the discretion of the assembly. The 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.” 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 . . . .” The final version substituted the phrase “their . . . consent or the Consent of the . . . Generall Court.” Emphases added.
interpretation of the charter. 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 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.”

Governor Shirley similarly acknowledged the 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.”

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 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 troops “such restrictions & limitations as have been thought proper.” Any deviations from this agreement violated the General Court’s charter rights.

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38Hutchinson quoted in Pencak, America’s Burke, p. 28.
So seriously did provincial and Crown officials take the charter’s limits provision that many of their actions are otherwise inexplicable. In August 1757, when news of the impending fall of Fort William Henry reached Boston, Thomas Pownall, the newly arrived governor, 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 without the authorization of the full General Court, which could not occur while the House was in recess. 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. 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.” Explaining his handling of the matter to the reconvened House on 16 August, 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.” In the end, the retreat of the French obviated the need for the militia. Yet Pownall’s complicated legal parsing of his authority revealed how loath he was to infringe on the assembly’s charter rights.

43 Pownall to House and Council, Journals of the House of Representatives of Massachusetts (Boston: Massachusetts Historical Society, 1919-1990), 34:82, 83 (hereafter referred to as House Journals).
44 For Pownall’s defense of the governor’s rights to command fort garrisons and to exercise executive authority under charter, see his letter 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 2 vols. (New York: The MacMillan Company, 1906), 1:382-86 (hereafter referred to as Pitt Correspondence); Thomas Hutchinson to Jeffrey Amherst, May 1760, in John W. Tyler and Elizabeth Dubrulle, eds., The Correspondence of Thomas Hutchinson, Volume 1:1740-1766 (Boston: Colonial Society of Massachusetts, 2014), 1:144.
The text of the charter appeared in print numerous times between 1692 and 1759. 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 invaluable” privileges were to be passed from one generation to the next. 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.” 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.”


General Court to Pownall, 16 Dec. 1757, House Journals, 34:269.

An Astronomical Diary: or an Alamanck for…1755 (Boston: Draper, 1754) in Early American Imprints, Series I, 7143: http://docs.newsbank.com.proxy.its.virginia
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. They did not need to invoke the kinds of constitutional arguments that their counterparts in other provinces employed because it was generally acknowledged that royal charter provisions were superior to all other pronouncements.49

By the mid-eighteenth century, few in Massachusetts worried that their charter could be revoked. The passage of time worked in the colony’s favor50 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. 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.51 Massachusetts, by contrast, enjoyed the ideal constitutional arrangement to prosecute a war effort on behalf of the Empire that was suited to an understanding of its own abilities and self-interest.

49Spencer, Constitutional Conflict, p. 19; Greene, Quest for Power, p. 16.

50The Board of Trade (BOT) had expressed its desire to revoke all the colonial charters in 1701 and 1721. Council of Trade and Plantations to the King, 26 Mar. 1701, in Cecil Hedlan, ed., Calendar of State Papers, Colonial Series, America and West Indies (London: His Majesty’s Stationery Office, 1910), 19:141-43 and Council of Trade and Plantations to the King, 8 Sept. 1721, in Hedlan, ed., Calendar of State Papers, Colonial Series, America and West Indies (London: His Majesty’s Stationery Office, 1933) 32:445-49. For an overview of such attempts, see Yirush, Settlers, Liberty, and Empire, pp. 91-112, 185-91, 199, 218.

Charter Rights Invoked

Massachusetts compiled a laudable record during the French and Indian War; its contributions to the British cause were 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' mobilization was the frequency with which provincial leaders, with the governor's active involvement, made critical decisions about the war 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, the use of impressment, and the geographical scope of deployment. All of these considerations took place simultaneously each year, and a determination about one issue often affected the others.

