

## **Introduction**

### *OVERVIEW - OLD DARTMOUTH PROPRIETORS RECORDS*

Sally M. Aldrich, BA in History & Paralegal

June 13, 2018

I am Sally Aldrich and in 1987 I received a BA in History from University of Massachusetts-Dartmouth, formerly Southeastern Massachusetts University. Participating in its History Honors Program, I did a thesis on early land ownership in Dartmouth before 1800, which is the basis of this talk.

[thesis title page]

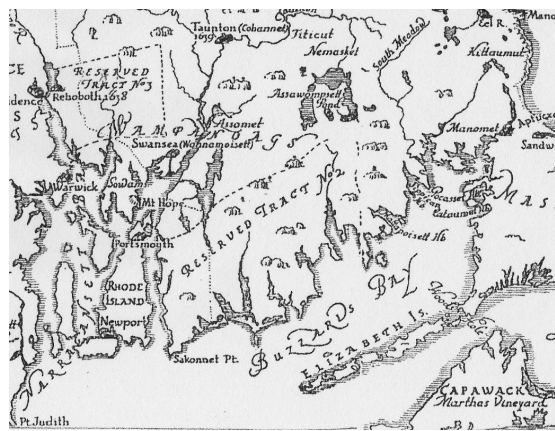
When I say "Dartmouth," I mean the lands of Westport, Dartmouth, New Bedford, Acushnet and Fairhaven, which constituted Old Dartmouth until 1787, when the towns first split apart. And in the case of Westport, it included some of Tiverton and Little Compton.

[Chronology]

I have provided a handout giving a chronology of important events between 1600 and 1800 which affected this region of New England as they relate to my talk.

My discussion today is about the English settlers in this region, ignoring Native Americans, their legitimate land claims, and mentioning only briefly the 1652 Indian deed to William Bradford.

***THE DARTMOUTH PROPRIETY:  
Land Ownership in the Township Before 1800***



An Honors Thesis  
Presented to the Faculty of the History Department  
of Southeastern Massachusetts University

by Sally M. Aldrich

May 1987

OVERVIEW - THE DARTMOUTH PROPRIETY  
SALLY M. ALDRICH - JUNE 2018

CHRONOLOGY:

1620	<i>Mayflower</i> lands in Plymouth, followed by more Europeans
1627	Plymouth Old Comers (Purchasers) buy out Merchant Adventurers
1629	Warwick Patent given to Plymouth Old Comers by English king
1641	Reserved Tract No. 2 (became Old Dartmouth) given to Old Comers
1652	Dartmouth Propriety formed (34 shares)
1652	Indian deed for the Dartmouth Propriety (recorded 1654)
1660	Approximate date of first Dartmouth settlements
1664	Town of Dartmouth chartered by Plymouth General Court (entity for inhabitants, separate from land-owning Propriety)
1675-76	King Philip's War - Old Dartmouth houses destroyed & town briefly abandoned
1684	Mill Share created (the 35th share of the Propriety)
1685	Bristol County splits off from Plymouth County
1691	Bristol and Plymouth Counties merge into Massachusetts Bay Colony
1710	Benjamin Crane hired as first impartial surveyor
1722	All Dartmouth Propriety highways "surrendered" to the Town
1725	Dartmouth Propriety records burn at Clerk, Thomas Hathaway's house
1726	Propriety begins the struggle to recreate its corporate and land records
1753	Massachusetts General Court grants proprietaries the power to tax
1765	Bedford Village gets started as a major whaling port
1768	Suits multiply against the Dartmouth Propriety
1771	Dartmouth Propriety petitions for dissolution (unsuccessful)
1775-83	American Revolution
1787	Westport and New Bedford/Fairhaven/Acushnet split off from Dartmouth
1800	Effective end of Dartmouth Propriety

"Indian Deed"

Bradford Gov.

1654 A Deed appointed to be Recorded

New Plymouth November 29<sup>th</sup> 1652 Know all men by these Presents that I Wosomequon & Wamfutta my Son having sold unto <sup>Bradford</sup> William Capt. Mandish Thomas Southworth John Winslow John Cooke & their associates the Purchasers or Old Comers all the Tract or Tracts of Land lying Three miles Eastward from a River called Cushonagg to a certain Harbour called Acoahisset to a small Point on the Westward side of the said Harbour, and whereas the said Harbour divideth it self into severall Promontories the Westmost Arm to be the Bound and all the Tract or Tracts of Land from the said Westmost Arm to the said River of Cushonagg Three miles Eastward of the same, with all the Profitts & Benefits within the said Tract with all the Rivers Creeks meadows Natches and Islands that lye in or before the same, and from the Sea upward to ~~the~~ go so High that the English may not be annoyed by the Hunting of the Indians in any sort of their Cattle, and I Wosomequon to Promise to Remove all the Indians within a Year from the date hereof that doe live in the said Tract and we the said Wosomequon & Wamfutta have fully Bargained and sold unto the aforesaid <sup>Bradford</sup> William Bradford Capt. Mandish Thomas Southworth John Winslow John Cooke and the Rest of the associates the Purchasers or Old Comers to have and to hold for them & their Heirs & assigns forever, and in Consideration hereof we the above mentioned are to the said Wosomequon & Wamfutta as followeth Thirty Yards of Cloth Eight Moose Skins Fifteen ape, Fifteen Ibes Fifteen Pair of Breeches, Eight Blanketts Two Mittles One Cloak, 2<sup>do</sup> in Wampum Eight pair Stockings, Eight pair Shoes one Iron Tow and Ten Shillings in another Commodity, and in Witness hereof we have Interchangably set Our Hands the day and Year above Written

