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Commonwealth and protectorate in Virginia, 1649-1660

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COMMONWEALTH AND
PROTECTORATE IN VIRGINIA
1649-1660

A THESIS

SUBMITTED TO THE GRADUATE FACULTY
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PREFACE

It is the purpose of this thesis to show the very close and continued relationship between the government of England and the colony of Virginia in the Commonwealth period and the greater independence of Virginia under the Protectorate. Many debatable questions arose during the Commonwealth period and were treated in accordance with the local situation. The general relationship of this first period is that of close and friendly interest, but, at the same time, the authority of the Commonwealth was maintained. In the Protectorate period there were fewer questions, since the Lord Protector was occupied with heavier and more pressing problems concerned with England's foreign and domestic policies. Difficulties between the Council of State and the Virginia Colony in this period were largely the result of the application of the Navigation Act or else the survival of the old colonial policy.

The conclusions drawn are based upon rather limited source material. All available material, however, has been used. In many instances, lack of source material necessitated the use of secondary information. In every case, however, the writer has made use of research in arriving at the conclusions presented in this paper.

Charlotte Anne Beale

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CHAPTER I

COMMONWEALTH PERIOD IN VIRGINIA, 1649-1653

The meeting of the Long Parliament in November, 1640, brought to a climax a series of events which precipitated the tragic civil war of the seventeenth century and led to the overthrow of the kingship and the establishment of the Commonwealth and Protectorate governments. In quick succession the Long Parliament adopted a series of measures definitely curbing the powers of the crown and providing for the impeachment and trial of Archbishop Laud and the Earl of Strafford. So far there was agreement in the reform program of parliament, but too quickly, the members began to quarrel violently over the religious policy. The introduction of the radical Root and Branch Bill broke up the harmony of the Parliament and gave Charles I a chance to intervene. News of the revolt in Ulster in the fall of 1641 necessitated the drafting of the Militia Bill, providing for Parliamentary control and thus denying the king's prerogative. In November, 1641, the Grand Remonstrance, indicting the tyrannical policies of Charles I and his ministers, passed in the House of Commons. All of these measures brought dissension.

Charles I, seeing the opportunity to get control, attempted the arrest of five Members. The outcome of this high-handed action was a rift between the King and Parliament and Charles I's withdrawal to Oxford. Parliament at once began the preparation for war. The final result was a parliamentary victory. There followed a brief interlude of negotiations, interrupted, however, by a series of events which necessitated a second and very brief campaign. Ultimately, the army leaders came to the conclusion that the King must be speedily brought to trial. On December 6, 1648, Pride's Purge brought about the ousting of the moderates in the Long Parliament and the ascendancy of a radical group wholly in favor of drastic measures in dealing with Charles I. After this event, affairs were settled quickly. In January, 1649, the Rump Parliament, claiming supreme power, established a Special High Court of Justice authorized to bring the King to trial. Charles I was condemned, sentenced to death, and finally executed on January 30, 1649.

In February, 1649, the Commonwealth, a new experiment in republican government, was established. The chief institutions of the new government were (1) a Council of State of forty-one members which included army leaders and members of the Parliament, (2) approximately sixty members of the House of Commons usually known as the Rump Parliament, and (3) the Army under the leadership of Oliver Cromwell. Under the new regime the Council of State replaced the old privy council which together with the Secretary of State had disappeared. It was directly responsible to the parliament, and it was authorized to act as a board of trade and plantations and to transact directly a

large amount of business in the interest of manufactures, trade, commerce, and the colonies. It initiated important measures, received petitions, remonstrances, and complaints, either at first hand or through Parliament, from which it also received special

¹ C. M. Andrews, "British Committees, Commissions, and Councils of Trade and Plantations 1622-1675". Johns Hopkins University Studies in History and Political Science, XXVI, nos. 1-3, pp. 23, 30.

² The members of the Council of State were appointed for one year and reappointed under successive commissions. H. L. Osgood, The American Colonies in the Seventeenth Century, 3 vols. The Macmillan Company, New York, 1905-1907, III, 114. Andrews, loc. cit., pp. 23, 30.

orders, entered into debate upon all questions arising therefrom, summoned before it anyone who might be able to furnish information or to offer advice, and then drew up its reply, embodied in an order dispatched to government officials, private individuals, adventurers, merchants and trading companies, colonial governments in particular or in general. ³

It was, therefore, given the authority to encourage and advance "England's trade at home and abroad and to regulate the affairs of the plantations". ⁴

A significant development of the Commonwealth ⁵ period was the growth of committees. The Council of State was unwieldy with its many members; therefore, its business was performed through standing and special committees which included the admiralty, trade, and plantations. The Admiralty Committee was active in investigating and reporting upon ⁶ matters that affected Virginia and other colonies. There was also a committee appointed primarily for colonial affairs. "Then on March 2, 1650, the Council of State issued an order that the entire council, or any five of its members, should constitute a Committee for Trade and Plantations." ⁷

3 Andrews, loc. cit., p. 32.

4 Ibid., p. 30.

5 Osgood, op. cit., III, 114.

6 Ibid.; G. L. Beer, The Origins of the British Colonial System 1578-1660, The Macmillan Company, New York, 1908, pp. 418-419.

7 Ibid., p. 419.

Besides these various committees of the Council of State, "the earliest separate council to be established from 1650 to 1660" was the Commission or Council of Trade, appointed by an act of Parliament, August, 1650, with Sir Harry Vane and the merchant, Benjamin Worsley, as president and secretary respectively. One of its duties was to consider the colonies and to advise how they might best be "managed and made most useful for the Commonwealth".⁸ Here is the "first attempt to establish a legitimate control of commercial and colonial affairs",⁹ but the Council gave primary attention to English trade and in 1652 became an inactive body.¹⁰

The activity of the Council of State, "which itself exercised the functions of a board of trade and plantations",¹¹ supplanted the Trade Commission. A second council was elected on February 12, 1650 with twenty new members and the remaining twenty-one from the first council of 1649. On November 24, 1651,

8 Andrews, loc. cit., p. 24. The comprehensive instructions of this committee "stand with the ordinances of October, 1650 and the Navigation Act of 1651, as forming the first definite expression of England's commercial policy".

9 Ibid., p. 25.

10 Beer, op. cit., p. 421.

11 Andrews, loc. cit., p. 30.

a third council was chosen in the same manner and likewise the fourth council of November 24, 1652. By this time many of the new members were usually old members who were dropped for a year or more. The fifth council was reduced to thirty-one members on July 9th and 14th in 1653 and was planned to last only until November, 1653. The fifth and sixth councils were chosen in the same year, each with a personnel of fifteen old and fifteen new members. Finally, the sixth council, that was elected November 1, 1653, was chosen for six months, but it was supplanted after six weeks by the Protector's Council, elected December 16, 1653, under the provisions of the Instrument of
12
Government.

Upon the execution of Charles I and the establishment of the Commonwealth with its many changes there came sharp conflicts with the colonies. With the exception of New England, the colonies as a whole refused to recognize the newly established government in England and declared their allegiance to Charles II. This attitude was, of course, to be

12 Ibid., pp. 30-31.

expected in the favored Royalist colony of Virginia. Although transportation and communication facilities were crude, rumor and reports of the tragic events of January reached Virginia in the early months of 1649.¹³ The reception of the news of the trial and death of Charles I brought forth many reactions in favor of the Stuarts. One of the first public expressions came from the royalist planters of the Eastern Shore.¹⁴ These men were shocked by the execution of Charles I and tried to express their grief and indignation by a declaration of loyalty on February 1, 1649. There was issued a proclamation by the Commander and Commissioners (or Justices) of Accomac declaring Prince Charles the heir of the late king and pledging the people's allegiance to him.¹⁵

The Commonwealth government was not inclined to let such action pass unnoticed. On July 24, 1649, the Council of State ordered letters to be written to the plantations,¹⁶ giving them formal notification of the "change of government in 1649, sending them

13 Beer, op. cit., p. 360.

14 Ibid.

15 Jennings Cropper Wise, Ye Kingdome of Accowmack e or The Eastern Shore of Virginia in the Seventeenth Century, The Bell Book and Stationary Company, Richmond, Virginia, c.1911, pp. 110-111.

16 Beer, op. cit., p. 362; "Sainsbury Abstracts", The Virginia Magazine of History and Biography, XVII, 18-19. This will be referred to later as Sainsbury Abstracts.

papers necessary for their information, and requiring them to be obedient if they expected the protection which the Republic was prepared to extend to them".¹⁷ This letter was approved and sent on July 26, 1649.¹⁸

When news of the death of Charles I reached Jamestown in 1649, Sir William Berkeley, who had been governor since 1642, called an assembly on October 10th to express his indignation and grief.¹⁹ This body under the leadership of Governor Berkeley and his faithful Royalist followers enacted a law which declared the exiled Charles II to be the "rightful sovereign of Virginia", and any proposal to deal with or accept the Commonwealth was denounced as treason. Men were forbidden to speak of²⁰

the late sainted king, or accept the aforesaid cursed and destructive principles, or go about by irreverent, or scandalous words or language to blast the memory and honor of the late most

17 Andrews, loc. cit., p. 32.

18 Sainsbury Abstracts, XVII, 19.

19 Mary Newton Stanard, The Story of Virginia's First Century, J. B. Lippincott Company, Philadelphia, 1928, p. 215.

20 W. E. Dodd, Struggles for Democracy (vol. I of The Old South), 120.

pious king; and whatever persons soever shall by words endeavor to insinuate any doubt concerning the undoubted right of his Majesty that now is to the colony of Virginia, such words and speeches shall be adjudged treason. 21

At the request of Governor Berkeley, Colonel Richard Lee hired a Dutch vessel and went to Brussels to surrender Sir William's commission from the late Charles I. At Breda, Holland, the exiled prince gave him a new commission for the Governor.²²

These expressions of Royalist sentiment were strengthened by the many Cavaliers who came to Virginia in these unsettled years.²³ Governor Berkeley had invited many Royalists to come to the colony as a place of security. One of the first to come was Beauchamp Plantagenet who was supposedly an agent for several persons who were seeking land on which to settle. He was entertained by Captain Samuel Matthews at the present site of Newport News, but no settlement was made. Another picturesque character was the royally appointed Lieutenant of

21 W. H. Hening, Statutes at Large, I, 359-361 is abbreviated by Dodd, op. cit., p. 120.

22 Sainsbury Abstracts, XVII, 134-135; Beer, op. cit., pp. 360-361.

23 Ibid., p. 361. Major John Brodnax was one of several Royalist officers who settled in York County during the civil war in England. "History of York County in the Seventeenth Century", Tyler's Quarterly Historical and Genealogical Magazine, I, 243 (April, 1920).

the Tower, Sir Thomas Lunsford, who came to settle finally in Virginia with his wife and daughters. Many Cavalier ministers of the Established Church who had been ejected from their parishes found solace in the loyal Virginia colony.²⁴

Complete control of Virginia was a very definite policy of the Council of State. For example, on October 11, 1649, a letter was sent to Governor Berkeley requesting him to permit Mr. Thomas Harrison, a minister who was banished from the colony in 1648 for refusing to use the Prayer Book, to return to his congregation.²⁵

...We know that you cannot be ignorant that the Common Prayer Book is prohibited by the Parliament of England, and therefore you are hereby required to permit the same Mr. Harrison to return to his said congregation to the exercise of his ministry...²⁶

24 Howard, op. cit., pp. 218-219. An interesting account of the Cavaliers is found in A Voyage to Virginia by Colonel Norwood, in Force, Tracts, III, no. 10.

25 Sainsbury Abstracts, XVII, 19-20.

26 J. H. Latane, "The Early Relations between Maryland and Virginia." Johns Hopkins University Studies in Historical and Political Science, XIII, nos. 3-4, p.45.

Mr. Harrison had been originally a minister of the Established Church of England, but he thereupon became head of the congregation of Independents in Hansemond County. At Whitehall on October 11, 1649 was received a petition from some of his congregation who complained of the banishment of this able minister.²⁷ However, Mr. Harrison did not try²⁸ to return to Virginia.

This order was merely one of many evidences of the intention of the Commonwealth government to maintain its authority in the plantation. On October 3, 1649, the Council of State referred the Virginia situation to the Admiralty Committee. On November 29th this Committee ordered Maurice Thompson, a Puritan supporter of the Commonwealth who had once owned land in Virginia, and other interested merchants to consider the matter for the good of the Commonwealth and the merchants who traded with Virginia and also to bring written proposals for the best settlement of the plantation.

27 Sainsbury Abstracts, XVII, 19-20.
28 Howard, op. cit., p. 218.

29

Then on December 4th, the Protestation of Governor Berkeley was referred also to the Admiralty Committee for consideration. After meetings had been deferred several times from December 3, 1649 to January 9, 1650, the Committee- Maurice Thompson, William Pennoyer, William Allen, Benjamin Worsley, and others- advised

30

that commissioners be nominated by Parliament in whom the government may be immediately placed, with power to settle the same under the government of the Commonwealth, and to appoint a Governor and Council to reside upon the place for administration of government, with the former powers granted to Sir Francis Wyatt, and such other powers as may be necessary for the present well ordering of the plantation. The Attorney General is desired to conceive the draft of a grant to that effect, with convenient speed, in which the confines of the plantations are to be particularly expressed according to the ancient limits.³¹

This suggestion was issued in the form of an Order of the Admiralty Committee that was signed

29 This Protestation was possibly a proclamation reciting the loyal act of the Assembly of October, 1649. Sainsbury Abstracts, XVII, 21.

30 Ibid., pp. 20-22.

31 State Papers, Colonial Series, XI, 332. These are commonly referred to as Colonial Papers.

January 9, 1649-50 by Sir Henry Vane and Sir John
 32
 Danvers.

On February 26, 1649-50, the business of Virginia was again the subject of an Order of the Council of State. This order, which was considered on March 1st and was referred later to the Admiralty Committee on March 2nd, permitted the ships John and Thomas to go to Virginia. The Judges of the Admiralty had to be certain that the ships were not to be used against the service of the Commonwealth, and a list of the passengers who had to "subscribe the engagement" was to be returned
 33
 to the Committee.