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. Leaders 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. Individuals and their families also benefitted from the General Court's discretion. Soldiers who enlisted or were pressed into provincial ranks received assurances about their service. These terms by no means guaranteed that their time in the army would be pleasant or safe; promises about dates of discharge, especially, could not always be fulfilled in practice; yet the General Court's ability to establish certain conditions for the troops made service in the provincial forces more tolerable than it might otherwise have been. The court 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. By virtue of the charter, colonists believed they possessed the right to control most aspects of the province's military affairs, and their experience of exercising that right 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.\textsuperscript{52} The assembly then evaluated the urgency of the security situation, the financial state of the province—including Massachusetts’ chances of being reimbursed—and the cumulative effects of the 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 militia. This did not include 2,000 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.\textsuperscript{53}

The number of men authorized in subsequent years fluctuated in response to considerations of finance, security, and previous manpower demands. In 1756, Shirley presented an ambitious plan calling for simultaneous advances by provincial


forces toward Crown Point and western New York. The General Court initially refused to levy any men for the campaigns, pointing to its exertions of the previous year and the lack of funds for enlistment bounties. Only after Shirley offered the province a loan of £30,000 out of crown funds he controlled as commander of British forces in North America did the assembly agree to raise 3,000 men, which it increased to 3,500 after learning that Connecticut had raised more than expected.54

In 1757, the new British commander, Lord Loudoun, requested only 1,800 men from Massachusetts. The small number, combined with a partial reimbursement from Britain for expenses incurred in 1755, elicited no objections from the assembly.55 By spring 1758, however, with no word of reimbursement for 1756 expenses, the General Court hesitated to authorize any men for the year’s campaigns. The deadlock was broken on 10 March 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 remained in place.56 In the following year, 1759, the assembly at first approved 5,000 men, eventually augmenting that number with an additional 1,500.57

Decisive British victories in 1759 justified reducing the size of Massachusetts forces. The General Court nominally authorized

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5,000 men for 1760, but the actual number recruited fell far short of this. 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. In 1762, despite Bernard’s request for the same number as in 1761, the General Court at first granted only 2,000 troops but 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 enlist voluntarily in one of the king’s regular regiments.

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. The mandated period of service for the 4,300 men in provincial pay in 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 1 November 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

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THE ATTACHMENT OF THE PEOPLE

1760 to 5,000 men, the period of service authorized by the General Court lengthened slightly—to 31 November.61

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 1 June—or at least 1 May—1762 as the date of the men’s discharge. The General Court approved 1 July 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. Persuading an assembly to keep its soldiers on duty through the winter, he boasted to William Pitt, “was a new point never before gained in any of the provinces, at least not in this.” 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, Amherst acquiesced noting that the Massachusetts troops “will, in all human probability, be discharged long before the First day of July 1762.”62 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 31 October.63

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 Massachusetts’ Provincials whose time of Service had expired,” Bernard urged Amherst in 1760 to release troops serving at Louisbourg and Halifax. 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 them. “[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.” Ultimately, commanders who refused to release Massachusetts inhabitants from their posts infringed on rights defined by the charter. The numerous Massachusetts soldiers who refused further duty over the course of the war premised their actions on the sanctity of the contract offered to them by their assembly.64 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 authorize the governor to complete the levy by drafting men into the provincial forces. Massachusetts’ 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 French and Indian War, the province’s territory had been divided into thirty-two militia regiments, each 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

64Bernard to Amherst, 27 Sept. 1760 and 30 May 1763, Bernard Papers, 1:55, 372. For mutinies, see Anderson, A People’s Army, pp. 187-94.
Court’s prerogative to decide whether to make up the difference by compelling some inhabitants to serve outside Massachusetts. Whenever the assembly resorted to impressment, it 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 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 8 September 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 had approved as emergency reinforcements for the army in New York. Indeed, the assembly gave no indication the following spring that it viewed impressment as an inevitable part of the mobilization process. On 4 March 1756, it approved an army of 3,500 men. Only after 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. 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 be full and a draft unnecessary. The assembly proved more reluctant the following year when the size of the provincial army increased. After approving 7,000 men on 11 March 1758, it waited until 20 April to debate its approval of impressment. Pownall reported that the General Court’s subsequent act enabled him to impress the 2,540 men needed to complete the

levy.\textsuperscript{68} In 1759 the General Court agreed in mid-March to a date—6 April—when the governor could begin the press. 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.\textsuperscript{69}