In presence of  
Jonathan Shaw }  
Samuel Eddy } Copy

John Winslow  
John Cooke  
Wamfutta X: M his mark

This particular deed, recorded in 1654 in Plymouth, purportedly gave sole ownership to the English colonists at Plymouth of a tract of land stretching from two miles west of the west branch of the Westport River to three miles east of the Acushnet River and about eight miles inland. I firmly believe the Native Americans had no concept of private land ownership and that the deed was considered by the Native Americans to be a treaty for the temporary use of the land and not a permanent land transfer. Their population had been decimated by European diseases to which they had no immunity so they were willing to loan it. The goods given by the English were gifts of cloth, metal tools and hospitality items not easily obtainable by the native peoples, who agreed to withdraw within one year.

There was never any doubt that the white men would take possession of Indian lands. It was only a matter of which of them would do it. The real reason the English obtained such "Indian deeds" was to thwart the claims of other European settler groups pushing into New England, such as the Dutch in New York.

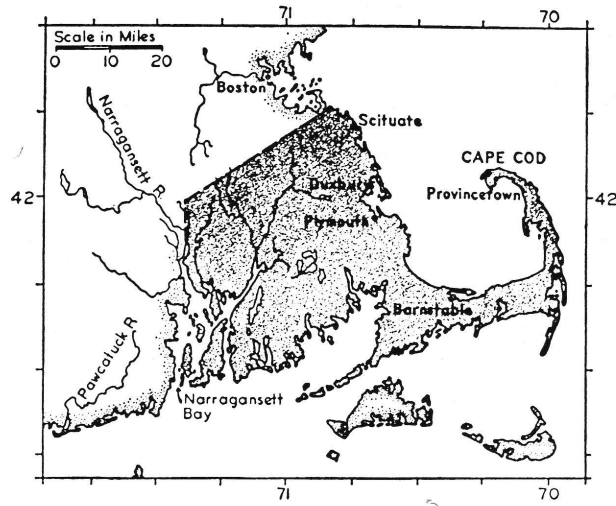
### **How it began for Dartmouth**

1620 Plymouth Colony

1627 Group of Plymouth settlers assume English merchant debt & become "Purchasers" or "Old Comers"

The history of Old Dartmouth began in Plymouth. We all know about the "Mayflower" Pilgrims coming to Plymouth in 1620, followed by other ships soon after. They struggled to survive and had financed the settlement with loans from English merchants. Those loans had to be paid back. In 1627 a group of Plymouth settlers assumed the debt and were often referred to as "Purchasers."

# Warwick Patent



THE WARWICK PATENT \*

January 1629/30

## **The Warwick Patent**

The Plymouth settlers had obtained a series of charters from the English monarchy to legalize their existence as an English colony but the most important one was the charter of 1629, called the "Warwick Patent," signed by the Earl of Warwick on behalf of the king. It covered the territory roughly from the Cohasset River (south of Boston) to Narragansett Bay in the west, all of what became Plymouth and Bristol Counties and the Cape and Islands. Some call this the "Bradford Charter" after Governor William Bradford.

### **"Easy" Land Tenure: "Free and common socage"**

The land was "to be holden of his Majestie of England, his heirs and successors, as of his manor of East Greenwich in the County of Kent in free and common socage and not in capite nor by knights service."

The land was "to be holden of his Majestie of England, his heirs and successors, as of his manor of East Greenwich in the County of Kent in free and common socage and not in capite nor by knights service." You'll see this wording in the early deeds. It is also known as "easy" land tenure. "Free and common socage" was the most sought-after form by English colonists in the New World. It wasn't feudal. It didn't mean the first-born son got everything. It didn't create a royal province. And it wasn't like what most Englishmen had known at home.

### **What happened next?**

1630 Plymouth population: 300

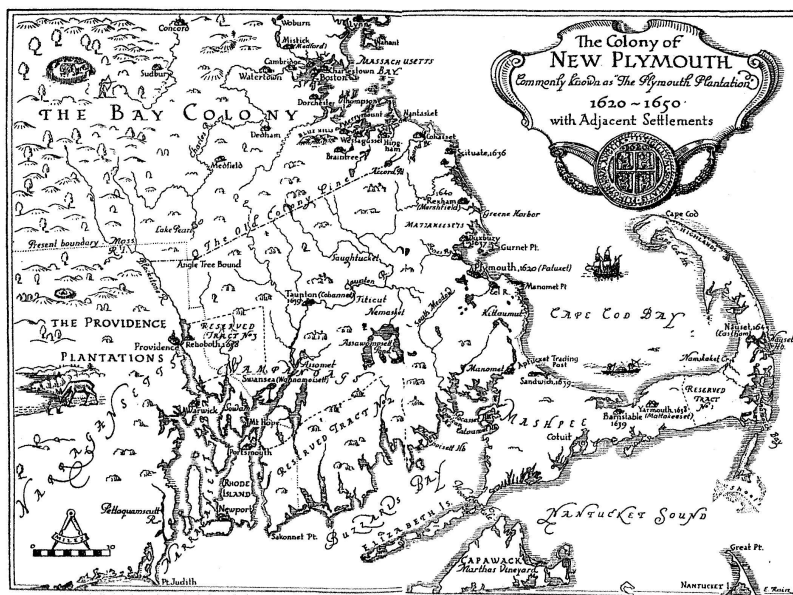
1643 Plymouth population: 2,000

New Comers all clamored for the land held by Old Comer "Purchasers."

