

The Cohasset Marshlands Dispute: International Arbitration in Colonial New England

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One of the earliest international arbitrations in the Americas arose from rival claims to hayfields contested between two groups of religious dissidents. The dispute resolution process takes special significance as an epochal step toward the robust cross-border cooperation that ultimately united thirteen disparate colonies into a single nation.



The story begins in 1620 when a small band of exiles, later known as the Pilgrims, landed at what is today Plymouth on the south shore of Massachusetts Bay. The core of this group had earlier left England for Holland in order to separate from the established church. Now they sought greater autonomy in a land three thousand miles to the west. The dissidents referred to themselves as Saints, in distinction to the so-called Strangers who accompanied them in emigrating, but for economic opportunity rather than spiritual community. Saints and Strangers alike entered into a self-governance pledge known as the Mayflower Compact (named for the ship that carried them across the ocean), which bound all in mutual covenant “to frame such just and equal laws [as] ...meet and convenient for the general good of the colony.”

A decade later, another set of religious dissenters founded Boston, about forty miles up the coast. Chartered as the Massachusetts Bay Colony, these English Puritans sought not to separate from the official church, but to purify worship by removing residual “papist” elements. Like the Plymouth dissidents, the Bostonians were Calvinists seeking freedom of conscience, at least for themselves even if not for those of other faiths, notably the harshly persecuted Quakers.

Each colony prospered. The Bostonians expanded southward, while the Plymouth colony spread to the north. They met at Cohasset, a coastal area whose name derives from a phrase meaning “Long Rocky Place” in the indigenous Algonquian dialect.

Rich marshlands in Cohasset provided salt hay prized by farmers as food for cattle. Not surprisingly, friction arose. The village of Hingham, in Boston’s jurisdiction, staked its marshes only to find markers uprooted by men from Scituate, a village under the protection of Plymouth. Scituate farmers found their stakes pulled by neighbors in Hingham.

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What was to be done? Each territory was sovereign. The same King was recognized at both Plymouth and Boston, but in different capacities, much as Queen Elizabeth now serves Canada and New Zealand. Short of armed conflict, how could the controversy be resolved?



Four “Commissioners” were appointed, two by each colony, with full authority to end the strife once and for all. Plymouth named William Bradford and Edward Winslow. Boston designated John Endecott and Israel Stoughton. Within a year, these men reached a unanimous decision memorialized in what today would be styled as an arbitral award.

Marshland rights were allocated by reference to local brooks, ponds, rivers and sea. The award ends with an injunction that the colonies shall “contain themselves within the said lines before expressed.”

Dated the ninth day of the fourth month of the sixteenth year of King Charles (9 June 1640, given the monarch’s reign began in March 1625), the decision fixed rights generally respected on both sides.

One matter remained vague: a grant to Hingham of “threescore acres of marsh” described as at the mouth of a river and next to the sea. Precisely which sixty acres were allotted? Uncertainty bred acrimony. So in 1667 another tribunal was convened, with three new arbitrators named jointly by both colonies. A split decision (2-1) returned land to Plymouth’s jurisdiction, much to the chagrin of the Cohasset farmers who were part of Hingham before seceding to form a town of their own.

What of the women and men roaming the marshes before the English arrived, whom the settlers crowded away? A quarter century after the first arbitration, Native Americans ceded the land for “valuable consideration” through a document bearing the mark of paramount chief Wompatuck, Grand Sachem of the Massachusetts tribe. And therein we have a story for another day.

For further reading: William Bradford, *Of Plymouth Plantation* 304-308 & 426-428 (Samuel Eliot Morison, ed. 1952, reprinted A.A. Knopf, 1991); E. Victor Bigelow, *Narrative History of the Town of Cohasset* (1898) at 119-143.