While never popular, the General Court’s reluctance to authorize impressment, as well as the bounties offered to encourage voluntary enlistment, made the practice more palatable. Moreover, even on those occasions when the legislature consented to impressment, that it was carried out by militia officers appointed by the governor insulated elected provincial leaders from potential criticism. The General Court’s policy of allowing impressed men to pay a £10 fine to avoid it undoubtedly benefited some men more than others. Petitions for relief suggest that abuses of impressment protocol by militia officers elicited sharper objections.\textsuperscript{70}

The General Court stopped authorizing impressment in April 1759. After consenting to a press to raise the balance of the 5,000 men approved that year, the assembly asked 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 unprecedented bounties to 1,500 additional men who would enlist voluntarily.\textsuperscript{71} The General Court refused to authorize impressment the following year, even though both Governor Pownall and Lt. Governor Hutchinson repeatedly noted that


\textsuperscript{70}See for example, Complaint against Capt. Johnson, 30 Dec. 1756, Mass. Archives, 76:156.

\textsuperscript{71}House and Council to Pownall, 28 Mar. 1759, House to Pownall, 16 Apr. 1759, \textit{House Journals} 35:320, 337-38.
enlistment returns fell far short of their goal. In 1761 and 1762, the General Court specified that provincial troops were to be raised “by enlistment only” and never considered impressment. The decision to curtail the practice enhanced the legislature’s standing among inhabitants who recognized that they would not be forced into service unnecessarily.

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.” 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 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.” The assembly’s instructions intended 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 were 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

72 Pownall to House and Council, 29 May 1760, House Vote, 30 May 1760, Hutchinson to House and Council, 3 June 1760, Hutchinson to House and Council, 17 June 1760, House Journals, 37:8, 11-12, 20-21, 64.

73 Vote on His Excellency’s Speech, 4 Apr. 1761, Bernard to House, 2 June 1761, Resolve, 16 Apr. 1762, House Journals, 37:293, 38:19-20, 308-9.

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

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.”

Like other aspects of mobilization policy, geographical restrictions changed slightly from year to year. In 1758 and 1759, the assembly specified that the troops were to be used only “for the intended Expedition against Canada.” In 1760, it allowed them to garrison forts in Nova Scotia and Louisbourg. Bernard in 1761 hesitated to approach the legislature for men 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, that the northern colonies possessed “different Plans of Operation” and “none of the Men which are now to be raised in this Province shall be sent Southwest of the Deleware [River].” The assembly responded first by prohibiting the troops from being sent south of Albany but eventually acquiesced to the Delaware line. Although it probably made no practical difference, the General Court returned in 1762 to its preferred prohibition against service “Southward of Albany.”

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76 Motion, 18 Feb. 1756, House Journal, 32:342.
77 The phrase comes from the house vote approving 7,000 men for 1758, Vote, 11 Mar. 1758, House Journal, 34:335. The General Court’s legislation for 1757 specified only that a 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.” 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 Journals, 35:273-75 and Acts and Resolves, 4:191-94.
80 Resolve relating to levies, 3 Mar. 1762, House Journals, 38:287-88. Earlier in the year, the House had informed Bernard that it would not agree to raise any soldiers
Geographical restrictions benefited both the men in the ranks and the General Court. As with the duration of service and impressment, the variations in the geographical restrictions belied 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, Bernard informed Amherst that two regiments raised that year desired to be sent to Nova Scotia or Canada. Another regiment wished to serve in northern New York.\footnote{Bernard Papers, 1:104b.} Amherst agreed on the destinations but altered the distribution, sending two regiments to New York and just one to Nova Scotia.\footnote{Jeffrey Amherst to Francis Bernard, 26 Apr. 1761, Bernard Papers, 1:106-7.} Since the General Court’s only stipulation that year prohibited the men’s deployment south of the Delaware, Amherst acted within his prerogatives, 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.\footnote{Francis Bernard to Jeffrey Amherst, 14 Jun. 1761, Bernard Papers, 1:118.} Ordinary soldiers thus exerted an indirect influence on military policy, albeit one that still depended on the legislature’s decision not to authorize impressment.