Plymouth grew crowded. In January 1630 the population was about 300. By 1643, there were approximately 2,000 people, and they ALL clamored for land. But the land covered by the Warwick Patent was held by the Purchasers, the Old Comers who had arrived in Plymouth by 1627 because they had paid off the English debt. Land in places like Plymouth, Duxbury, and Marshfield had been given out to families but much more land remained available and Governor William Bradford was still in charge.

## The Three Reserved Tracts shown on Map of The Colony of New Plymouth

---



**A Deal was reached:** Old Comers could pick from

Reserved Tract No. 1    Yarmouth (middle of Cape Cod)

**Reserved Tract No. 2    Dartmouth**

Reserved Tract No. 3    Rehoboth (east of Providence, RI)

***The rest of land in Warwick Patent was released to entire population of Plymouth Colony.***

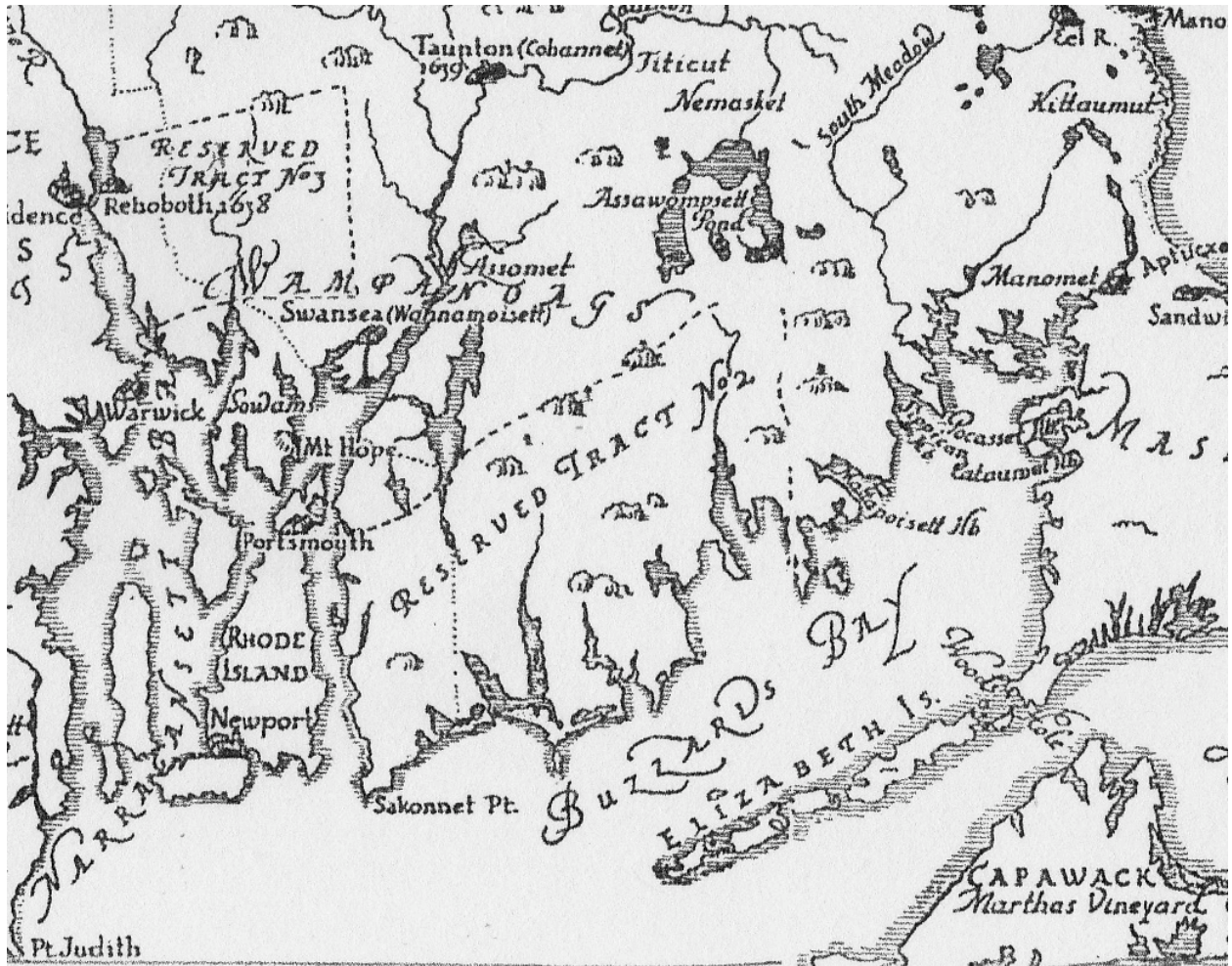


## **A Deal was Reached.**

By 1641 it was agreed that the Old Comer Purchasers could have sole ownership to three Reserved Tracts of land carved out of the Warwick Patent and the rest of it would be surrendered to the Plymouth Court to parcel out to everybody who came after 1627. Reserved Tract No. 1 was on the mid-Cape about where Yarmouth is today. Reserved Tract No. 3 was about where Rehoboth is today east of Providence, RI. Reserved Tract No. 2 was old Dartmouth, which became our four towns of Westport, Dartmouth, Acushnet and Fairhaven and the city of New Bedford.