During the Commonwealth period permits were granted by the Council of State to many people who wished to leave England. These were to be presented to all Officers of the Ports and Customs, Comptrollers, and Searchers. On April 9, 1650, the license for the passage of Sir Henry Chicheley, Thomas Cox, and Robert Pigge to Virginia was granted by the Council of State. Either by taking the engagement or by their security that they would

32 Sainsbury Abstracts, XVII, 23.

33 Ibid., pp. 24-25.

do nothing against the State and the present gov-
 34
 ernment, they were allowed this license.

However, the reduction of the government of Virginia to the obedience of the Commonwealth was still debated before the Admiralty Committee on May 3, 1650. The merchant, Benjamin Worsley, was ordered to go to the Attorney General for the Commission concerning Virginia, where the question was to be presented to the Committee of the Admiralty for consideration. Therefore, on May 21, 1650, by Order of the Committee of the Admiralty the draft of an act for the settlement of Virginia under the government of the Commonwealth was to be presented to the Council of State which was to
 35
 send the same to Parliament.

In spite of restrictions, trade flourished between England and the colony. Frequent orders from the Admiralty Committee and the Council of State permitted vessels and passengers to go to Virginia. By an Order of the Admiralty Committee on August 6, 1650 the ship Constant Ann, her passengers having taken the engagement and pledged

34 Ibid., p.133.

35 Ibid., p.134.

by a £2000 bond that the vessel would be secured against the enemies of the Commonwealth, was allowed to receive her passengers on board and proceed to Virginia.³⁶ In accordance with the duties of the Admiralty Committee "to confer with the merchants trading with Virginia concerning their trading in companies and giving security for the securing their ships against the enemies of the Commonwealth", leave was granted to eight masters to proceed with their ships.³⁷

Pending later orders, the Council of State on August 10th ordered that a letter be written to the Commissioners of the Customs and an order be sent to one Colonel Deane to stop the ships which were bound for Virginia until further notice. This came on August 14, 1650 and declared that ships bound for Virginia should have leave to go on their voyage if the master of each ship with the merchants and owners of same gave a bond of £2000 to the State in the Admiralty Court that they would not come under the command of any fort or castle upon reaching Virginia.³⁸

36 Ibid., p. 141.

37 Ibid., p. 142.

38 Ibid.

These efforts to restrict the trade of the colonies had a deeper meaning than would appear on the surface. In the first half of the century, while England was struggling between "jure divino Anglicanism and parliamentary Parliamentarianism, the Dutch had become leaders in foreign commerce". They had vast capital, "more highly developed banking facilities and commercial methods" by means of which the little nation had gained the "economic mastery of Europe". As early as 1650 the leaders of the Commonwealth realized that the economic growth of England in "nearly every direction was stunted by Dutch competition."³⁹

The Dutch were supreme in the herring fishery and, as a result of low rates, monopolized the carrying trade of the world. England was both humiliated and extremely jealous of such trading prowess on the part of Holland. "As soon as Parliament was freed from the anxiety of the struggle with the Crown, its attention was turned to rectifying this state of affairs." The mercantile supremacy of the Dutch led to the Parliamentary Acts of 1650 and 1651.⁴⁰

39 Beer, op. cit., p. 372.

40 Ibid., pp. 372-374.

On September 10, 1650, the Admiralty Committee ordered that the draft of an act for the reduction of loyal colonies be prepared for the Committee to send to the Council and thence to Parliament for consideration. The Committee also advised that all ships in any of the Commonwealth ports that were bound for the colonies be stayed until further
41
order-

... that all ships and goods be stayed and examined- and that all letters and writings taken in such ships be sent up to this Committee to be perused and the invoices & bills of lading sent the Comm'rs of the Customs who may be empowered to examine whether the goods in such ships do belong to persons well affected to this Commonwealth or not. 42

The declaration of September 10th was followed up by the Non-intercourse Act of September 19, 1650 which prohibited trade and commerce to Barbadoes, Antiqua, Virginia, and the Somers Islands "because of their rebellion against the Commonwealth and Government of England". It was read twice on September 27th and was passed with amendments in the House of Commons on October 3, 1650.⁴³ In its final stage, the Parliamentary Act forbade "the

41 Sainsbury Abstracts, XVII, 143.

42 Ibid., p. 143.

43 Ibid., pp. 143-144.

rebellious colonies to have 'any maner of Commerce or Traffique with any people whatsoever'," and also prohibited any commercial intercourse with them.⁴⁴

"In addition to this punitive clause, the act contained a provision of more permanent character, by which all foreign ships were forbidden to 'come to, or Trade in, or Traffique with' any of the English colonies in America, unless license had first been obtained from Parliament or the Council of State. It was stated in the act that this provision was designed to prevent enemies of the established government from being carried to the colonies."⁴⁵

Although this Act of October 3, 1650 may be of "fundamental constitutional significance in British colonial history",⁴⁶ its importance as an economic measure is disputed. One authority claims that the act would "appear to have been of political character, but in reality it was of a commercial nature, and was designed to oust the

44 Scobell, Collection of Acts and Ordinances (London, 1658), II, pp. 132-134 is source of Parliamentary Act of October 3, 1650 for Beer, op. cit., p. 384.

45 Ibid.

46 Maurice Percy Ashley, The Financial and Commercial Policy under the Cromwellian Protectorate, Oxford University Press, London, 1934, p. 132.

Dutch from the English colonial trade, and to secure a monopoly thereof to the national shipping."⁴⁷
 Another authority declares that it was a temporary measure- "a war measure, the retaliation of the victorious party in the civil war upon the van-⁴⁸quished."

Regardless of its disputed importance, the act served admirably as a means to stir up opposition in the royal Virginia colony. Upon hearing of the passage of the Act of October 3, 1650,⁴⁹ Governor Berkeley called together an Assembly in March, 1651.⁵⁰ At that time he made an impassioned speech in which he arraigned Parliament. He declared that the "Londoners 'would faine bring us to the same poverty wherein the Dutch found and relieved us; would take away the liberty of our conscience and tongues, and our right of giving and⁵¹ selling our goods to whom we please'." After his

47 Beer, op. cit., p. 384. "Ships seized for violating this act were to be tried in the Admiralty Court".

48 M. P. Ashley, op. cit., p. 132.

49 Beer, op. cit., p. 306.

50 Thomas J. Wertenbaker, Virginia under the Stuarts 1607-1688, Princeton University Press, Princeton, c. 1914, p. 96.

51 Va. Mag. of Hist. and Biog., I, p. 76 is quoted by Beer, op. cit., p. 394.

52

speech the act of Parliament was read aloud. The Assembly answered in a long "Declaration" which declared finally:

We are resolved to Continue our Allegiance to our most Gracious King, yea as long as his gracious favour permits us, we will peaceably trade with the Londoners, and all other nations in amity with our Sovereigne: Protect all forraigne Merchants with our utmost force in our Capes: Allwaies pray for the happy restoration of our King, and repentance in them, who to the hazard 53 of their soules have opposed him.

As Governor Berkeley foresaw, the English found it almost impossible to enforce a strict blockade. It was hard to send vessels to the Virginia waters, and foreign merchants continued to import goods and export the colony's tobacco. Holland was particularly fortunate in this quarrel between England and the Virginia colony, for they extended their already profitable trade. The Council of State began to realize by the complaints of the London shippers that the Act of October 3, 1650 was more injurious to England than
54
to the obstinate colony.

52 Wertenbaker, op. cit., p. 98.

53 Va. Mag. of Hist. and Biog., I, pp. 75-81, is source for Wertenbaker, op. cit., p. 98.

54 Wertenbaker, op. cit., pp. 98-99.

On November 28, 1650, Parliament granted a license that allowed the people of New England to trade with Barbadoes, Antigua, Bermudas or Virginia until July 31, 1651.⁵⁵ Then, on May 23, 1651, the Council of State, upon reading the petition of Abraham Palmer and Thomas Webber, ordered that these merchants have

liberty to trade to Virginia upon security given in the court of the Admiralty that they shall not trade with the enemies of the State of Virginia nor give any assistance to them And that letters of a private man of war be given to them to enable them to do⁵⁶ service to the Commonwealth.

In September, 1651, orders were given by the English Council of State concerning the shipment of Royalists to the colony. By an Order of September 10th, sixteen hundred and ten prisoners of war, practically all Scotchmen, who were taken at the battle of Worcester, were to be used by Virginians as servants, provided they were given "Christian⁵⁷ usage". Several days later, on September 25th, the English Council ordered that the Committee for

55 Sainsbury Abstracts, XVII, 278.

56 Ibid.

57 Ibid., p. 279; Stanard, op. cit., p. 221.

the prisoners place a Scotch minister who was a prisoner, too, with every 200 prisoners. The ministers were to have free transportation furnished by the merchants and upon arrival to "be free of servitude".⁵⁸

After considering the opposition of the royal Virginia colony and hearing the pleas⁵⁹ of the Virginia Parliamentary party,⁶⁰ it became "apparent that only by armed force could the submission of the royalist colonies be secured".⁶¹ Therefore, after long deliberation, the Council of State of the Commonwealth of England decided to send commissioners to reduce Virginia and her inhabitants to due obedience.⁶² On September 26, 1651,

58 Sainsbury Abstracts, XVII, 281.

59 by Order of the Council of State, July 1, 1651, the Committee which was appointed for the business of Barbadoes was to receive the information concerning Virginia, while Mr. Benjamin Whetcombe and Mr. Chaloner, who was at this time added to the Committee, were to consider it. Ibid., p. 279.

60 Wertenbaker, op. cit., p. 99.

61 Beer, op. cit., p. 362.

62 E. D. Neill, Virginia Carolorum, Joel Munsell's Sons, Albany, N. Y., 1886, p. 217; Lothrop Withington, "Surrender of Virginia to the Parliamentary Commissioners, March 1651-2." Va. Mag. of Hist. and Biog., XI, 38.

instructions were sent to the appointed commissioners who were Captain Robert Dennis, Richard Bennett,⁶³ Thomas Stagg,⁶⁴ and Captain William Claiborne.

These commissioners with an armed force were to sail either on the ship John or the Guinea, a frigate of Holland, as Captain Dennis directed.⁶⁵ Upon arrival at the colony they were "to use their best endeavors to reduce all the plantations within the Bay of Chesapeake to their due obedience to the Parliament of the Commonwealth of England".⁶⁶ They were also given the power to pardon and indemnify the inhabitants of the plantations if they would submit to the Commonwealth. However, they could make exceptions and limitations in those pardons as they deemed necessary. If the inhabitants did not submit quietly, the commissioners might use force and free those who would "serve as Soldiers if their Masters stand in opposition to the present Government..."⁶⁷

63 The name is spelled Bennett and Bennet, but I prefer the former.

64 By an Order of the Council of State, August 15, 1651, those who went in the fleet were allowed to take shoes and other goods that were sent usually for trade. Sainsbury Abstracts, XI, 279.

65 Withington, loc. cit., p. 38; Beer, op. cit., p. 306.

66 Withington, loc. cit., p. 38.

67 Ibid.

Then they were to publish the acts of Parliament against the King and the House of Lords and the acts for the abolition of the Common Prayer Book and for the subscription of the engagement. The Commissioners had the power "to administer an oath to all inhabitants or planters there to be true & faithful to the Commonwealth of England as it is now established without a King or House of Lords; also to give liberty to those who have taken the Engagement to choose Burgesses for regulating and governing affairs there, provided nothing be acted contrary to the Gov^t of this Commonwealth & the Laws established".⁶⁸ They were also to have all writs and processes issued in the name of the Keepers of the Liberty of England by the power of Parliament. Should a member of this commissioned group die, only two or more were to execute these instructions. And if Captain Dennis should die or be absent for another reason, Edmund Curtis, the commander of the Guinea frigate,⁶⁹ was to act as a commissioner and command the fleet.

68 Ibid., pp. 38-39.

69 Ibid., p. 39.

Before sailing, special instructions were given to Captain Robert Dennis. He was to follow the instructions that were given to the group of commissioners. But, he was also to try to seize all trading vessels that disobeyed the parliamentary acts. He could judge the best means of disposing of the loot for the good of the Commonwealth.⁷⁰ Provision was also made in the commission that, if Sir George Asyscue should complete his work of subduing the Barbadoes and should come to Virginia while the commissioners were still there, he should become⁷¹ the superior officer.

Before the commissioners had left the English shores, Parliament passed the famous Navigation Act of October 9, 1651 whose purpose was to protect more fully English shipping from Dutch competition.⁷² This act confined the import trade to the plantations and the export trade thence to England entirely to

70 Ibid.

71 H. L. Osgood, op. cit., III, 120.

72 Beer, op. cit., p. 385. These parliamentary acts of 1650 and 1651, aided by other economic and political factors led to war with the United Provinces in 1652 which was ended by a peace treaty in 1654. Ibid., pp. 372-375.

British vessels." ⁷³ There is evidence that three trading companies, the East India; the Levant, and the Eastland, worked for the passage of the Act, for they realized the necessity of the recovery of their trade which had been hurt by the civil war. ⁷⁴ At any rate, the Navigation Act of 1651 was a "purely military measure promoted by the Long Parliament to assist the expansion of the navy" ⁷⁵ and an "important proof of the powerful influence of commercial and shipping interests upon the Commonwealth Government". ⁷⁶ "This measure governed, or was intended to govern, the trading relations between England and her colonies until the Restoration." ⁷⁷

While this well known measure was being enacted, the armed fleet was sailing across the

73 Ashley, op. cit., p. 132. In Appendix B, "The Character of English exports and imports in the mid-seventeenth century", p. 184, the author lists

Colonial Exports: cloth (esp. serges), tin, leather goods, lead, glass, earthenware, hats, shoes, stockings, raisins (re-exported), slaves (from Guinea), woollen goods, cattle, utensils for sugar boiling, tobacco pipes, and provisions generally.
Imports: tobacco (Virginia), sugar (West Indies), ginger, cottonwool, skins (a small quantity), indigo, rustic wood.