The General Court’s ability to set geographical restrictions probably saved the lives of numerous Massachusetts soldiers during the Seven Years’ War. Unlike Connecticut, Rhode Island, New York, and New Jersey, Massachusetts contributed no men in 1762 to the British campaign in Cuba. During the War of Jenkins’ Ear, Massachusetts had joined other New England forces in Britain’s deadly Caribbean campaign. The survival rate proved no better for the Connecticut men who accompanied British forces to Cuba two decades later. Connecticut’s leaders, fearing that refusal to comply with British requests might result in the abrogation of their corporate charter, agreed to allow voluntary enlistment for the expedition.\footnote{David Richard Millar, “The Militia, the Army, and Independency in Colonial Massachusetts” (Unpublished PhD Diss., Cornell University, 1967), pp. 166-67. For...}
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 while contributing to Britain’s military needs. The General Court’s close management of the war effort represented the strongest assertion of corporate rights prior to the revolution. The royal governor’s active collaboration in the mobilization process buttressed the authority of the province’s charter, and unlike officials in Connecticut, Massachusetts’ leaders believed their conduct rested on a firm constitutional basis.

Thus when General Thomas Gage requested 700 men from Massachusetts to help defeat Pontiac in late 1763, the House simply refused. “[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.85 Disappointed but powerless, Bernard replied he would pass along the House’s message to the ministry.86 For nearly a decade, the assembly had used its powers to ensure that Massachusetts’ 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.

**Charter Rights Affirmed**

Massachusetts colonists entered the postwar period confident their charter rights guaranteed their province’s status within the British Empire. Their challenging yet ultimately successful experience during the French and Indian War left them with an even greater appreciation for the distinctive set of rights granted by the 1691 charter—a charter whose sanctity,
all evidence appeared to indicate, crown and imperial officials would continue to respect. In addition to the frequent acknowledgements of charter rights that occurred during the wartime mobilization, the Board of Trade and crown-appointed governors continued to assume that the province’s charter would not be changed—at least not unilaterally. The imperial crisis took place in the context of this widespread assumption about the charter’s inviolability. For a decade, anger directed against Parliament’s claims to supremacy coexisted with a belief in the security of Massachusetts’ corporate rights within the empire.

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. In 1761, many of the established towns in the province insisted on the right of new settlements seeking incorporation to be represented fully in the assembly. “It is certain,” the House told Bernard, who had just complied with his fortieth instruction from the Board of Trade by vetoing incorporation bills, “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. It had done this under a 1692 statute that had received “Royal Approbation.”

The established towns took this stance despite the willingness of many new settlements to waive their rights of representation. Representation in Massachusetts already favored the province’s less populous towns; at a time when the legislature was assessing heavy taxes and distributing other burdens, the last thing the established towns should have desired was to skew the relationship between population and representation even further. Yet the threat to charter rights that would have followed from the precedent of new towns not being represented far

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outweighed concerns about small towns’ disproportionate voting power.\textsuperscript{88}

In the course of reviewing town incorporation acts, the Board of Trade also affirmed the inviolability of the Massachusetts charter. The board itself was responsible for the controversy when it instructed Bernard to veto bills entitling new towns to representation. As the number of representatives increased, the House gained more influence in the election of the twenty-eight member Council.\textsuperscript{89} But the board then 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.” Contradicting its earlier instruction to Bernard, it wrote 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] . . . and has been confirmed by the Crown.” Bernard should employ “Discretion” and “use [his] best Endeavours” to limit the number of 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.”\textsuperscript{90} However ill-advised the charter’s provisions now seemed, the board concluded, they must be upheld.\textsuperscript{91}