Each Old Comer could select in which Reserved Tract he would participate by taking a share in it. He did not generally participate in more than one Tract. However, almost 15 years had passed between 1627 and 1641 and another 11 years passed until 1652 when THE DARTMOUTH PROPRIETY was set up to handle RESERVED TRACT NO. 2. In those 26 years many Old Comers had died and new generations born. Their families could take their place, unless an entire line had died out, as was true for John Crackston.

**Reserved Tract No. 2** was old Dartmouth, which became our four towns of Westport, Dartmouth, Acushnet and Fairhaven and the city of New Bedford.



**THE DARTMOUTH PROPRIETY** was set up to handle **RESERVED TRACT NO. 2**.

LIST OF PROPRIETORS OF DARTMOUTH IN 1652  
Each With One Full Share Except as Noted

ALDEN, John  
BARTLETT, Robert  
BASSETT, William (1/2 share with John Howland of John Crackston share)  
BRADFORD, William  
BREWSTER, Sarah, widow of William (1/2 share with William Collier)  
BROWNE, Peter  
BUMPAS, Edward  
COLLIER, William (1/2 share with Sarah Brewster)  
COOKE, Francis  
COOKE, John  
CUTBERT, Samuel  
DELANO, Philip  
DOTEY, Edward  
DUNHAM, John Sr.  
EATON, Samuel (share of Francis Eaton)  
FAUNCE, John  
HICKS, Samuel  
HOLMAN, Edward  
HOWLAND, John (1/2 share with William Bassett of John Crackston share)  
HURST, James  
JENNEY, Sarah, widow of John  
KEMPTON, Manasses  
MORTON, George  
MORTON, Thomas  
PALMER, William  
PRATT, Joshua  
SAMPSON, Henry  
SHAW, John Sr.  
SIMONS, Moses  
SOULE, George  
SOUTHWORTH, Constant  
SOUTHWORTH, Thomas  
SPRAGUE, Francis  
STANDISH, (Capt.) Myles  
TRACY, Stephen  
WARREN, Elizabeth, widow of Richard

Original List made 17 March 1652/3 was lost. Second list with errors was recorded from memory, but marked "null and void" when original was found and recorded 8 June 1660, but some discrepancies still result from passage of time.

This list is a composite prepared from a number of sources by Sally M. Aldrich in 2018 and can still be disputed.

The List of Proprietors of Dartmouth in 1652 appears on the screen: 34 shares held by 36 people, three of them widows. Four people got only a half share. This list is also on the back of your handout.

More confusion arose for Dartmouth because the original List of 1652 was lost, so the Proprietors constructed a new list from memory and had the Plymouth General Court record it. Then the original list resurfaced in 1660 and that was recorded also. In the eight years between 1652 and 1660 further changes were made, and Gov. William Bradford died in 1657. There are many lists that have been published, and we are actually still researching their accuracy. What you see on the screen and in the handout is my composite, which is certainly open to challenge.

In any event, these were SHARE HOLDERS. That is different from LAND OWNERS as I shall soon explain.

### **How was Dartmouth different from other New England towns?**

No direct land grant to settlers in Dartmouth to build a community.

Whole tract of land owned in common by Dartmouth Propriety Shareholders. It was an asset of value with no fixed location, like money in the bank!

Original Proprietors did not move here but sold to others who did.

There was no governmental land grant to a group of settlers to build a new community with church, village green, houses and farmland. That type of grant generally would allow a settler to homestead on a piece of land for a stated length of time, farm it, and then own it outright. Those settlers were LAND OWNERS, not SHARE HOLDERS.

Reserved Tract No. 2 was owned by the Old Comers who had selected it as SHARE HOLDERS in the Dartmouth Propriety, formed in 1652. By the time of the earliest homestead settlements in Dartmouth in 1660, forty years had passed since 1620! The Old Comers were old indeed and their families had settled comfortably in the Plymouth region. Except for one or two like John Cooke, Old Comers did not move here, although some of their descendants did. For those 36 people, holding a total of 34 shares in the Propriety, it was like money in the bank! It was simply an asset of value in no fixed location except with reference to the whole Tract. A great many of those shares were sold to others who came mostly from the Newport direction and also from Sandwich on the Cape. The buyers were ready to start a new life.

## **How was the Dartmouth Propriety different from the Town of Dartmouth, chartered in 1664?**

Two separate entities, which each kept different records and had different rules:

Propriety owned the land

Town consisted of its inhabitants

They were two separate entities. Each kept different records, had different functions and had different rules. The Propriety originally owned all the land. You could be a Proprietor and not live in the Town, and you didn't have to own land to live in the town. You could be an inhabitant with personal wealth, be a tradesman, or an indentured servant and live in the town. Wives and children were also inhabitants. The Town set its own standards for the admittance of its inhabitants, and also decided who was allowed to vote on town matters. The Propriety and the Town kept totally separate records. Another speaker, Bob Harding, will talk more today about how the town functioned and about the lives of the inhabitants.

## **How could an inhabitant get land in the Town of Dartmouth?**

- A. Be an original Proprietor / Shareholder
- B. Inherit from a Proprietor / Shareholder
- C. Buy it from a Proprietor / Shareholder

A. You could be an Old Comer participating in Reserved Tract No. 2 and thus own a share in the Dartmouth Propriety. If you moved here, you became an inhabitant. John Cooke was an Old Comer who did that with his family, but very few others did.