74 Ibid., p. 161.

75 Ibid., p. 157.

76 Ibid., pp. 157-158.

77 Ibid., p. 132.

Atlantic to subdue the Virginia colony. Captain Dennis and Commissioner Stagg were lost on the ship John before reaching Virginia. Therefore, Edmund Curtis took the place of Captain Dennis as it had been provided in the instructions to both Commissioners and, specifically, to Captain
 78
 Dennis. After the fleet had reached the Virginia shores, the Commissioners presented their credentials and sought to follow their instructions. In this effort, Captain Curtis with his copy of the instructions worked in conjunction with Richard Bennett and William Claiborne who were in Virginia
 79
 at this time.

78 Osgood, op. cit., III, 120; Neill, op. cit., p.219. An Order of the Council of State, November 9, 1652 recommended that the petitions of the widows of Captains Stagg and Dennis who were cast away in the ship John on government service in her voyage to Virginia, be sent to the Admiralty Committee for consideration of the relief of the petitioners. Sainsbury Abstracts, XVII, 352-353.

79 Osgood, op. cit., III, 120-121; J. H. Latane, loc. cit., p. 51. On October 2, 1651 from Whitehall was sent this notice from the Council of State to Richard Bennett:

In the enclosed letter, sealed with the seal of the Council, he will find some instructions concerning himself which he is to keep by him and not open till the country be reduced to the obedience of the Commonwealth of England; when that is done he is to open that letter and pursue the directions found therein.

Withington, loc. cit., p. 40.

In regard to the details of the surrender of Virginia to the Parliamentary Commissioners there is little information. When Governor Berkeley learned of the approach of an armed fleet in January, 1652, he prepared to resist by force. He was promised the assistance of the Indians and managed to collect about one thousand armed militia at Jamestown. Arms were distributed also among the people of Jamestown, while the Governor put men on some Dutch ships that were in the harbor. In his earnest attempts to oppose the force, Governor Berkeley blundered when he called the commissioners, or the people they represented, 'pirates and robbers'. He even predicted that Virginia would be subjected to a controlling company of greedy merchants; but the commissioners

80 Ibid., p. 33; Osgood, op. cit., III, 121-122; Latane, loc. cit., pp. 51-52.

The maritime policy of England at this time was largely directed towards breaking up the carrying trade of the Dutch, and one of the chief objects in sending the expedition against the colonies was to suppress the illicit exportation of tobacco in Dutch ships which, in spite of all restrictions, had greatly increased during the continuance of the civil war in England. These ships were thus very willing to render their assistance to Governor Berkeley. Ibid., p. 52.

explained their purpose and circulated their commission. In this way, they counteracted the policy of Berkeley. Moreover, the governor and council of Virginia, although they had the support of some Cavaliers, were unprepared to resist the power of the Commonwealth.⁸¹ "Therefore 'mutual engagements' passed between the commissioners and the governor and council. The militia were sent home, and a call was issued for a meeting of the general assembly. This occupied the time from January till March, 1652."⁸²

When the Assembly met at Jamestown, the Virginians submitted quietly to the Commonwealth of England. The articles of surrender were signed on March 12, 1652.⁸³ They consisted of two parts. The first articles were concluded with the general

81 Osgood, *op. cit.*, III, p. 122; Neill, *op. cit.*, pp. 220-221. "The royalists in Virginia increased after 1649, and the colony, though it might well have held out against a seige, surrendered without a struggle to the fleet sent by Parliament in 1651 to effect its reduction. The surrender was the work of that large body of planters and free holders, parliamentarians and cavaliers alike, who desired peace, trade, and prosperity, and who saw in resistance and possible defeat a further restriction upon their market, and consequent ruin..."-C. W. Andrews, Colonial Self-Government 1652-1689 (vol. V of The American Nation, ed. by A. B. Hart), 202.

82 Osgood, *op. cit.*, III, 122.

83 Ibid.; Latane, loc. cit., p. 52.

assembly which was composed of Governor Berkeley,
the Council and Burgesses.⁸⁴ These articles provided that: (1) The inhabitants of Virginia were to remain subject to the Commonwealth of England according to the established laws. This submission was a voluntary act rather than a forced conquest. (2) The people were to enjoy the freedom and privileges of free born Englishmen while the former government was declared null and void. (3) The Grand Assembly was to meet and transact the affairs of Virginia which were to conform with the laws of the Commonwealth of England. (4) There was to be full indemnity for all past acts against the English Parliament. (5) Virginia was to "have and enjoy the ancient bounds and lymitts granted by the charters of the former Kings,"⁸⁵ and was to ask for a new charter from Parliament to protect her from those who have intrenched her rights. (6) The patents of land that were granted by any preceding Governors under the colony seal were to remain. (7) Each person who was transported to the colony was to be granted, as usual, fifty acres of

⁸⁴ Osgood, *op. cit.*, III, 122; W. H. Hening, *Statutes at Large*, I, 363.

⁸⁵ *Ibid.*, p. 364.

land. (8) The people of Virginia were to "have free trade as the people of England do enjoy to all places and with all nations according to the lawes of that Commonwealth", and were "to enjoy all priviledges equall with any English plantations in America"⁸⁶. (9) Virginia was to be free from all taxes, customs, and other impositions, while her Grand Assembly was to consent to any attempts of the same. Neither ports nor castles were to be erected and garrisons maintained without the consent of the Assembly. (10) No money was required from the colony with respect to the expense of this present fleet. (11) Those who refused to submit were to be given a year to remove themselves and their property from Virginia, but in that year they were to have the accustomed justice. (12) The use of the Book of Common Prayer was to be permitted for the coming year with the consent of the "major part of the parishes. Provided that those things which relate to kingship or that government be not vsed publicuely; and the continuance of ministers in their places, they not misdemeaning themselves: And the payment of their accustomed dues and agreements made with them respectively

86 Ibid.

shall be left as they now stand during the en-
⁸⁷sueing years." There were other minor items in
the settlement. The Parliamentary Commissioners
must pledge themselves and the "honor of
parliament for the full performance thereof" and
Governor Berkeley, the Council and the Burgesses
must also subscribe and engage the whole colony
"on their parts".⁸⁸ These articles were signed
by Richard Bennett, William Claiborne, and Edmund
Curtis, the three commissioners who helped to
⁸⁹settle this voluntary surrender.

The second group of articles which was con-
cluded with Governor Berkeley and his Council
⁹⁰was signed by the same three commissioners.
These articles declared that; (1) The Governor
and Council were not obliged to take the engage-
ment of fidelity to the Commonwealth for one
year, and during that year thry would not be cen-
sured if they prayed or spoke well of the King
in their private homes or to their friends.
(2) Governor Berkeley, at his own expense, would
be allowed to send someone to the exiled King
Charles to tell him of the surrender of Virginia.

87 Ibid.

88 Ibid., p. 365.

89 Ibid., pp. 363-365; Osgood, op. cit., III, 122-123.

90 Ibid., p. 122; Hening, op. cit., p. 365.

(3) He and the Council were allowed to sell or dispose of their estates; could go wherever they wished. (4) They were also allowed free and equal justice in the Virginia courts for a year although they may not take the engagement. (5) All of the land and houses of the Governor and Council to be secure. (6) All debts due the Governor and officers by act of the Assembly were to be paid. The Governor was to be paid from the goods that remained in Virginia from the Dutch ship that returned to Holland without paying the customs. (7) The Governor may hire a ship bound for England or Holland to transport his goods and that of the Council. This ship was not to be molested. (8) The Captain of the fort was allowed to build his house on fort island. (9) Every person who was in the colony that had served the King here or in England was to be free from any dangers or punishment. (10) After these articles were signed an act of indemnity was to be issued by the Parliamentary Commissioners. No persons in any court of justice in Virginia was to be questioned for the opinions they held regarding these articles. (11) The

Governor and Council were to have passes to leave Virginia in any ship at any time during the year; they were to be free from arrest and trouble if they returned to England.⁹¹

Despite these mild and just settlements, the actual surrender of the colony to the Parliamentary Commissioners led to a definite local reaction.

There was a noticeably vehement protest from the Eastern Shore of Virginia. In that section which, even to-day, is marked by peculiarities of custom, was a large group of Dutch settlers who had come for both commercial gains and relief from persecution in other colonies in the early seventeenth century. By 1640, these colonists had a flourishing trade with Holland and the West Indies.⁹²

Therefore, when the Parliamentary Acts of 1650 and 1651 were put into effect, their economic life was greatly disturbed. By these measures England won the opposition of the Dutch in Accomac. But, loyal to the Crown, they had declared by proclamation, Charles II as legal king. When the commissioners of the Commonwealth government were sent in

91 Ibid., pp. 365-368.

92 J. C. Wise, op. cit., pp. 71-76.

1651 to subdue Virginia and the war between Holland and England broke out in 1652, Northampton County on the Eastern Shore was concerned over these events.⁹³

Commissioner Richard Bennett in January, 1652, sent an order to the Court of Northampton which stated that upon the English declaration of war upon Holland, the Northampton militia was to be mustered and assembled. That same month came a command from the General Assembly to seize Dutch ships which came into Northampton waters since the peninsula was open to Dutch attack. Another order came from Commissioner Bennett which ordered the seizure of such Dutch vessels. Since these Dutch settlers were reported to be conspiring with the Indians to bring about another massacre, opposition to these people grew on the peninsula.⁹⁴

Yet there were other problems in this Eastern Shore protest to the surrender to the Parliamentary Commissioners. First, from 1647 to 1651, there was

93 Ibid., pp. 124-126. By an Act of March 18, 1642 Accomac County was to be called Northampton County. Ibid., p. 96.

94 Ibid., p. 128.

no representation from Northampton County in the Assembly. "Yet a tax for forty-six pounds of tobacco per poll had been levied upon the Eastern Shoremen, of which they had bitterly complained."⁹⁵ Second, Parliament, which at first had support among the middle class of the peninsula, lost favor.⁹⁶ The passage of the Parliamentary Acts of 1650 and 1651 almost swept away the Parliamentary party there. The small planters who did not own trading ships had to pay very high freight rates on their tobacco, and then got a very low price for it. Third, a feeling of independence had grown in the settlement on account of the water barrier between them and the rest of the colony. Fourth, the royalist party felt that the time was right to separate from the rest of the colony. Edmund Scarborough,⁹⁷ a ringleader of a rather fiery, headstrong nature who hated the Puritans, became a major influence in this

95 Ibid., p. 137.

96 Ibid.

97 This is also spelled as Scarborough, Scarborow, and Scarbrugh. Ibid., p. 401.

98
drive.

One hundred and sixteen people of Northampton County signed the engagement "to bee true and faithful to the Commonwealth of England as it is nowe Established without Kinge or House of Lords."⁹⁹ But, as a result of intensive propaganda, a group of six leading citizens, who were elected for this purpose, drew up a "protest against their present condition",¹⁰⁰ for the best interests of the people. Therefore, on March 30, 1652, the People's Committee drew up the Northampton Protest which,

98 Ibid., pp. 137-138. Colonel Edmund Scarborough was the most famous member of a noted Eastern Shore family. His brother, Sir Charles Scarborough, was physician to Charles II, James II, and King William. Edmund Scarborough "was a member of the House of Burgesses in 1642, 1645, 1647, 1652, and 1659, and from 1660 to 1671; Speaker of the House in 1645; Justice of Northampton; Sheriff in 1660 and 1661; appointed Surveyor General of Virginia in 1665 and held the office during life." He was not regularly commissioned for this last position until 1666. "He was warm-hearted, fearless, pugnacious, an enterprising man, highly educated, and the equal of any Virginian of his day as a soldier, scholar, or useful citizen. He died about 1671." His son, Colonel Charles Scarborough, married the daughter of Commissioner, later Governor, Richard Bennett. Ibid., pp. 85-86.

99 Ibid., pp. 134-135.

100 Ibid., p. 138.

"while not signed by Colonel Scarborough, may be
 attributed largely to his influence." ¹⁰¹ After
 stating their grievances, the Protest declared:

If there bee a free and genr all
 vote for a Governor wherein they
 shall Ellect Mr. Richard Bennett
 Wee the inhabitants of Warthampton
 Countye with unanimous consent
 & plenary aprobacon Rendr our ¹⁰²
 voyce for the sd. Esq. Bennett.

While Mr. Bennett was favored personally,
 the document which was recorded on May 10, 1652, ¹⁰³
 "was a direct protest against the authority of the
 Commonwealth of England, which from March 12th to
 April 30, 1652 was represented by Parliamentary
 Commissioners, not chosen by the people, nor any
 section of the people of Virginia." ¹⁰⁴

Yet on the same day of the recording of the
 Northampton Protest, May 10, 1652, Colonel Francis
 Lovelace, who had petitioned for a permit, received
 one from Commissioners Bennett and Claiborne on
 behalf of the Commonwealth of England which enabled
 him and his servant to give the exiled King an
 account of the surrender of Virginia ¹⁰⁵ which was the
 last colony to surrender to the Commonwealth. ¹⁰⁶

101 Ibid., pp. 138-139.

102 Ibid., pp. 139-140.

103 Ibid., p. 140.

104 Ibid., p. 141.

105 Sainsbury Abstracts, XVII, 284-285.

106 Stanard, op. cit., p. 223.

CHAPTER II

RICHARD BENNETT, ACTING GOVERNOR

(April 30, 1652- March 30, 1655)

The Parliamentary Commissioners were now faced with the task of establishing a new government. The English Council of State had granted them the power "to hold an election of Burgesses granting the franchise to all who had taken the oath of allegiance". But they proved to be wise men when they waited for the assembling of the Burgesses which would be consulted in the various measures of changed government. The election was held promptly, and the "members were sworn in on April 26, 1652" at Jamestown.¹

Since the Council of State had given the commissioners no specific powers in the settlement of the government, a tentative arrangement was made which would go into effect when approved in England.² After long and serious debate, on April 30, 1652, it was concluded by the commissioners and the Burgesses that until further information came from Parliament, Richard

1 Wertenbaker, op. cit., p. 101; Hening, op. cit., p. 371.

2 Wertenbaker, op. cit., p. 102.

Bennett,³ one of the commissioners, was to be Governor for one year and Colonel William Claiborne, another commissioner, was to serve again as Secretary of State.⁴ When Mr. Richard Bennett became Governor, he was faced with a vagueness of the definite duties of his office. It was true that the commissioners and the Burgesses first declared that he was to exercise "all the just powers and authorities that may belong to that place lawfully".⁵ But they also decided that he was not to have the rights that the royal governor had enjoyed. Rather, his powers were to be "granted him from time to time by the Assembly".⁶ This lack of clarity led to clashes between the executive and legislative branches of the provisional government,⁷ especially in the later years of the Protectorate.