\textsuperscript{88}For a discussion of the charter’s provisions concerning the disproportionate nature of representation, see Douglass, A Summary Historical and Political, pp. 488-91, 501-6.
\textsuperscript{89}Bernard to the BOT, 3 Aug. 1761, Bernard Papers, 1:130-31.
\textsuperscript{90}BOT to Bernard, 25 Nov. 1761, and to Bernard, 11 Jun. 1762, Bernard Papers, 1:160, 229.
\textsuperscript{91}This followed a 1758 pronouncement in which the board decided it was “doubtful whether it would be advisable in the present situation of things to attempt an effectual remedy” of the House’s influence in the province’s government. [Board] 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), p. 189. In 1763 the Board again inquired about town incorporation. In his reply, Bernard reminded the board of its earlier correspondence. BOT to Bernard, 8 Feb. 1763, to BOT, 30 Apr. 1763, Bernard Papers, 1:323, 353. The board generally opposed the incorporation of new towns and extensive powers of self-government enjoyed by existing towns making its recognition of the charter’s authority more revealing. Mancke, Fault Lines of Empire, pp. 158-59.
Even Bernard, a defender of Parliament’s sovereignty, stopped short at this point of asserting that the Massachusetts charter should be altered without consulting the inhabitants. He offered a number of suggestions for improving what he considered a defective constitution—though on this point Bernard maintained that Massachusetts was “better disposed to a more perfect establishment than Any Government I am acquainted with, either Royal or other.”

In the early 1760s, Bernard proposed to transform the Council “as near as possible” into “the house of Lords” by appointing colonial life peers. 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 joined to Massachusetts, which in turn would give up its jurisdiction over Maine. 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.

Having governed the Bay Colony in war and peace, both Bernard and Hutchinson understood the extent to which inhabitants valued their charter. While Bernard never defended the status of charters as strongly as his predecessor, Thomas Pownall, for much of the 1760s he affirmed that before any Massachusetts reforms were enacted “the consent of the Province should be first obtained.” Any transfer of territory colonists claimed by virtue of their charter “should be done by a Convention with the Massachusets [sic].” Writing to Richard Jackson,

92 Bernard, Answers to Queries of the BOT, 5 Sept. 1763, Bernard Papers, 1:414.
93 Bernard, Answers to Queries of the BOT, 5 Sept. 1764, Bernard Papers, 1:413.
94 Bernard to the Earl of Halifax, 9 Nov. 1764, Bernard Papers, 2:154. For Bernard’s plan to redraw colonial boundaries, see his two letters to Richard Jackson, 2 Aug 1763 and 22 Oct. 1764, Bernard Papers, 1:387-88, 2:146-49. William Shirley also drew a distinction between the corporate charters of Connecticut and Rhode Island and the royal charter of Massachusetts, to Sir Thomas Robinson, 24 Dec. 1754, Shirley Correspondence, 2:116-17.
95 Hutchinson to Lord Hillsborough, 9 Oct. 1770, for triennial Council, see Hutchinson to Bernard, 20 Oct. 1770, printed in Boston Gazette, 14 Aug. and 21 Aug. 1775 respectively.
Connecticut’s colonial agent, Bernard noted that any attempt to take land from Massachusetts “by means of a legal exception to the Validity of the Charter” would result in “ill humor, Animosity & litigation.”97 If the “Consent of the Colonies” were determined not to be “absolutely necessary” in a legal sense, he maintained it would be “Very expedient” to procure it.98 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.”99 After the Stamp Act riots, 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.”100 Growing frustrated with the intransigence of the towns and Council, Bernard took a harder line during the Townshend Act protests and wrote bluntly of “the forfeiture of the charter.” When published, this remark earned him the everlasting enmity of Massachusetts Whigs.101

Hutchinson never advocated the unilateral revocation of the province’s charter. Although Whigs assumed the worst of him, Hutchinson argued during 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 not, they will be left without excuse.”102 To Hillsborough, he stated clearly what he expected if the people ever learned that their charter had been altered: “violent opposition.”103