B. You could receive a full share or a fractional share from the Old Comer in your family by deed or inheritance, then move here. You could sell part of the share you got, and if you retained some part for yourself, you remained a Proprietor. If you sold the whole share, you were no longer a Proprietor.

C. You could buy a share, or part of one, from an original shareholder, or from somebody who had already done that. That also made you a Proprietor.

## **What is the difference between a SHARE HOLDER and a LAND OWNER?**

Proprietor = SHARE HOLDER (owns land in common with others)

LAND OWNER = private land set off to him individually

To get from SHARE HOLDER to LAND OWNER requires a land DIVISION by the Propriety

A Proprietor is a SHARE HOLDER who owns land in common with others, but is not yet a LAND OWNER, owner of private land set off to him individually. To get from a SHARE HOLDER to a LAND OWNER required a DIVISION of land voted by the Propriety.

## **What are Proprietors records and what happened to them?**

Records all lost in a fire in 1725 at Clerk's house.

For 1660 to 1725 (first 75 years) required reconstruction from records brought in by others.

For 1726 to 1800 we have the records, but not necessarily chronologically.

The Propriety kept its records at the Clerk's house. In 1725 Thomas Hathaway held that position. His house burned down and with it all the records. What we have today is a partial reconstruction of records for the 75 years before the fire, 1660 to 1725, and for the 75 years after the fire, from 1726 to roughly 1800. Starting in 1726, the Propriety asked anybody with any records copied out of the original books before the fire to bring those documents in so that they could be copied back into the Proprietors new books. The chronology is off because they were copied when they were brought back in, not when they were originally issued.

## What concerned James Congdon in 1867?

He found:

one **Book of Proprietors Corporate Meetings** (not transcribed by him)

four **Books of Proprietors Records** describing landowners' claims  
(transcribed into 2 volumes)

These documents plus Congdon's explanation of them are available on the Dartmouth Historical & Arts Society website: [DartmouthHAS.org](http://DartmouthHAS.org).

James Congdon in 1867 was commissioned by the Mass. Legislature to make sense of the Proprietors records. There were five books in dilapidated condition. One was the book of Proprietors corporate meetings, which were held to vote the land divisions and conduct their mundane, but important, business. Congdon didn't see the need to transcribe that book, but I did. The document I typed is now available on the Dartmouth Historical & Arts Society website.

Congdon did preserve the other four books and they record the various landowners and shareholders describing their claims, giving land descriptions, acreage, when they got it, from whom they got it and who the original Old Comer shareholder was. The records before 1725 are not in chronological order because of the fire and the necessary reconstruction.

Congdon's letter to his bosses explaining what he was doing is also available to read on the Dartmouth HAS website. Apparently it took him five years to transcribe the 1,000 pages in the four books on which he worked. He finished in 1872. Dan Socha has worked long and hard on creating an index for use with those digital records on the Dartmouth HAS website. These are called Vol. A and Vol. B.

## How did the Propriety work?

The Propriety was a corporation, a legal entity, separate from its shareholders.

It held MEETINGS whenever enough shareholders requested them:

Notice (a "warrant")

Quorum (# shares, not people)

Moderator

Clerk

Agenda

Votes by majority (yes or no)

Agents

Committees

The Dartmouth Propriety was a corporation, a legal entity separate from its shareholders. In 1652, it held title to one big undivided tract of vacant land. Its shareholders had a proportionate share in common with all the other shareholders in this land. The tract got smaller over time as shareholders claimed pieces of it but even a century later, the Propriety still owned a sizeable tract of common land.

As a corporation, it could sue and be sued (and it was)! The land the Propriety owned produced no income and the Propriety had no power to tax until 1753. It tried a voluntary tax system in the 1730s which, being voluntary, failed. After the 1730s it got into great debt, causing accelerating problems in later years.

The Propriety held meetings whenever enough shareholders requested them. It was shares, not people, that counted, generally "five whole shares," later only three. Upon such a request, the Clerk posted notice of the meeting (called a warrant) at public places just as at mills, "warning" of the date and time of the meeting. At the meeting, the Propriety needed a quorum (not of people but of shares), had a moderator to conduct the meeting, and had a Clerk to record the proceedings. It followed the agenda that had appeared in the notice, and passed votes by majority, or voted them down. It appointed agents to take care of business matters and committees for specific purposes, such as working with surveyors. The surveyor committees were very important. MOST important was the need for a MAJORITY VOTE, the one real requirement to get any business done.



## What did the Propriety vote on?

### LAND DIVISIONS BY THE DARTMOUTH PROPRIETY:

#### **UPLAND:** Total of **1,500** acres:

by 1660 200 acres

1682 400 acres

1694 200 acres

in 1710 the first three listed above consolidated as  
the "800 acre division"

1713 400 acres

by 1730 300 acres

#### **MEADOW:** (saltwater & freshwater marshes, wetlands, beaches, mudflats & some small islands)

by 1680 **36** acres

#### **CEDAR SWAMP:**

1713 **16** acres

## What did the Propriety vote on?

### DIVISIONS OF LAND:

There were three categories: **Upland**, **Meadow** and **Cedar Swamp**

SEE THE LOWER HALF OF THE CHRONOLOGY HANDOUT for a summary of the different divisions.

**There were five UPLAND divisions:** 200 acres by 1660 + 400 in 1682 + 200 in 1694, consolidated in 1710 into the "800 acre division." 400 more were added in 1713 + 300 by 1730. This made a total of 1,500 acres per share. **Upland** was where you had your homestead farm, your house, your cultivated fields, and your farm buildings. It was where you lived and worked.