3 Bennett was one of the early Puritan leaders in Nansemond County who had left the colony when former Governor William Berkeley had persecuted dissenters. He returned later to the colony. Wertebaker, *op. cit.*, p. 103; "Isle of Wight County Records". William and Mary College Quarterly, VII, 211 (April, 1899).

4 Hening, *op. cit.*, p. 371; Latane, *loc. cit.*, p. 55.

5 Hening, *op. cit.*, p. 371.

6 Wertebaker, *op. cit.*, pp. 105-106.

7 *Ibid.*, p. 106.

Leading members of the new Council of State under the provisional government belonged to the "party of the dispossessed company, the low churchmen and... Puritans".⁸ Among these members were John West, Argoll Yeardley, Nathaniel Littleton, and Samuel Mathews. The last name, Samuel Mathews, appeared frequently, for either father or son was a Council member or in the House of Burgesses throughout the Cromwellian period.⁹

After the Council of State had recognized officially the House of Burgesses, it was made the main governing body of the colony.¹⁰

...Except for the veto of the English government its power was to be unlimited. It was to elect the Governor and to specify his duties. If his administration proved unsatisfactory it might remove him from office. The Burgesses were also to elect the Council, to prescribe its functions and limit its power.... It was even debated whether Councillors should be admitted to membership in the General Assembly.

8 Dodd, op. cit., p. 124.

9 Ibid.; Henning, op. cit., p. 371.

10 Ibid., pp. 371-375; P. L. Kaye, "The Colonial Executive Prior to the Restoration", Johns Hopkins University Studies in History and Political Science, XVIII, 27-28.

The appointment of all officials was also to "appertain to the Burgesses, the representatives of the people", but it was agreed that for the present most of the first nominations should be left to the Governor and the commissioners.¹¹

The speaker of the House of Burgesses held a "position of influence and power... during the Protectorate",¹² although he was usually a member of the "Puritan party."¹³ Thomas Dew of Nansemond, "a land speculator and frontier explorer of southern Virginia",¹⁴ became the speaker in 1652. These leaders of the Council and House wanted the settlers in the colony to have all the rights of Englishmen. And "these rights involved religious toleration, if not freedom of conscience; the right of all freemen to vote in elections and to be represented in government was re-asserted, and the privilege to sell their products freely in the markets of Europe was guaranteed".¹⁵ By their efforts Virginia became almost a republic. This temporary government of Virginia remained practically

11 Wertenbaker, op. cit., p. 102.

12 Percy Scott Flippin, The Royal Government in Virginia (Columbia University Studies in History, Economics, and Public Law) LXXXIV, 191.

13 Dodd, op. cit., p. 124.

14 Ibid.

15 Ibid.

unchanged throughout the period of the Commonwealth
 and Protectorate in England.¹⁶

Soon after the provisional government was set up, Governor Bennett and Secretary Claiborne turned their attention toward the Maryland situation. They had been appointed "commissioners of parliament for the ¹⁷general oversight of Maryland". Therefore, in June, 1652, the Maryland colony's "Governor Stone, whom they had deposed from office"¹⁸ on an earlier visit, deferred to them and was "reinstated in his office. They also reappointed Lord Baltimore's former Secretary, Thomas Matton, by a proclamation of June 28, 1652."¹⁹ By this action the authority and absolute ownership of Lord Baltimore were threatened.²⁰

In August, 1652, Governor Bennett and the Assembly sent Colonel Samuel Mathews to London "to obtain a ratification of the articles of agree-²¹ment with the Commissioners of Plantations".

16 Wertenbaker, op. cit., p. 102.

17 Dodd, op. cit., p. 123.

18 Latane, loc. cit., pp. 56-57.

19 Ibid., p. 57.

20 Dodd, op. cit., p. 123.

21 Neill, op. cit., p. 227; Dodd, op. cit., p. 124.

His principal task was "to argue the validity of
the Virginia title to Maryland before Parliament".²²
Samuel Mathew's main object was "to prevent the
government of Maryland from being again placed in
the hands of Lord Baltimore..."²³ The Virginians
even tried to have the Catholic proprietor's charter
revoked. At first the English Council of State
referred the matter to a Committee of the Navy which
gave a favorable report to the claims of Claiborne
and the Virginians on December 31, 1652.²⁴

22 Ibid.

23 Latane, loc. cit., p. 59.

24 Ibid.; Osgood claims that the committee favored
the validity of Baltimore's grant. An Order of
the Council of State on August 12, 1652 reads
in Sainsbury Abstracts, XVII, 286:

That the petition of the inhab-
itants of Virginia and the
Articles made for surrendering
the place (see March 12, 1652)
into the hands of the
Parliament together with sev-
eral letters written to the
Council from the persons em-
ployed in that service and
other passages relating there-
unto be humbly reported to the
Parliam't by Mr. Love for their
resolution and direction in
that affair.

Minutes of a Committee for Foreign Affairs on
January 12, 1652-53 run as follows:

Having taken into consideration
the order of the Council re-
ferring to them the settling of
the Government of Virginia and

On November 25, 1632, the Assembly convened at Jamestown. The Assembly exercised its

having received petition from Col. Mathews on behalf of that Plantation, It is ordered that said petition be presented to the Council with the opinion of this Committee that in regard the several letters and papers addressed to the Council concerning Virginia were reported to the Parliament and thence referred to the Committee for the Navy where they are now depending the settling of said Governm't cannot be speedily proceeded in, and that therefore in the interim it will be necessary in regard an answer to those things is much pressed that a letter be written to the present Governor of Virginia by the ships now ready to sail thither to let them know that the business of that Plantation is under consideration & in particular the addresses made on behalf of that place by Col. Mathews and that a Duplicate of the Commission and Instructions given to the persons sent for reducing Virginia be sent with said letter. They having no authority to show for their proceedings there in regard the Commission and instructions carried along with them were cast away upon that Coast in the ship,
John.-

Sainsbury Abstracts, XVII, 355.

right to decide the qualifications of its members. John Hammond, a representative from Isle of Wight County, was expelled because he was a "frequent disturber of the peace of the country by libell, and other illegal practices".²⁵ Another member from the same county was expelled because he, James Pyland, aided Thomas Woodward, who was a noted royalist, in his "mutinous and rebellious declaration" against the Parliament.²⁶

25 Neill, op. cit., p. 229; Mening, op. cit., p. 374. Hammond moved later to Maryland where he was a friend of Lord Baltimore. He wrote "Leah and Rachell", a tract on the relations of Virginia and Maryland. William and Mary College Quarterly, VII, 213.

26 Ibid.; In Northumberland County was found another example of disaffection against Parliament:
21st Nov. 1653.

Whereas Mrs. Mary Calvert hath confessed in Court that shee hath called y^e States and y^e keepers of y^e liberty of England Rogues traytors and Rebels in Mr Nicholas Morris his house shee saith at y^e time of speaking such words shee was in greate danger of her life being taken away by her husband & shee spoke those words to no other end but only to have some magistrate or officer to secure her from her husband the Court doth therefore, order that y^e sd Mrs. Calvert shall presently receive thirty stripes upon her shoulders for this her^e offense. not notwithstanding

Other minor tasks were completed while the Assembly waited for news from Colonel Samuel Mathews, their agent in London. ²⁷ This Assembly gave the interesting order that Colonel William Claiborne, Captain Henry Fleet, and Major Abraham Wood with associates "May discover and shall enjoy such benefitts, profits, and trades, for fourteen years as they shall find out in places where no English ever have bin and discovered, nor have had particular trade, and to take up such land by pattents proving their rights as they shall think good...." ²⁸ The special trade was probably with the Indians.

upon Mr. Calvert's petition in behalfe of his wife the Court doth order that said M^r Calvert shall pay upon all demands to y^e rest of y^e County one Thousand pounds of Tobacco & caske for y^e comuteing of y^e corporal punishment to be inflicted upon his ad wife with charges of Court else execucon.

L. C. Tyler, "Virginia under the Commonwealth", William and Mary College Quarterly, I, 193, (April, 1893); In 1654 "a warrant was sworn out against William Durant 'who is actually in rebellion against the Lord Protector'." Stanard, op. cit., p. 228.

27 Neill, op. cit., p. 230.

28 Hening, op. cit., p. 377.

"But where had (they) not been? It is a legend that Major Wood, following his order of 1652, and trying to go where he had never been, reached waters of the Mississippi in 1654."²⁹

Then the General Assembly convened again on July 5, 1653 when one Walter Chiles was elected speaker over the rightful objections of Governor Bennett and the Council. At this session the Burgesses showed somewhat spitefully that they would have no interference from the Governor with their proceedings. However, Chiles resigned, and one William Whitby became the speaker.³⁰ These objections to Walter Chiles had a direct relation to the alarming Dutch situation that existed on the Eastern Shore.³¹ The Northampton question was revived as a result of certain new developments.

...On the 15th of June, 1652, Richard Husband, master of the ship, 'Hopeful Adventure', seized the ship of Mr. Walter Chiles, 'who on January 24th, 1651-2 had sett sayle with his owne Shipp 'called the 'Fame of Virginia', to Rotterdam and was

29 A. J. Morrison, "The Virginia Indian Trade to 1673", William and Mary College Quarterly (second series) 1, 232. (October, 1921).

30 Hening, op. cit., pp. 377-8.

31 See pages 34-38.

'in the Road of Accomac' on the return to James City when the said Husband came up. Husband's pretext was that Chiles had no license from the Parliament and was bound with the cargo to Brazil. Chiles petitioned the Court of Northampton for relief, maintaining that the seizure was 'contrary to ye peace of this countrye. And also contry to ye agreemt made by ye Comrs that were appointed by ye keeprs of the Libertyes of England and to ye damage of ye petr towe thousands pounds sterl'.

The Court, thereupon, ordered Husband to restore the ship and cargo, the seizure of which was pronounced 'contrary to the treaty with the Parliamentary Comrs'. But Husband sailed away with his prize, and the Court ordered such writings to be dispatched 'as may be necessary to prosecute Husband before the Honble State of England'.³²

Meanwhile, the Court had been trying to protect the threatened Dutch inhabitants. Under the leadership of the brilliant Edmund Scarborough, the people who opposed the Dutch settlers, were getting out of bounds. The Commissioners³³ were

32 Wise, op. cit., p. 141.

33 "The Court consisted of a presiding officer, ... the Commander of Acchowmacke, and six Commissioners, who were his coadjutors." The Commissioners had duties of a Justice of Peace, too. Ibid., p. 42.

forced to put the unfortunate state of affairs before the Council of 1652. By this admission³⁴ they acknowledged their inability to handle this difficult situation. However, steps were taken to prevent any further action against the³⁵ Dutch.

In May, 1653, Governor Stuyvesant of New Netherlands tried to obey instructions from Holland to arrange a possible treaty with Virginia. He sent Van Tienhoven, the Treasurer, and Van Hattern, a burgomaster of New Amsterdam, to Jamestown to negotiate with Governor Richard Bennett. However, the Virginia authorities did not have the power to make such a treaty. Therefore, they told the Dutch Commissioners that the "matter would have to be referred to the Council of State in England"³⁶. Governor Stuyvesant also wished to protect the Dutch citizens of Northampton and by the efforts of his Commissioners "the danger which had confronted the Dutch inhabitants of the peninsula was in large

34 Those who signed the report were "Obedience Robins, Edward Douglas, Wm. Andrews, Thos. Johnson, Jno. Stringer, Wm. Jones, and Mr. Whittington."
Ibid., p. 142.

35 Ibid.

36 Ibid., pp. 142-143. The Council of State in England had created on December 17, 1651 a "standing committee of the Council...", consisting of

37

measure averted".

However, the Northampton Commissioners or Justices disagreed among themselves. Riots resulted when Captain Johnson, a Commissioner who wanted to protect Dutch interests on the Eastern Shore, read to the people in Dr. George Hacke's field certain orders of the Commissioners which he himself disapproved and Stephen Horsey, a member of the People's Committee "who had subscribed his name to the Protest in their behalf,

fifteen members, to concern itself with trade and foreign affairs. It was organized as were all the Council committees.... recommissioned on May 4, 1652, and again on December 2, 1652, when the membership was raised to twenty-one and the plantations were brought within its scope, became a very independent and active body until its demise in April, 1653... Except for the Admiralty Committee and one or two other committees to which special matters were referred,... there appears to have been no other subordinate body actually in charge of affairs in America between December 17, 1651, and April 15, 1653... After April 15, 1653, we hear no more of this committee... A Council Committee of Foreign Affairs was appointed, probably June, 1653, reappointed on July 27th and again reappointed August 16th, but no committees of trade and of plantations appear." Andrews, loc. cit., pp. 33-35.

37 Wise, op. cit., p. 143.

cried out that the Commissioners were a 'company of asses and villyanes'." ³⁸ Becoming alarmed at the general state of disorder, the Commissioners asked for help from the provisional government at Jamestown. But the citizens who had taken no part in these proceedings were frightened and drew up a petition to the effect that the disturbances were due to the rumor that " a great sum of money was to be raised by the Commissioners, in order to satisfy Mr. Walter Chiles for the loss of the ship taken by Captain Richard Husband." ³⁹ Therefore, the Justices made a final appeal to the government.