98Bernard to the Earl of Halifax, 9 Nov. 1764, Bernard Papers, 2:158.
100Bernard to John Pownall, 27 Sept. 1765, Bernard Papers, 2:365.
103Hutchinson 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
The Government Act shocked Massachusetts because it appeared to mark a clear reversal of all they had been led to believe about their charter rights during the previous two decades. The most significant part of the act unequivocally changed the charter, replacing the elected Council with one appointed by the Crown. The elected Council had always comprised an unusual aspect of the charter, but it was hardly the only one. 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. During the Seven Years’ War, Massachusetts provincial leaders exercised powers granted to them under the charter, most notably drawing on its distinctive limits provision to regulate mobilization. These rights had not been questioned; they had been affirmed by crown officials so frequently and over so long a period that colonists could not help but conclude that their charter rights rested on a firm foundation and made any break with Britain unlikely.

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. As Massachusetts colonists protested parliamentary claims, they derived legal justification from the charter. Only the outright violation of the charter in 1774 foreclosed the possibility of peaceful opposition by constitutional means and compelled inhabitants to mobilize in a way that threatened the future of royal authority. Seen from this vantage point, colonists were anything but paranoid. For Americans in general, the Massachusetts Government Act appeared especially threatening. If Parliament could alter even the Massachusetts charter, the colonial constitution with

\[\text{comments when a batch of Hutchinson’s letters were first published in 1775. Otherwise it would not have been clear to readers “why the letter [Hutchinson] had written to Hillsborough which had stopped the efforts to alter the Massachusetts constitution was really evidence of his ‘assiduity’ in destroying it.” Bailyn, Ordeal of Thomas Hutchinson, pp. 335-36.}\]

\[\text{104 John Phillip Reid, In a Defiant Stance: The Conditions of Law in Massachusetts Bay, the Irish Comparison, and the Coming of the American Revolution (University Park: The Pennsylvania State University Press, 1977), p. 162.}\]
perhaps the soundest claim to permanence, then their customary, proprietary, or corporate constitutions and charters offered tenuous legal protections.\textsuperscript{105}

The people of Massachusetts accepted war in 1775 to preserve their charter. They did so, in large part, because that charter had enabled them to persevere through harrowing times. Bay colonists’ concern for protecting their peculiar set of corporate rights might appear at odds with a more cosmopolitan understanding of the greater imperial good, but for Massachusetts inhabitants, charter rights provided the means to participate and prosper within the British Empire. Their impact during the French and Indian War had been felt on every level of government and society, from the province down to towns, families, and individuals.\textsuperscript{106} Given the charter’s critical importance in the province’s recent past, Massachusetts colonists remained attached to it. They refused to face an uncertain future without it.

\textsuperscript{105}Ammerman, \textit{In the Common Cause}, p. 7; Greene, \textit{Quest for Power}, p. 443.

\textsuperscript{106}A comprehensive study would assess the economic and financial state of the province in the post-war period and the extent to which this was attributable to the General Court’s management of mobilization. Evidence suggests that the assembly’s regulation of military affairs, which included reimbursement funds, stabilized Massachusetts public finance. New province taxes levied annually by the legislature declined after 1762. Extant treasury records reveal that Massachusetts paid off its debt by the end of 1773. Despite its imperial bias, a fair analysis of Massachusetts’ postwar financial state is Lawrence Henry Gipson, \textit{The British Empire Before the American Revolution}, vol. 10: The Triumphant Empire: Thunder-Clouds Gather in the West, 1763-1766 (New York: Knopf, 1961), pp. 53-62. For new provincial taxes levied by year, see J. B. Felt, “Statistics of Taxation in Massachusetts,” \textit{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, \textit{War, Politics, and Revolution}, pp. 154-55, 177m.21 errs on the amount of taxes actually levied in these years. See for instance \textit{Acts and Resolves}, 4:883-99 and \textit{Acts and Resolves}, 5:89-106.

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