**There was one MEADOW division of 36 acres per share** by 1680.

Meadow consisted of saltwater and freshwater marshes, wetlands, beaches, mudflats and small islands. We had plenty of coastline and plenty of wetlands. Meadow grasses grew wild and abundantly and were natural food for cattle. Farmers stored hay for animal bedding and winter feed, used seaweed to fertilize their gardens and used hay bales to insulate their houses.

**There was one CEDAR SWAMP division of 16 acres per share** by 1713. These swamps were generally in the northern parts of town and were selected by casting lots. The New Bedford Airport is the "Great Cedar Swamp" filled in. **Cedar Swamp** was your woodlot for durable building materials and wood for heating. Atlantic white cedars gave you a cash crop for shingles, roofs, clapboards, fence posts and railings. White pines made the best ship masts, and pitch and tar were important to the shipbuilding industry. There were also white oaks and red maples in these swamps.

## What else did the Proprietors vote on?

### APPOINTMENT OF SURVEYORS:

1710 - 1721 **Benjamin Crane** with two assistants:  
Benjamin Hammond & William Manchester

1723 - 1741 Benjamin Hammond

1767 - 1793 Samuel Smith

The appointment of surveyors. The Propriety appointed Benjamin Crane, an impartial out-of-towner, who toiled as surveyor from 1710 to 1721 with the help of two assistants, Benjamin Hammond and William Manchester. Crane died in 1721, and he was succeeded by Benjamin Hammond from 1723 to 1741 (thankfully all the field notes were safely in Rochester in 1725 during the fire). Samuel Smith served from 1767 until 1793, when the Propriety was winding up.

Were there surveyors before Benjamin Crane? Absolutely, but we don't have their names. They were selected "in-house" and apparently, not impartial. That is why the Propriety got sued as early as 1684. That is why they brought in Crane. We don't have the Field Notes of any early surveyors, but we DO have the Field Notes of Crane and his successors.

As mentioned earlier, the Propriety voted its own Committee members to work with the surveyors to supervise, approve and record the work being done.

### **What adjustments were made in the land divisions?**

#### **A. "QUALIFIED BY THE SAMPLE"**

##### **UPLAND:**

800-acre consolidated division: Abraham Tucker's homestead  
400-acre division (1713): Philip Taber's Farm (now in Adamsville)  
300-acre division (by 1730): Philip Taber's Farm (Westport)

**MEADOW:** 36 acres (Samuel Hick's meadow at foot of his homestead)

#### **B. ROADS - current and future (Town stepped in after 1722)**

#### **C. "THE MILL SHARE" - the 35th share of the Propriety**

A. The term "QUALIFIED BY THE SAMPLE" meant that land laid out in each division, except cedar swamp, was measured against "the sample" for quality, and the quantity of acreage was adjusted for "mean, rocky, boggy" land, etc. The sample for the 800-acre consolidated division of upland was "Abraham Tucker's homestead." The 400-acre division in 1713 used "Philip Taber's farm," probably now in Adamsville, RI, and the later 300-acre division used another Philip Taber farm near Head of Westport. For meadow, it was "Samuel Hixes meadow that lies at the foot of his homestead." At that time, everybody knew where these samples were.

B. Allowance was also made for current and future ROADS to be laid out to provide access throughout the town. There was full agreement between the Town, which provided highway surveyors, and the Propriety on the need for roads, but they had to work out some disagreements about where to put them. In 1722 the Propriety

"surrendered" their roads to the Town. Also, there were public landings and watering places to be used by everybody for their cattle.

C. THE MILL SHARE. In 1684, George Badcock and Henry Tucker built a mill at Smith Mills in central Dartmouth in exchange for a share in the Propriety. All the Proprietors agreed to this except the Soule family, who refused to dilute their share. This 35th share became known as "The Mill Share."

### **How did a SHARE HOLDER become a LAND OWNER?**

"Pitch" upon the land you want by marking it or describing its boundaries.

Have surveyor come, walk it, measure it, and make his "field notes."

Get the "return of survey" approved by the Proprietors Surveyors Committee.

Take that "return of survey" to the Clerk of the Propriety for recording.

Clerk will "charge" it against one of the category divisions.

As LAND OWNER, keep the original "return of survey" as your "deed."

Once the Propriety had voted a division in one of the three categories, a shareholder staked a claim on the parcel he wanted by "pitching" on it. We don't know exactly how that worked, but we surmise he marked the boundaries, either physically (e.g., by slashing trees or making a pile of rocks) or by description. The surveyor came, walked it, measured it with his instruments. He got his work approved by the Propriety Surveyors Committee and then gave that owner a "return of survey" - the equivalent of a deed. The owner took the "return of survey" to the Clerk to be entered into the Proprietors Books of Records. It had the current owner's name, a date, a description of the land, which division was being claimed, and from whose original share the claim derived. The "return of survey" was kept by the owner, who then owned this land privately and could do with it as he saw fit by deed or inheritance. For this parcel, the shareholder became a LAND OWNER.

It is important to note that the Propriety did not assign you a specific location for your share or for the acreage you could claim in any division. It was up to you to physically claim the acreage where you wanted it to be. You could take it anywhere in town and didn't need to take it all in one place or all at one time.

You were still a shareholder in the Propriety until all the land had been divided and that never came to pass. We know that as late as 1800, there were (1) divisions that had not been completed; and (2) land still in common ownership for which the Propriety had not voted a division.