As a result of this appeal, the General Assembly in July, 1653

appointed a committee to proceed to the Eastern Shore to deal out condign punishment to 'delinquents there according to their demerits'. At the same time 'all subscribers of that writing called a protest' were dismissed from bearing any office, including 'Left. Col. Edmund Scarborough', who was charged with being an assistant and instrument concerning the subscribing of the same. All this was done in

38 Ibid.

39 Ibid., p. 144.

disregard of 'the humble petition
of part of y^e Inhabitants of
Northampton County'...⁴⁰

A few days after these acts were passed by the Assembly, Governor Bennett, Secretary William Claiborne, and the group that were selected to investigate "affairs on the Eastern Shore, left James City for Northampton"⁴¹. They were received cordially, for there is no record in the County of any military opposition to this body of men. When they arrived in Northampton, Governor Bennett set up a court of investigation on July 29, 1653. There complaints were brought "as to the mutinous and seditious actions of certain individuals of the country, as being repugnant to the Government of the Parliamentary Commission. A number of the agitators were presented and fined three hundred pounds of tobacco, and held to be incapacitated from holding further office under the previous Act of Assembly."⁴² Captain Johnson was fined "five hundred pounds of tobacco and bound over to keep

40 L. G. Tyler, loc. cit., pp. 192-193; Hening, op. cit., p. 380. The order prohibiting the subscribers of the protest from bearing any office in this country and disabling Lt. Col. Scarborough was reversed, 16th March, 1658.

41 Wise, op. cit., p. 146.

42 Ibid., p. 146.

the peace. At this same meeting of the court the Governor approved the sale of a Dutch prize ship, the 'St. John of Amsterdam', for fifty thousand pounds of tobacco. This ship with another had been captured on July 5," 1652.⁴³

Although an order had been sent to arrest Scarborough, he slipped through the fingers of the law and left the country. Since there were many charges against him and the people needed to be quieted, the Governor and his party stayed on the peninsula for almost a year. During this time, a minister, one Samuel Drisius, came to try to effect the treaty between Virginia and the New Netherlands, but little headway was made, and the matter was not finally settled before 1660.⁴⁴ "Opposition to the authority of Parliament on the Eastern Shore gradually died out as a result of Governor Bennett's prolonged presence on the peninsula and the determined yet just manner in which he controlled the situation."⁴⁵

43 Ibid.

44 Ibid., pp. 146-148.

45 Ibid., p. 164.

The Assembly of July 5, 1653 also considered minor matters. The House of Burgesses suspended from its members a minister, Robert Bracewell, "since it was unpresidential, and may produce bad consequences"⁴⁶. Sir William Berkeley, the former Governor, was granted more time in the colony since the Dutch war with England had delayed his ship.⁴⁷

During the early months of the provisional government in Virginia, the English Parliament was interested in the success of the venture. Although the Virginia colony had submitted quietly to the Parliamentary Commissioners, the articles of surrender were not wholly confirmed by Parliament. One of the articles that was ratified was the seventh one⁴⁸ which read: "That the people of Virginia have free trade as the people of England do enjoy to all places and with all nations according to the laws of that common wealth, And that Virginia shall enjoy all priviledges equall with any English plantations in America."⁴⁹

46 Neill, op. cit., p. 233.

47 Hening, op. cit., p. 384.

48 Beer, op. cit., p. 367.

49 Hening, op. cit., p. 364.

Parliament asserted its sovereignty over Virginia, but it showed no intention of using this authority to any great extent, except when it was disputed by the followers of the exiled King. It was only when that important question was debated that the English government interfered in the internal affairs of Virginia or the other colonies. For, at no later time, was "Virginia so free from outside control". A greater centralization of the Empire was marked⁵⁰ by "more complete colonial self-government".

This "comparative lack of interference in⁵¹ the local affairs of the dependencies" was not an indication of disinterest in the colonies. The situation was just the opposite. England was keenly aware of her colonial possessions in the years from 1649 to 1660.⁵² That she was definitely aware of Virginia is reflected in the various orders that came from the committees of the Council of State before the establishment of the Protector's Council.

50 Beer, op. cit., p. 371; Flippin, op. cit., p.32.

51 Beer, op. cit., p. 372.

52 Ibid.

A warrant was issued by the Council of State on September 27, 1652 for the protection of thirty-four men and a boy upon the "Two Brothers of London" and also for eighteen men and a boy upon the "Sarah Bonadventure" from impressment to the Service of the Commonwealth. On that same day the Secretary of State, Mr. Thurloe, was asked to speak to Edward Gibbons and John Cutting about a ship which belonged to them which had been taken from them by the Virginia Fleet. On October 22, 1652, the Council of State granted a pass to eleven ships to pass unmolested to Virginia. ⁵³ An interesting warrant from the Council of State to the Commissioners for the Customs on August 27, 1653 allowed Robert Cordwell and Richard Kittlebawter to transport "one hundred dozen of shoes" after they had paid the custom duties. ⁵⁴ The strained relations between England and Holland are reflected in the Order of the Council of State on September 12, 1653. A warrant was issued to the "Judges of the Admiralty to grant letters for Private men of war to the Bonadventure..., the Mayflower... and the Hope" which were going to trade in Virginia. But these

53 Sainsbury Abstracts, XVII, 352.

54 Ibid., p. 359.

letters were to be used only against the Dutch and for this voyage. New blood was sent to the colony when the Council of State on September 24th of that same year granted Richard Weatherway of Bristol the liberty to transport one hundred Irish Tories from Ireland to Virginia.⁵⁵ Two more orders help to complete this picture of the different orders by which the English Parliament showed its interest in the Virginia colony. The first one came from the Council of State, November 24, 1653, which stated that warrants be issued to the Commissioners for the Customs to permit several ships which were named to proceed to Virginia and to carry servants, passengers and "150 dozen of shoes in each ship without any let..." Two days later a second order declared that a warrant be issued to the Customs Commissioners to allow Philip Euro, master of the ship, William of London" to transport to Virginia passengers and "150 dozen of shoes for the use of that Plantation".⁵⁶

55 Ibid., p. 360.

56 Ibid., p. 361.

During these years the colonial development of England had been retarded by her domestic struggle. The establishment of the Commonwealth and the victories over the Scottish armies in 1650 and 1651 which resulted in the lessened ardor for the Stuart cause gave England a fleeting rest from this turmoil.⁵⁷ The different crises in the country made the Rump Parliament and the Council of State unpopular. The army, which was still unpaid,⁵⁸ was restless. On April 20, 1653, Oliver Cromwell with military aid dissolved Parliament in a dramatic fashion, and steps were taken to bring a newly elected or appointed parliament into harmony with the executive. This was accomplished, in part, by the so-called "Barebones Parliament" whose members were nominated by Independent ministers. There were many factions in this group; it lasted only from July to December, 1653 when it dissolved itself.

The Commonwealth government led to the Protectorate. On December 16, 1653, Oliver Cromwell became Lord Protector for life according

57 Beer, op. cit., p. 372.

58 Walter Phelps Hall and Robert Greenhalgh Albion, A History of England and the British Empire, Ginn and Company, Boston, [c. 1937], p. 361.

to a written constitution, The Instrument of Government, which was prepared by a group of officers. A Parliament was to be elected by a fairly generous franchise that omitted Catholics and those who had fought against Parliament. It was to meet for at least five months every three years. The powers of the Protector and Parliament were to limit each other.

In the months between the installation of the Protector on December 16, 1653 and the meeting of the first Protectorate Parliament on September 3, 1654, Oliver Cromwell issued eighty-two ordinances. This parliament revised the Instrument of Government and made it "An Act declaring and settling the government of the Commonwealth" on November 11, 1654. Then this parliament began to examine the Protector's ordinances, but it was dissolved in January, 1655.

59 Ibid., pp. 361-362; The Constitutional Documents of the Puritan Revolution 1625-1660, ed. by S. R. Gardiner. 2nd edn., rev. and enl., The Clarendon Press, Oxford, 1899, pp. lvii-lxiv. This will be referred to later as Const. Documents 1625-1660.

60 Ibid., pp. 427-447.

61 C. H. Firth and R. S. Hail, Acts and Ordinances of the Interregnum, 3 vols., Wyman and Sons, Ltd., London, 1911, III, xix.

Cromwell became more dictatorial at the meeting of the second Protectorate Parliament on September 17, 1656.⁶² He refused to become king by the Humble Petition and Advice, but he held his position as Lord Protector. The Humble Petition and Advice was received by the Protector in an amended form on May 25, 1657. "On June 26th, it was modified in some details by the Additional Petition and Advice." These two helped to enlarge the power of Parliament while the Protector might name his successor and appoint members to "the other House" which took the place of the House of Lords.⁶³ The Lord Protector tried to offset disorders in England by dividing the country into large districts over which he put a major general with wide administrative powers. In domestic affairs the Protector proved rather unfortunate.⁶⁴

Under the provisions of the Instrument of Government, the Council of State became the Protector's Privy Council. This council consisted of "not more than twenty-one nor less than thirteen members"⁶⁵ and was controlled almost wholly by Oliver Cromwell. The membership changed from

62 Stanard, op. cit., p. 228.

63 Const. Documents 1625-1660, p. lxxv.

64 Hall and Albion, op. cit., pp. 362-363.

65 C. M. Andrews, loc. cit., p. 31.

time to time with an average attendance of ten. Cromwell was often absent when the council met, but it served a very useful purpose, especially after the dissolution of Parliament in January, 1655. This Protector's Council, which stood for Cromwell's policy, continued from December, 1653 until May, 1659. Cromwell's privy council, as it was sometimes called, purposed to "protect and encourage navigation and trade".⁶⁶ For this purpose the familiar committee system was adopted, and in 1654 and 1655 several colonial questions⁶⁷ were considered by these committees.

Apart from these committees was the standing committee which was constituted on July 31, 1656 to manage colonial affairs. In this body was a number of officers and merchants. Two prominent and enterprising merchants were Martin Noell and Thomas Povey. Naturally these numerous committees would help to delay speedy transactions. A mass of detail was awaiting the passage of each petition or act. These merchants, Noell and Povey, saw the need of change and offered certain

⁶⁶ Ibid., p. 36.

⁶⁷ Ibid., pp. 31, 36; Beer, op. cit., p. 421.

proposals. The Lord Protector saw, perhaps, the merits of these ideas. There was no immediate
⁶⁸ action. As Lord Protector, Oliver Cromwell was interested in foreign affairs, but he failed to grasp the "essentials of a large and comprehensive
⁶⁹ plan of colonial control". He failed to show real statesmanship in colonial control and ad-
⁷⁰ ministration.

Among the orders of the Council of State in the Protectorate were these three interesting ones in 1654. On January 30th, it was ordered that a custom duty of twenty shillings be paid for every horse transported to any of the English
⁷¹ plantations in America. The Lord Protector and the Council on July 27, 1654, issued a warrant to the Customs Commissioners in answer to the petitions of different ship owners. These men were allowed to transport to Virginia on each ship "120 dozen of shoes, 6 barrels of powder and one ton of shot the freighters paying the customs and
⁷² duties for the same". Transportation of a

68 Ibid., pp. 422-423.

69 C. H. Andrews, loc. cit., p. 37.

70 Ibid.

71 Sainsbury Abstracts, XVIII, 44.

72 Ibid., p. 47.

different nature was the idea of the third order on October 19, 1654 when Cromwell and his Council ordered that the English, Scotch, and Irish prisoners in the gaol at Dorchester be sent to "the Barbadoes, Bermudas or some other of the English Plantations in America".⁷⁵

Indeed, that "decade which was dominated by Cromwell's vigorous personality was marked by the devotion of especial attention to commercial and colonial expansion".⁷⁴ When Oliver Cromwell became Protector, he turned his attention to questions that concerned the future of the Empire.⁷⁵ The energetic imperialism of that Cromwellian period was due fundamentally to an ardent desire to develop English sea power and commerce which was retarded by strong Dutch competition. Colonization was the approved means of achieving these ends; thus, there was an almost unified commercial and colonial policy. The primary value of the colonies in the seventeenth century was as a source of supply.⁷⁶ There was also a very distinct

73 Ibid., p. 49.

74 Beer, op. cit., p. 372. See Beer, Cromwell's Policy in Its Economic Aspects in the Political Science Quarterly, XVI-XVII for a more detailed treatment on that subject.

75 Beer, op. cit., p. 376.

76 Ibid., p. 300.

realization of the importance of the English carrying trade, threatened again and again by Dutch enterprise. Therefore, "in order to overcome the Dutch economic supremacy, it was realized that it was necessary to develop the English mercantile marine"⁷⁷. With this objective, the policy of the early navigation acts had been adopted and had been embodied in the two comprehensive measures⁷⁸ the Act of 1650 and the Navigation Act of 1651.

It is interesting at this time to see how these laws were partially, if not wholly, enforced. In Virginia the acts were executed rather strictly. This was due, in part, to the power of the Cavalier group in the colony. In 1653, a Flemish ship of Dunkirk, the Leopoldus, was seized and condemned in Virginia, for violation of the

77 Beer, op. cit., p. 384. "The prevailing opinion was expressed by a contemporary writer, who said: 'That what Nation soever can attaine to and continue the greatest Trade, and number of shipping, will get and keepe the Sovereignty of the Seas, and consequently the greatest Dominion of the World'.- Henry Robinson, Briefe Considerations (London, 1649), 1.

78 Ibid., pp. 383-384. See pages 16-19; 25-26.

79

Navigation Act of 1651. Yet even in Virginia the acts were not executed too stringently, especially after England made peace with Holland. In 1654 two petitions were presented, one to Cromwell, the other to the Council of State, for licenses to ship goods from Amsterdam direct to Virginia. In November, 1654, the Assembly granted to Governor Bennett 100,000 pounds of tobacco, "arising out of the Dutch prizes and confiscation of forraigne goods and ships, as by the accounts in the Assembly appears".⁸¹ These instances were prevalent apparently, for in 1660 the "Virginia legislature declared that of late years many vessels had seized diverse foreign ships trading in the colony."⁸²

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- 79 Ibid., p. 395; "Virginia and the Act of Navigation," The Virginia Magazine of History and Biography, I, 141; Beer, The Commercial Policy of England Toward the American Colonies, Columbia University Studies, III, 32-33. At the Assembly of Virginia on July 5, 1653 Lieutenant-Colonel Walter Chiles was elected Speaker, but Governor Richard Bennett and the Council desired his resignation since he was the agent for the confiscated Leopoldus. Chiles resigned, and William Whitby was chosen to fill the vacancy. The Leopoldus was later forfeited and sent to Chiles for appraisement.- Hening, op. cit., pp. 377, 382; Neill, op. cit., pp. 232-233.
- 80 Beer, The Commercial Policy of England Toward the American Colonies, III, 33.
- 81 Hening, op. cit., p. 393 is quoted by Beer, op. cit., p. 395.
- 82 Beer, op. cit., p. 395.