**Were there any restrictions on what the LAND OWNER could do with it after taking possession? No!**

No further involvement by Dartmouth Propriety.

NOW YOU OWN IT!! a privately held, set-off parcel.

Yours to keep, sell, give away or exchange with another land owner.

Deeds between private individuals were recorded in Bristol County Registry of Deeds.

Bristol County Probate Court handled Wills and Estates.

There was no further involvement with the Dartmouth Propriety after getting a "return of survey" for a particular piece of land. LAND OWNERS could deed their private land holdings, or some portion of it, to other people, whether they were already land owners or not, whether they lived in the town or not, and whether they were share holders or not. Deeds between individuals were recorded in the Registry of Deeds, NOT with the Proprietors Clerk. Inheritances passing as a result of the LAND OWNER's death were handled by the Probate Court.

### **How big was the Dartmouth Propriety tract?**

Current land acreage in thousands:

(current) Dartmouth	39
Westport	32
New Bedford	13
Fairhaven	8
Acushnet	12

**The total comes to 104,000 acres. Divisions for 35 shares = 54,320 acres.**

My rough calculation of total land acreage, excluding what is under water, currently in the four towns and city that made up old Dartmouth comes to 104,000 acres. If the Propriety voted only the divisions I have just listed, each SHARE HOLDER is entitled to 1,500 acres of upland, 36 of meadow and 16 of cedar swamp, making a total of 1552 acres a share. We have found no records that add to those divisions.

If we agree that the total number of shares is 35, we get 54,320 acres total of divided land that can be claimed in an area almost twice the size. Now this does NOT take into consideration all the adjustments for "mean, stoney" land, etc. or allowance for roads

and public places, but still, the divisions voted by the Propriety amounted to far less than what was available for distribution, even if you inflate it by say, 20%. This conclusion is borne out by the many suits brought against the Propriety demanding that further divisions be voted. That started as early as 1694.

### **Was the Town of Dartmouth ever a Proprietor or Shareholder? No!**

Before 1700 Town Meetings held in private houses and public places like mills

"Townhouses" after 1700 were on Propriety common land by permission

No record found of Town-owned land before 1751, when 1/4 acre-lot was donated.

The Propriety never made the Town of Dartmouth a SHARE HOLDER, even though all the Proprietors except one had agreed to create the Mill Share, which was for two private individuals. In the early days the Town had no special place to conduct municipal affairs. Town meetings were held first in private houses, then at public places like the mills, and only after 1700 at a "townhouse." Townhouses were the town's property, but were built on Proprietor land, which was not given to the Town, even though the Propriety also held their meetings there. In 1751, the townhouse had to be moved to a quarter-acre lot donated by an individual, because the Propriety was being sued, putting the town-owned building in jeopardy. While the Propriety existed, it appears that the Town had to buy land like everyone else.

### **In what ways did the Propriety work with the Town?**

Laying out and maintenance of roads by town highway surveyors; also public landings and watering places

Perambulation of town bounds

As mentioned earlier, the two entities did cooperate on the laying out of roads and they also set aside public landings and watering places. In addition, it was the Town's responsibility to perambulate the town bounds and settle boundary disputes with its neighbors. The western border was the most controversial. The Dartmouth-Tiverton line was changed innumerable times because it was the focus of the boundary dispute between Massachusetts and Rhode Island. In 1741, the inhabitants of Dartmouth unsuccessfully petitioned Massachusetts to allow them to join Rhode Island.

### **What might the Propriety have done differently?**

Grid out the tract and assign numbers to the lots.

Have each SHARE HOLDER draw a lot number and take possession or sell it.

Problem solved. Propriety out of business.

If the Propriety had gridded out the whole Dartmouth tract, numbered the pieces, and had the shareholders draw lots back in 1660, at the time of the first settlements, its problems would have been solved. It would have gone out of business immediately. This did not happen.

### **What went wrong with the Propriety? Everything.**

SHARE HOLDERS didn't "pitch" upon enough parcels and ignored deadlines to fill up their claims.

Propriety ignored its own deadlines (repeatedly) and refused to vote further divisions until claims were filled.

Propriety lost track of who the SHARE HOLDERS were.

All Proprietors' records lost by fire in 1725

Land divisions covered 70 years: 1660 to 1730

Suits against the Propriety from its earliest days

Besides the fire, the biggest problem was that shareholders did not "pitch" upon enough parcels to fill up their claims in each division. When the Propriety set deadlines, the shareholders ignored them, so the Propriety set new deadlines and then did not enforce those. With the passage of time, the Propriety lost track of who the shareholders were, and therefore didn't know who was eligible to vote. Remember, the Propriety could only enact business by majority vote. Time was the enemy!!

The land division votes went on for 70 years, from 1660 to 1730. Even if every shareholder had taken what was due in each division, the total acreage equaled only about half the acreage of Dartmouth. Most parcels set off were surprisingly small.

Proprietors took their parcels, even in the same category, not in one place but all over town.

The Propriety could not adequately reconstruct their records after the fire. The Registry of Deeds served only for land that had gone into private, individual ownership. Those records did exist. It was the "returns of survey" which the Propriety desperately needed to link the set-off parcels to the original shareholders. Moreover, the Propriety needed attested copies of the original votes of the various land divisions.