Naturally, there were violations of the law of 1651, but it was enforced with sufficient strictness ⁸³ to cause serious complaints.

On January 2, 1655, the owners of the ship Charles petitioned Cromwell, stating that 'there are usually found intruding upon the plantation (Virginia) diverse ships, surreptitiously carrying away the growth thereof to foreign ports', and requesting that a commission be granted to the captain of the Charles to 'surprize such ships and vessels as he shall fynd trading at the said plantacon contrary to y^e lawes and constitutions aforesaid and is expressed in an Act of Parliamt^t of the 3 October, 1650.⁸⁴

In part, at least, the seizures appear to have been the work of private parties, for the provisional government of Virginia was evidently opposed to the exclusion policy. In 1655, the legislature declared in a rather ambiguous fashion that "all freedom of trade shall be maintained, and all merchants and ⁸⁵ traders shall be cherished". This policy of excluding foreign shipping from the colonial trade was attacked definitely by Virginia in 1656. In the

83 Ibid.; Hening, op. cit., pp. 469, 512-513.

84 State Papers, Colonial Series, XII, 33 is quoted in a footnote by Beer, op. cit., p. 395. See Appendix A.

85 Beer, op. cit., pp. 395-396.

petition that was sent to England it was stated that Virginia had looked for relief by shipping secretly some tobacco to the Dutch colonies, and that "either these Inconveniences or the ruin of the poor planters must follow, if the act (of 1650) be rigorously enforced".⁸⁶ These secret transactions were not illegal, but they were worthy of blame according to the sentiment in the colony.⁸⁷

While there was a general tendency to restrict the colonial export trade to London, yet no regulation regarding this question was executed by the interregnum government. Tobacco was shipped directly from the colonies in English ships to continental Europe and elsewhere. In fact, the English fiscal system gave preferred treatment to colonial exports, and therefore, it helped to attract exports to the mother country.⁸⁸

86 Hazard, Collections, I, pp. 599-602; Thurloe, State Papers, V, are sources for Beer, op. cit., p. 402.

87 Hening, op. cit., p. 469; Beer, op. cit., p. 402.

88 Ibid., pp. 402-403.

This was noted especially in the case of tobacco. Duties against foreign tobacco grew while the excise on colonial tobacco was reduced. While the colonies did not get a complete monopoly, the efforts of certain English merchants who were interested in the colonial trade led Parliament in 1652 to revive the Stuart prohibition of the planting of tobacco in England.⁸⁹

This industry was well established in some counties of southwestern England; therefore, it was hard to enforce the law. On May 28, 1653, Samuel Mathews, who was the agent for Virginia, and many merchants addressed a petition to the Council of State. This petition was a complaint that the English tobacco crop would exceed the usual importation from Virginia. To the petition was added an argument which showed why the colonies should be encouraged and the English industry should be prohibited. In these arguments were made the assertions: (1) that colonial trade used at least one hundred English vessels each year and helped the Commonwealth; (2) colonies used English manufactured goods for which the English got products that brought

⁸⁹ Ibid., p. 403.

customs and excise; (3) many colonial families would be ruined from loss of English supplies; (4) colonies would be forced to trade with the Dutch to relieve this situation; (5) English tobacco was not wholesome. Soon after, on July 20, 1653, a corresponding petition requested that the tobacco planted in England be destroyed. Since this radical step would be hard on the planters of the tobacco, the government delayed action until 1654.

On April 6, 1654, the special committee to which the matter had been referred reported that certain English counties were planting more tobacco than was the normal home consumption. The committee felt that bad feelings would be the result in the colonies. Therefore, special commissioners were appointed to carry out the law of 1652. Armed opposition, especially in Winchcomb, resulted. However, the crop was reduced. Samuel Mathews, who was later elected Governor of the Virginia colony, and others who supported the measure said then that the act of 1652 had been

90 Ibid., pp. 404-405.

very effective. This group opposed suspension of the act which they claimed would result in the distress of the colonies. This agitation continued, and in March, 1655, several petitions to this effect were sent to the Lord Protector. As a result of this action, on March 27, 1655, the President of the Council, Henry Lawrence, wrote to the Justice of the Peace and other officials of places where tobacco was grown that the law would be enforced. ⁹¹ Although there was still opposition, the incident was closed for that time.

From this discussion it is shown that Virginia, along with the other colonies, was granted favorable treatment. Her connection with England proved financially advantageous. Likewise, the English Navigation Act of 1651 put colonial and English shipping on an equal level. Yet, certain legislation in Virginia discriminated against the interests of England. For, in 1656, "Virginia exempted vessels wholly owned in the colony from payment of the castle dues". ⁹² "In 1658 and 1660,

91 Ibid., pp. 405-408.

92 Ibid., p. 411; Hening, op. cit., pp. 402-480.

Virginia imposed a surtax, ten shillings instead of two shillings, on tobacco shipped to any place but England and its dominions in Europe."⁹³

Furthermore, in 1660, there was another provision that tobacco which was shipped in those vessels wholly owned in the colony did not have to pay⁹⁴ the export tax of ten shillings a hogshhead.

During Governor Richard Bennett's term of office, the Maryland question⁹⁵ was revived.

After Parliament was dissolved on April 20, 1655,⁹⁶ the problem went to the new Council of State⁹⁷ that gave expert advice to the Lord Protector.

At that time Samuel Mathews "renewed his petition for the recognition of the government which the

93 *Ibid.*, pp.535-536; "Tobacco exported in vessels belonging wholly to Virginians were exempted from this tax. In addition, tobacco acquired through the importation of slaves was exempted." Hening, *op. cit.*, p. 540 is paraphrased in a footnote by Beer, *op. cit.*, p. 402.

94 Beer, *op. cit.*, pp.411-412; Hening, *op.cit.*, p.536.

95 See pages 43-45.

96 Dodd, *op. cit.*, pp. 124-125.

97 Osgood, *op. cit.*, III, 128. Between 1652 and 1657 a bitter paper warfare was fought between Lord Baltimore and the agents for Virginia. [Bennett later joined Mathews]. Lord Baltimore wrote his "Reason of State Concerning Maryland in America", while the agents countered with their "Objections against Lord Baltimore's Patent, and Reasons why the Government of Maryland should not be put in his hands..." Latane, *loc. cit.*, p. 59.

commissioners had set up in Virginia and Maryland".⁹⁸

On reading the petition of Colonel Samuel Mathews Agent for Virginia, directed to the Lord Protector. It is ordered and declared in Council by his Highness that a letter be prepared to the Governor and General Assembly of that Colony, to encourage them and to establish the present Governor until further order. And that the other part of the said petition be referred to Mr. Strickland and Sir An. A. Cooper who calling to them Mr. Winslow Coll. Mathews and such others acquainted with the affairs of that plantation as they shall thinke fitt, are to consider how the same may for the future be settled to its advantage benefitt and security and to the service of this Commonwealth, as alsoe how the questions betwixt the Lo. Baltimore and the people of Virginia concerning the bounds claymed by them respectively may with most justice & equity be determined to which purpose they are to send for all papers referring thereunto which were in the hands of the late Committee of the Navy or of any other and thereupon to state the whole matter and report the same to his Highness.⁹⁹

98 Osgood, op. cit., III, 128.

99 "Mr. Strickland, Sir An. Ashley Cooper with Mr. G. Lambert and Sir Ch. Worsley, added 10 January." Sainsbury Abstracts, XVII, 362.

100

On December 31, 1653, the letter was read and approved in the Council of State. According to the letter, a speedy solution of the Maryland question was on its way. It was hoped that the affairs of the colony might be settled. The present Governor Richard Bennett was to keep his position until further notice while good relations between England and Virginia were to be maintained.

100

The Lord Protector and Council of State to the Governor and General Assembly of the English Plantation of Virginia, Whitehall, January 4, 1653-54.

Colonel Mathews the Agent for Virginia, hath diligently attended the dispatch of some business referring to the peace and settlement of that Colony, the perfecting whereof hath been obstructed by the many public affairs here depending. It having pleased God to alter the government of this Commonwealth by entrusting the same to a Lord Protector and successive triennial Parliaments as they may perceive by the platform of government herewith & proclamation annexed which they are forthwith to have published, address has been made to his Highness by Col. Mathew's petition for determining those matters which have so long depended, whereupon his Highness hath been pleased to put into an effectual way the speedy resolution of those questions

On January 12, 1654, upon the request of Lord Baltimore and others, Oliver Cromwell wrote a letter to Governor Richard Bennett. In the letter he required Bennett and the officials under him

betwixt Lord Baltimore and the inhabitants of Virginia concerning the bounds by them respectively claimed and also to settle the government & other concerns of that Plantation, wherein they may receive his Highness' particular determination in due time, in the meantime the safety, protection and welfare of that plantation is under his serious thoughts and care. And to the intent it may not suffer any inconvenience, by the unfixedness of the Governm't His Highness has thought fit to continue Col. Bennett (of whom his Highness hath received a good character) in execution of the place of Governor until his Highness shall further signify his pleasure in that behalf which in all probability they may expect by the next ships. And till such his further pleasures be declared his Highness and the Council recommend it to them that the public peace of the Plantation be diligently attended, that love be cherished and the great interest of religion be owned and countenanced whereby you will engage God's care over you, who alone can make your affairs prosperous and

"to refrain from all violent interference with the affairs of Maryland while the case was pending before the council in England".¹⁰¹ But no decision

more oblige this State tenderly to improve their opportunity for your protection and encouragement. Signed in the name and by the order of his Highness and the Council.

Henry Lawrence, President'

Sainsbury Abstracts, XVII, 363.

101 Osgood, op. cit., III, 128-129. The letter runs as follows:

To Richard Bennett, Esq.,
Governor of Virginia:

These.

Whitehall, 12th January, 1654
Sir,

Whereas the differences between the Lord Baltimore and the inhabitants of Virginia, concerning the bounds by them respectively claimed, are depending before the Council, and yet undetermined; and whereas we are credibly informed, you have notwithstanding gone into his Plantation in Maryland, and countenanced some people there in opposing the Lord Baltimore's officers; whereby, and with other forces from Virginia, you have much disturbed that Colony and People, to the engendering of tumults and much bloodshed there, if not timely prevented.

We, therefore, at the request of Lord Baltimore, and of 'divers other Persons of Quality here, who are engaged by great adventures in his interest, do, for preventing of disturbances

was rendered in 1654.

The last Assembly during the term of Governor Richard Bennett began its sessions on November 24, 1654 at Jamestown with Charles Norwood as clerk. By a Public Order of the Assembly the Governor and Council nominated one Edward Diggs as a member of the Council. The Assembly approved the nomination, and he "took the oath of fidelity". Colonel Edward Hill was elected Speaker, but he "had been

or tumults there, will and require you, and all others deriving any authority from you, To forbear disturbing the Lord Baltimore, or his Officers or People in Maryland; and to permit all things to remain as they were, before any disturbance or alteration made by you, or by any other upon pretence of authority from you, till the said Differences above mentioned be determined by us here, and we give further order, therein.

We rest,

Your loving friend,

Oliver P.-

Letter CXXXIV in Carlyle, Oliver Cromwell's Letters and Speeches, 2 vols. Harper & Brothers, Publishers, New York, 1859, II, 132.

102 Hening, op. cit., p. 367; Neill, op. cit., p. 236.

103 Ibid., p. 237; Hening, op. cit., pp. 388, 392.

The names of the members of the Council and House of Burgesses during the years 1650-1660 are given in different places in Hening.

charged before the General Court with being a blasphemer and theist "by a Henrico County delegate, William Hatcher, who declared that "the mouth of this House was a devil".¹⁰⁴ For this incivility Hatcher had to make an "acknowledgement on his knees",¹⁰⁵ and his name appeared no more on the roll.

The Assembly was adjourned until March 20, 1655 when it met again at Jamestown. This time a deed was received from Sir William Berkeley who sold a brick house in Jamestown "to accommodate Governor Bennett".¹⁰⁶ Another effect of the surrender of the colony to the Parliamentary Commissioners was noted particularly at this meeting when the "Grand Assembly, consisting of the Governor, Council, and Burgesses, pardoned 'Leift. Coll. Thos. Swann, accused and impeached for the death of his servant, one Elizabeth Buck,' the ordinary course by petition to the chancellor being impossible, as 'the colony is not as yet settled with such officers as belong to passing

¹⁰⁴ Neill, op. cit., p. 237.

¹⁰⁵ Hening, op. cit., p. 387.

¹⁰⁶ Ibid., p. 407; Dodd, op. cit., p. 129.

such pardon, and noe publick seale being in the
country'...." ¹⁰⁷

After this Assembly was adjourned, Governor
Bennett was elected Commissioner to England ¹⁰⁸
to help Colonel Mathews in his "attack upon the
Maryland charter". ¹⁰⁹ Upon his resignation
Mr. Edward Diggs "was chosen as his successor..." ¹¹⁰

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- 107 L. G. Tyler, "The Seal of Virginia", William and Mary College Quarterly, III, 83 (October, 1894); Hening, op. cit., p. 406.
- 108 "Historical and Genealogical Notes", William and Mary College Quarterly, III, 206 (January, 1895).
- 109 Latane, loc. cit., p. 60; Dodd, op. cit., p. 125. See Appendix B.
- 110 Neill, op. cit., p. 242.

CHAPTER III

EDWARD DIGGS, PRESIDENT OF THE COUNCIL AND GOVERNOR

(March 31, 1655- March 13, 1658)

Edward Diggs, resident of York County, became the first governor of the Virginia Colony in the Protectorate period when he was elected by the Assembly in March, 1655¹ to succeed Mr. Richard Bennett. Governor Diggs was primarily a man of culture who made a definite contribution to the social life of York County in the seventeenth century.² He was one of the first experimental farmers in America³ and was active in promoting agricultural developments. At "Bellfield", his plantation on the York River,⁴ he became an enthusiast for the culture of silk in Virginia. This interest led to a serious effort to introduce the culture of silk, but it ended unsuccessfully.⁶

1 Hening, op. cit., p. 408.

2 Lyon G. Tyler, "Pedigree of a Representative Virginia Planter", William and Mary College Quarterly, I, 80 (October, 1892).

3 Dodd, op. cit., p. 125.

4 "History of York County in the Seventeenth Century", loc. cit., p. 234.

5 Ibid.

6 Peer, op. cit., p. 418. This phase of industry in Virginia at that time is most interesting- "at Denbigh on the James River, near Mulberry Island and at Bellfield, eight miles from Williamsburg" Governor Edward Diggs tended carefully his silk culture. He employed two native Armenians who were "skilled in the business". He corresponded with an Englishwoman, Virginia Ferrar, who was greatly enthusiastic about the Virginia silkworm and made it

Other problems came in his term of office. The right to vote was supposedly the common possession of every resident of the Virginia colony; it was actually "granted to freemen, except that 'indented' or 'covenant' servants were to be recognized as freemen".⁷ "In 1655, the right of suffrage was, for the first time, abridged, being confined to 'housekeepers, whether freeholders, leaseholders, or otherwise tenants', but the term 'housekeepers' was to be so construed that only one in a family was to have the right to vote".⁸ In the March 10, 1655-6 session of the General Assembly, "this right of suffrage was again exyended to all freemen",⁹ because the Burgesses thought it "something hard and unagreeable to reason that any person shall pay equall taxes and yet have no votes in elections".¹⁰ When the laws were revised in 1658, the franchise was still allowed to every freeman.¹¹

the subject of some rather poor verse. Neill, *op. cit.*, p. 240; "The Reformed Virginia Silkworm", Force, *Tracts*, III, 26-28.

7 J. A. C. Chandler, "The History of Suffrage in Virginia", *Johns Hopkins University Studies in Historical and Political Science*, XIX, 9-10.

8 *Ibid.*; Hening, *op. cit.*, p. 412.

9 Chandler, *loc. cit.*, p. 10.

10 Hening, *op. cit.*, p. 403.

11 *Ibid.*, p. 475; Chandler, *loc. cit.*, p. 10.

One of the interesting episodes of the governorship of Mr. Edward Diggs was the controversy concerning the claims of Colonel Richard Lee of Lancaster County.¹² In September, 1655, Colonel Lee engaged John Jeffreys, a merchant of London, to present a petition to the Lord Protector and his Council. This petition asked for the return of a trunk of silverplate which belonged to Colonel Lee, but had been seized by the Officers of the Customs at Gravesend upon being placed on the Anthony. Since this plate was to be used by Colonel Lee himself and the greater part of it had been brought to England from Virginia about a year and a half before, the Lord Protector and his Council, on November 16, 1655, ordered the Commissioners of the Customs to return the plate to Colonel Lee.¹³

When the Assembly convened again on December 1, 1656, Colonel Thomas Dew, a council member, was authorized to explore the navigable rivers between Cape Hatteras and Cape Fear.¹⁴ The more important

12 Dodd, op. cit., p. 129.

13 Sainsbury Abstracts, XVIII, 54-56.

14 Henning, op. cit., p. 421.

measures discussed and adopted concerned the ministers of the colony. It is assumed generally and evidently correctly that the Anglican worship continued in Virginia in this period. Since there was little or no interference from Oliver Cromwell in these matters, the evidence points to religious freedom with a fairly liberal use of the Book of Common Prayer.¹⁵ One of the acts of the Assembly provided for a "bonus of twenty pounds sterling to anyone who would import a minister".¹⁶ Another, "ffor encouragement of the ministers in this country...",¹⁷ exempted every minister and six of his servants from taxation, "provided they be examined by Mr. Phillip Mallory and Mr. John Green, and they to certifiye their abilities to the Governor and Councill, who are to proceed according to their judgement".¹⁸ That Parson Mallory was known as a staunch Church of England man-a refugee loyalist- gives strength to the

15 Dodd, op. cit.^{p. 226}; Stanard, op. cit., p. 229; Weill, op. cit., p. 244; H. J. Eckenrode, The Separation of Church and State in Virginia; a Study in the Development of the Revolution. Richmond, 1910, p.11.

16 Stanard, op. cit., p. 229.

17 Hening, op. cit., p. 424.

18 Ibid.

pervading opinion that freedom of religion existed
 19
 in the colony. This General Assembly also urged
 that "letters be sent to Colonel Samuel Mathews,
 and Mr. Bennett, in respect of the differences
 with Lord Baltimore, concerning our bounds is as
 far from determination, as at first, that they de-
 sist until further orders from this country!"
 20

One of the final acts of the Assembly of
 December 1, 1656 requested Governor Edward Diggs
 to continue his position and still hold the reins
 of government while he was in the country. In the
 meantime, Samuel Mathews, who was chosen Governor-
 elect, was to take the place next to him in the
 Council. After Mr. Diggs' term expired, he was
 ordered to take his place in the Council next to
 21
 Colonel John West.

After being appointed agent of the colony to
 England, Mr. Diggs resigned his governorship in
 22
 March, 1657. Samuel Mathews, who had been elected

19 A very unpleasant account of the religious con-
 dition of Virginia at this period is presented
 in Gatford, "Public Good without Private Interest",
 Neill, op. cit., pp. 244-245.

20 Neill, op. cit., p. 248.

21 Hening, op. cit., p. 426.

22 See Appendix C.

to succeed him in the Assembly of December, 1656, was still in England and remained there until the settlement of the Maryland controversy. The Assembly then ordered Francis Morison, the speaker, to prepare a letter for Mr. Edward Diggs to take to the Lord Protector and John Thurloe, his Secretary of State.

23

23 The Assembly's letter to the Protector went as follows:

'May it please your Highness,

'We could not find a fitter means to represent the conditions of this country to you, than this worthy person, Mr. Diggs, our late Governor, whose occasions calling him into England we have instructed him with the state of this place as he left it; we shall beseech your Highness to give credit to his relations, which we assure ourselves will be fruitful, having had many experiences of his candor in the time of his government, which he hath managed under your Highness with so much moderation and justice, that we should be much longer in expressing this truth, but that we fear to have already too much trespassed by interrupting your Highness's most serious thoughts in greater affairs than can concern your Highness's most humble, most devoted servant. Dated in the Assembly of Virginia, 15th Dec. 1656.'

Neill, op. cit., p. 249.

The Maryland question still remained unsettled and apparently aroused but little interest in London. The Lord Protector paid scant attention to the complaints and petitions of either party. At first, the Lord Protector seemed to favor the claims of Virginia, but later leaned toward the side of the astute Baltimore. The Virginia agents, Mr. Richard Bennett and Colonel Samuel Mathews finally realized that a friendly agreement with Lord Baltimore would be more beneficial than awaiting a decision from the English Council of State. In this procedure they represented the Maryland Puritans rather than the Virginia government. But Mr. Diggs with his "conciliatory disposition and powerful social influences"²⁴ acted as intermediary between the two parties in²⁵ settling the long controversy.

A formal paper was drawn up and signed on the 30th of November, 1657, by Lord Baltimore, on the one side, and Bennett and Mathews, on the other, in the presence of Edward Diggs, and others. The terms of the settlement were as follows: (1) Lord Baltimore was not to call in

²⁴ Ibid.

²⁵ Ibid.; Latane, loc. cit., p. 60; Dodd, op. cit., p. 125.

question any act committed since the disturbances in the province began; (2) the people in opposition were to have patents for such land as they should claim under Lord Baltimore's conditions of plantation; and (3) Lord Baltimore promised never to give his consent to the repeal of the act of 1649, whereby all persons professing belief in Jesus Christ were allowed freedom of conscience.

The Maryland Puritans accepted these terms and Puritan supremacy in Maryland came to an end.²⁶

²⁶ Latane, loc. cit., pp. 60-61.

CHAPTER IV

SAMUEL MATHEWS, PRESIDENT OF THE COUNCIL AND GOVERNOR

(March 13, 1658-----January, 1660)

Before the resignation of Governor Edward Diggs¹ in 1657, English-born Samuel Mathews, a wealthy planter and trader,² was appointed by the Assembly³ of December, 1656 as his successor. It is probable that this appointment was brought about by intervention⁴ of the Council of State in England. Therefore, when Colonel Mathews returned from his diplomatic work in England,⁵ "an old man before his time,"⁶ he was duly "elected Governor by the House

1 W. G. and Mary Newton Stanard, The Colonial Virginia Register, Joel Kunsell's Sons, Albany, New York, 1902, p. 16. This will be referred to later as Col. Va. Reg.

2 Edward J. Clary, The Life of Samuel Mathews, (University of Richmond Graduate Thesis), 1937. (Unpublished), pp. 56-57. This is a rather good presentation of the life of this versatile governor.

3 See page 93.

4 "On the 26th of November, 1653, the Irish and Scotch Committee of Parliament, after conferring with Col. Mathews, reported him to the Council of State as a fit person to be governor of Virginia, which shows that the nomination of Mathews to succeed Diggs was first made by the English authorities, and several years before his election by the House of Burgesses."- Material from the British "Public Records Office", as gathered by Edward D. Neill, "Virginia Threads for the Future Historian", William and Mary College Quarterly, I, 79 (October, 1892).

5 See pages 43-44; 72-77.

6 Dodd, op. cit., p. 125.

of Burgesses, 'until the next Assembly, or until the further pleasure of the supream power in England shall be known'⁷. At this General Assembly at Jamestown on March. 13, 1657-8 when Colonel Mathews became governor, "former Governor Richard Bennett became a member of the Council" and William⁸ Claiborne continued his position as Secretary.

Three important acts were passed at the Assembly of March 13, 1657-8. These were (1) all matters that related to the church, ministers, and other parochial affairs were left to the discretion of the people;⁹ (2) for the divulgence of false news that might lead to the disturbance of the colony under the provisional government, a person might be imprisoned or later fined two thousand or more pounds of tobacco according to the seriousness of his offense;¹⁰ (3) an enactment concerning the Dutch trade declared

7 Stanard, Col. Va. Reg., p. 16.

8 Neill, op. cit., pp. 260-261.

9 Hening, op. cit., p. 433.

10 Ibid., pp. 434-435.

That all tobacco raised by sale of goods brought into this countrey by Dutchmen the owners thereof shall be liable to pay the custom of tenne shillings per hogshhead for what is shipt in any Dutch vessell or in any other vessell whatsoever bound for any port of America or else where, excepting such English vessels as are directly bound for England, and any person or persons whatsoever are to make oath, if it be required, what goods are brought in and what quantity of tobacco they shall shipp from time to time in any vessel whatsoever, And the commissioners of the severall countie courts respectively are to take good care to prevent deceit herein, And that those Dutch repaire to the governour, or whom he shall appointe to give a just accompt thereof upon the pennaltie of double the quantitee soe shipped if any deceit be found of what shall be justly due to this act, And this act is further explained that for the custom of tenne shillings per hogshhead be as well understood of all forreigners as of the Dutch nation and conferred on the Governor.¹¹

In this assembly there developed a bitter controversy concerning the relative authority in legislative matters of Governor Mathews and the

¹¹ Ibid., p. 469.

Burgesses. It was finally agreed "that all propositions and laws should be discussed in private sessions and not in the presence of the Governor and the Council of the colony".¹² By that action the Burgesses asserted their independence and at the same time tried to assume more than their just rights.¹³ But Governor Mathews claimed the right of the former Governors to dissolve the House, and in this way "break the power of the Burgesses".¹⁴ Thereupon, on April 1, 1658 at Jamestown, the "Governour and Council for many important causes do think fitt hereby to declare, That they do now dissolve this present Assembly, And that the Speaker accordingly do dismiss the Burgesses".¹⁵ This message which was sent to the Assembly¹⁶ was signed by "Governor Mathews, Secretary William Claiborne, and the Councillors."¹⁷

12 E. J. Clary, op. cit., p. 58; Samuel H. Yonge, "The Site of Old 'James Towne', 1607-1698", Virginia Magazine of History and Biography, XII, 45 (July, 1904).

13 Clary, op. cit., p. 58.

14 Wertenbaker, op. cit., p. 106.

15 Hening, op. cit., p. 499.

16 Wertenbaker, op. cit., p. 106.

17 Stanard, op. cit., p. 234.

This action startled the Burgesses who believed that, by the terms of the surrender in 1652, all power was in the representatives of the people. "'The said dissolution', replied the House, 'as the case standeth is not presidentall neither legall according to the lawes, now in force, Therefore wee humbly desire a revocation of the said declaration.'" ¹⁸ By this answer the Burgesses gave a courteous but firm resistance to the wishes of the Governor. They realized that this was a challenge to the power of the House; so they "voted to ignore the dissolution. And it was ordered that if any member left his seat he was to be censured 'as a person betraying the trust reposed in him by his country'." ¹⁹ An oath of secrecy was administered to all present, while the Speaker was directed to 'sign nothing without the consent of the major part of the house'." ²⁰

Amazed at this determined opposition of the Burgesses, on April 2, 1658, the Governor and Council were willing to allow the Assembly to continue its work if a speedy conclusion could be reached.