### **What important roles did the Delano men play in the Propriety?**

Jonathan Delano, Clerk 1709 - 1717

Nathaniel Delano, Surveyors Committee 1723 - 1753

Jabez Delano, Surveyors Committee 1726 - ?

Jethro Delano, Assessor 1760

**Jonathan Delano** played a critical role. I am not sure whether it was Lt. Jonathan, the father, or the son of the same name, as both lived in Dartmouth during the years I mention. In any event, **Jonathan Delano** was the Propriety Clerk from at least 1709 to 1717. How do I know this if the records burned up in 1725? You'll see.

The years Jonathan served as Clerk were the most crucial to the Propriety. In 1709 three men named Allen sued the Propriety saying the layouts in the 800 division were unfair to them because the (unnamed) surveyors (presumably other Proprietors) were favoring themselves and their friends. The Allens demanded that "His Majesties justices" get somebody else in to do the job. That resulted in the Propriety hiring Benjamin Crane, who started in 1710 to redo all the surveying that had been done before and to keep going for another decade.

One of the Clerk's jobs was to hand out to any Proprietor who asked, a written copy of the proceedings that the Clerk had recorded in the official Proprietors Book of Records. It is called an attested copy and was an enormous benefit. It created **a spare copy** that could be brought back in to reconstruct the Proprietors records after the 1725 fire. In 1726 there are entered documents No. 4 to No. 15 dated from 1709 to 1717 which quote the contents of the document and end:

"A true copy taken out of the Dartmouth Purchasers Book of Records, attest  
**Jonathan Delano, Clerk**"



These were important documents having to do with the various divisions we have just described and they were contentious enough that someone in those earlier years wanted a copy for themselves. You can explore these documents on the Dartmouth HAS website. Keep in mind that these records were tattered and torn when transcribed after 250+ years and are in some places illegible.

By 1717 Thomas Hathaway was Clerk and still had the job when he suffered the misfortune of having his house burn down. Hathaway served until 1730, when Stephen West Jr. took over.

In 1723, when Hammond was appointed surveyor as Crane's successor, **Nathaniel Delano** was one of four Proprietors on the Committee to work with the new surveyor (who had been Crane's assistant for many years). In 1726 **Jabez Delano** was added to the Committee. In 1730 both Delanos were working for the Propriety.

In 1731 with vacant, non-income producing land and mounting debts, the Propriety tried a voluntary assessment of £ 1, 10 shillings per share. The voluntary assessors were **Nathaniel Delano**, Stephen West Jr. and John Russell. Three others were appointed to collect the funds. Unfortunately, being voluntary, the whole thing was a failure.

Between 1743 and 1753 **Nathaniel Delano** was actually doing the surveying work for the Propriety. Benjamin Hammond had left two years earlier and Samuel Smith did not start work until 1767. In 1753 Bartholomew Taber took over the surveying part for Nathaniel, but Nathaniel was still on the Proprietors survey committee.

In 1753 Massachusetts gave Proprietries the power to tax. Dartmouth dragged its feet, but in 1760 **Jethro Delano** was voted one of the Propriety's assessors, with a mandate to raise £115, to which was added in 1762 another £45, making a total of £160. That sum appears to be the amount he aimed to raise from whichever shareholders he could find. By 1771 debts had climbed to £187 and in the next 20 years the Propriety resorted to selling off about 30 parcels of common land to settle their debts.

### **What were the lawsuits against the Propriety about?**

To get private title to all the common lands

To complain about the quality or quantity of land set off to them

To claim bias in how the Proprietors voted at their meetings

Purely money matters

Lawsuits started as early as 1684 and there were a lot of them. A minority of shareholders fought early on and repeatedly to get full division of all the common lands. They lost but defending them cost the Propriety money it didn't have. Individual Proprietors loaned the funds and had to sue themselves to get repayment. Complaints about bias in the distribution of land were common. There was a lot of contentiousness over the years, even though the existing records show the Propriety made every effort to be fair and equitable to protect the interests of the shareholders who had not filled up their claims. Later suits were settled with the Propriety reluctantly giving deeds to vacant land. However, for more than a century the Propriety failed to give in to demands to divide up all the rest of the common land.

### **How did it end? We don't know.**

Last annual meeting of Propriety in 1799

No action recorded for petition for dissolution in 1771

The last annual meeting of the Propriety was in 1799, with an isolated one in 1821. It had petitioned the court for dissolution in 1771, with no action. The American Revolution may have intervened. The last "return of survey" was entered in 1835. By the mid-1800s, the courts had ruled that landowners could rely on proprietors' records, returns of survey, and surveyors' field notes for good title to their land. That applied to Dartmouth.

### **Finally, how did the towns of Westport, Dartmouth, New Bedford, Fairhaven and Acushnet end up with municipal lands today?**

Common lands still owned by Propriety in 1800s given to municipalities??

Also, donations, purchases, tax forfeiture, eminent domain.

My personal theory is that the Massachusetts General Court stepped in during the mid-1800s, and decreed that the Dartmouth Propriety was dissolved and that common lands still owned by the Propriety within the borders of the present towns (and city) would henceforth belong to those local municipal governments. Need arose in the 19th century for more schools, police and fire stations, municipal offices, more roads, and most urgently, land for municipal water supplies. Some landowners may have made donations of land (indeed they still do). Some land has been taken for non-payment of taxes and other parcels by eminent domain. But the truth is that municipal governments came into more power and the Dartmouth Propriety by 1800 was in decline and overpowered by the realities it faced. It faded away to nothing but an empty shell of its former self.