18 Hening, op. cit., p. 499 is quoted by Wertenbaker, op. cit., p. 106.

19 Hening, op. cit., p. 500 is quoted by Wertenbaker, op. cit., p. 106.

20 Ibid.

However, they wished to "referre the dispute of the power of dissolving and the legality thereof to his Highnesse the Lord Protector"²¹. The House resolved unanimously that this was an unsatisfactory answer. The Governor and Council must also acknowledge that their act was illegal.²² Therefore, the Burgesses, on that same day, April 2, 1659, stated in a formal declaration,²³ which had been drawn up by an appointed committee,²⁴ that the power to elect and appoint officials of the colony rested in the House of Burgesses. They ordered also the Secretary of State, Colonel William Claiborne, to deliver up the public records of the county. Colonel Claiborne apparently ignored this request, and the Burgesses²⁵ seem to have let the matter drop. The Governor and Council did not resist this declaration of the Burgesses concerning the right of election; therefore, in accordance with its terms, the Assembly of March, 1659²⁶ "chose Colonel Samuel Mathews, Esquire,

21 Hening, op. cit., p. 500.

22 Ibid.

23 Clary, op. cit., p. 59.

24 Hening, op. cit., p. 501.

25 Clary, op. cit., p. 59; Wertebaker, op. cit., pp. 107-8.

26 Hening, op. cit., p. 516.

to the Governor of the colony for a term of two years, giving him all the rights and privileges which belonged to the Governor and Captain General of the colony of Virginia".²⁷ This almost farcical²⁸ action of the Burgesses was affected probably by the news which the colonists had received from England in the early part of 1658 that the Lord Protector might accept the crown.²⁹ Nevertheless, Governor Mathews accepted the terms of the Burgesses and ended the very brief bloodless revolution which had seemed for the moment serious enough to disrupt the political structure of the colony.³⁰

Since this dispute was a major event³¹ of the term of office of Governor Samuel Mathews, it is not so strange to read that the Protector and his Council ordered on August 31, 1658

... on petition of divers Merchants and Planters of his Highness Colony of Virginia, showing the loose and distracted condition of that colony and the inconvenience

27 Clary, op. cit., pp. 59-60.

28 Ibid., p. 60.

29 Sainsbury Abstracts, XVIII, 290-291 (footnote).

30 Clary, op. cit., p. 60.

31 Ibid.

that may ensue if the ships now going should depart without some declaration concerning the settling of the Govern't there and praying that the Council's pleasure may be signified to the present Governor and Council to apply themselves with all care and circumspection to the peaceable & orderly management of the affairs thereof, as also Draft of a letter prepared according to the tenor of the said desire, Ordered that a letter be sent to the present Governor & Council of Virginia draft of which follows to the purport above.⁵²

Public opinion in England was also reflected in Virginia in the manner of dealing with the Quakers. Although this distinctive creed of the
³³
 seventeenth century was in opposition to the Established Church of England, Quaker missionaries
³⁴
 had found their way to Virginia. Despite harsh

32 Sainsbury Abstracts, XVIII, 290-291. "So far as the records show this was the last time that the Colony of Virginia was a subject of discussion by the English government before the Restoration."

33 Stephen B. Weeks, "Southern Quakers and Slavery; A Study in Institutional History". Johns Hopkins University Studies in Historical and Political Science, Extra volume 15. Johns Hopkins University, Baltimore, 1896, p. 4.

34 Ibid., pp. 5, 13; Henry R. McIlwaine, "The Struggle of Protestant Dissenters for Religious Toleration in Virginia". Johns Hopkins University Studies in History and Political Science, XII, no.4, p.19.

35

treatment, the sect thrived, and its story forms an especially interesting phase in Virginia history. 36

While the Quaker difficulty was being settled in Virginia, affairs in England were changing rapidly. On September 3, 1658, during the term of office of Governor Mathews, the Lord Protector, Oliver Cromwell, died. His son, Richard Cromwell, became his nominal successor, but he proved an unsuccessful and weak leader. His accession affected the status of the Assembly which met at Jamestown in March 1659. They had received a letter, dated September 7, 1658, from Henry Lawrence, President of the Council of State of England, which implied that the Governor and his Council, rather than the Burgesses, held the upper hand in Virginia. Oliver Cromwell had planned to intervene in the affairs of the colony, but his death put a stop to his efforts. The problem was still before the Council of State. That it seemed probable that some action might be taken is evident in this excerpt from the letter: "Their Lordships do will and require you

35 Wise, op. cit., pp. 155-156; McIlwaine, loc. cit., pp. 19-20; Neill, op. cit., p. 252, Weeks, op. cit., pp. 14-16; L. G. Tyler, "Major Edmund Chisman, Jr." William and Mary College Quarterly, I, 91-92 (October, 1892).

36 Weeks, op. cit., p. 15; McIlwaine, loc. cit., p. 19.

the present Governour and Council there to apply yourselves... to the peaceable and orderly management of the affairs of that collony, according to such good lawes and customes as have been heretofore used and exercised among you."³⁷

The Burgesses were concerned over this new development. They passed resolutions to obey the orders of the Council of State, but they decided to write Protector Richard Cromwell to ask for the confirmation of the privileges of the Burgesses. Governor Mathews promised his support to the Assembly while an act was passed which strengthened the power of the Burgesses.³⁸ Governor Mathews and the Assembly at this juncture maintained a close relationship with the English Council of State and gave their allegiance to the Lord Protector. There was, however, some conflict of opinion, and many people in the colony were reluctant to accept Richard Cromwell.³⁹

Instructions issued by Governor Mathews early in 1659 show clearly divergent trends in Virginia.

37 Hening, op. cit., p. 510 is quoted by Wertenbaker, op. cit., p. 108.

38 Wertenbaker, op. cit., pp. 108-109.

39 "History of York County in the Seventeenth Century", loc. cit., p. 243.

On April 8, 1659, the Sheriff of Lancaster was ordered to arrest Colonel John Carter for his contempt of the new Lord Protector. The Governor issued the warrant for the arrest of the Cavalier, Colonel John Carter, who was "charged with contempt of the late commission of the government sent out by his Highness (Richard Cromwell) and the Lords of the Privy Council".⁴⁰ The sheriff was to bring him before the Governor and the Council at Jamestown. It appears that this Colonel Carter had grumbled against Richard Cromwell when the letter of the Council of England had been read in the Assembly of March. Colonel Carter was brought quickly to trial at Jamestown where he had to pay a heavy fine for the offense.⁴¹

On July 26, 1659, instructions were sent by Governor Mathews to the Commissioners, or Justices, of York County, which ordered one Joseph Croshaw be suspended from his office of Justice in that County. It was believed that he had questioned the present authority as the order had been read in

40 "Book Review", The Va. Mag. of Hist. and Biog., II, 235 (October, 1894).

41 "Arrest of Colonel John Carter, the Cavalier", William and Mary College Quarterly, VIII, 35 (July, 1899).

the House of Burgesses the previous March where he had represented York County.⁴² For his questioning he had been suspended from office. Governor Mathews claimed that such actions were presumptuous. In a letter the Governor declared

Whereas Joseph Croshaw hath disputed and questioned the present authority which was appointed and fixed by order of the Lords of the Council of State. This his presumption being & tending much to y^e breach and detriment of the Peace of this our Colony I having seriously considered the dangerous consequences of such practices thought it meet and convenient to Suspend the said Croshaw from anything as formerly in relation to a Justice of Peace until such time that hee hath given a cleare testimony unto y^e Court of the Contrary faile not hereof as you shall answer y^e contrary at your perill...⁴³

The order was then read in court on August 24, 1659, while Joseph Croshaw was present. Then, after the reading,⁴⁴ it was recorded.

42 "History of York County in the Seventeenth Century", loc. cit., p. 243; Clary, op. cit., p. 66.

43 Tyler, "Virginia Under the Commonwealth", loc. cit., p. 193.

44 Ibid.

This controversy might have had very serious results if English affairs had not shifted very suddenly. Richard Cromwell had succeeded his father as Lord Protector, but his troubled rule of nine months was ended by his resignation on May 25, 1659. At this time, the leaders of the existing Cromwellian army of approximately 20, 000 men realized that the situation necessitated the calling of the Rump Parliament. Soon after this a quarrel broke out between the parliamentary leaders and the army chiefs. Finally, George Monk, the Commander of the Commonwealth soldiers in Scotland, realized that public opinion in England now seemed to favor the restoration of the monarchy. His intervention paved the way for the restoration of Charles II in May, 1660.⁴⁵

One of the few contemporary sources that is preserved from this period is a letter that was written on December 29, 1659 by a son, Francis

45 R. B. Mowat, A New History of Great Britain, Oxford University Press, London, n.d., pp. 366-367; L.M. Larson, History of England and the British Commonwealth, Henry Holt and Company, New York, [c.1922], p. 404; G. M. Trevelyan, England Under The Stuarts (vol. V of A History of England, ed. by Sir Charles Oman), 328-330.

Wheeler, who was living in London, to his father, Mr. Francis Wheeler, who lived at Queen's Creek in Virginia. The young man discussed his business, tobacco dealing, at first; he then wrote "another overture in the Government of this nation; ye soldgers turned out ye last Long Parliament & for a while wee were without any settled Government but ye sword... The soldgers they are divided one against another & the people they are divided some for one government some for another & how long thus a kingdome divided against itself can stand I know not...Father I think it would be convenient for you to keepe a plantation & something in Virg'a, the times being soe dangerous here."⁴⁶

Affairs in Virginia were unsettled and confused. Would the military leader, General Monk, put an end to the anarchy and bring about the restoration of the Stuarts? Was the Assembly to control the Governor of the Colony? These questions were brought to an abrupt solution by the rapid change of events, necessitating prompt action. Faithful

46 Ibid., pp. 236-237. The letter is found in its entirety in "History of York County in the Seventeenth Century", loc. cit., p. 244.

47

Governor Mathews died in January, 1660. The Assembly met in March, 1660, and the Burgesses declared "... that the supream power of the government of the country should be resident in the Assembly... until such a command and commission come out of England as shall be by the Assembly adjudged lawful".
 48
 The next act of the Assembly was the election of loyal Sir William Berkeley as Governor of Virginia. This former governor had remained quietly on his plantation and came forth to complete the cycle of Commonwealth and
 49
 Protectorate in Virginia.

47 A. C. Gordon, Jr., "Samuel Mathews" (volume XII of Dictionary of American Biography, ed. by Dumas Malone), 405.

48 Hening, op. cit., p. 530 is quoted by Wertenbaker, op. cit., p. 110.

49 Stanard, op. cit., p. 236.

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APPENDIX A

"There is recorded in Lower Norfolk County, for the year 1655, an agreement between a citizen of Plymouth, England, and a citizen of Lynnhaven, Virginia, by the terms of which the latter was to furnish one hundred hogsheads of tobacco. If the cargo was landed at Plymouth or London, the freight charge under the contract was to be eight pounds sterling; if in Zealand or Holland, nine pounds.

Sainsbury Abstracts vol. 1651-1656, folio p. 144.

In 1653, Abraham Reed was fined and imprisoned because among other things, he had said that 'no foreigners ought to have trade in Virginia', which was declared to be contrary to the terms of the surrender to Parliament. Randolph MSS., vol. III, p. 248." Philip Alexander Bruce, Economic History of Virginia in the Seventeenth Century. Macmillan and Company, New York, 1896, p. 353.

APPENDIX B

Order of His Highness & Council, Sept. 13, 1655.

That petition of Richard Bennett and Col Samuel Mathews Agents for the Colony of Virginia as also the humble Representation of the Governor Council and Burgesses of the Grand Assembly in Virginia thereunto annexed being both directed to his Highness and by him referred to the Council for Foreign Plantations to be by them considered of and upon examination of the fact to report the state thereof with their opinion to the Council.

Sainsbury Abstracts, XVIII, 52;

Petition of Richard Bennett and Colonel Samuel Mathews to (the Lord Protector), Jan. 22, 1655-6.

Business of Virginia referred to the Committee for Plantations. Nothing done. A reference obtained to Lords Com'rs Whitelocke and Widrington, pray delivery of the papers that they may make their defence....

Order of his Highness & Council, July 15, 1656.

That petition of Richard Bennett and Samuel Mathews Esq's Agents for Virginia and the rest of the plantations in the Bay of Chesapeake be referred to Sir Charles Wolseley, Col. Sydenham, Lord Visc't. Lisle, Sir Gilbert Pickering, Mr. Ross or any two of them to consider

thereof and report their opinion therein to the Council.

Report of the Committee of the Council to Whom the Petition of Col. Mathews and Col. Bennet, Agents for Virginia is Referred, July 31, 1656.

Have considered said petition & report from Lords Whitelocke and Widrington about the differences relating to Virginia and Maryland and are of opinion that it be referred to the Committee for Trade to consider of the whole matter and to state the case and return their opinion to his Highness and the Council.

Indorsed. 'Rep't. by Sir Ch. Wolseley
31 July 1656.'

Order of his Highness & Council, July 31, 1656.

On consideration of a report of the Committee of the Council to whom petition of Richard Bennet and Samuel Mathews Esq'rs, Agents for Virginia and the rest of the plantations in the Bay of Chesapeake was referred and in concurrence therewith. Ordered that said pet'rs together with the humble Representation of the Governor Council & Burgesses of the Grand Assembly in Virginia therewith annexed as also a report from Lords Com'rs Whitelocke and Widrington made to the Council in pursuance of his Highness reference to them upon petition

of Cecilius Lord Baltemore and the several papers thereunto annexed be referred to the Committee for Trade who are to consider thereof and to inform themselves of the state of the case and thereupon to certify the same with their opinion to his Highness and the Council.

Ibid., pp. 56-57.

Order of his Highness & Council, Dec. 17, 1656.

Upon reading a certificate from the Committee of Trade in pursuance of the Council's Order of 31 July last whereby it was referred to them to consider of the petitions of Richard Bennet and Samuel Mathews, Agents for Virginia and the rest of the Plantations in the Bay of Chesapeake with the Representation of the Gov'r Council and Burgesses of the Grand Assembly in Virginia and a Report from the Lords Comiss'rs Whitelocke and Widrington upon petition of Cecilius Lord Baltemore made to the Council in pursuance of a reference from his Highness, Ordered that said Certificate and that whole matter be referred to the Committee of the Council for Foreign Plantations who are to speak therein with the parties and to report to the Council what they shall conceive fit to be done upon the whole business, as also to consider of what was now proposed by the Lord Deputy and the Lord Deputy is added to that Committee.

Ibid., p. 152.

APPENDIX C

Order of his Highness & Council, Dec. 18, 1657.

Colonel Sydenham represents from the Committee of the Council for Jamaica to whom the report from the Committee for his Highness in America, concerning Virginia was referred. That by the said Report and a paper thereunto annexed and signed by several Merchants trading to Virginia, the Gov'r of Virginia is set forth to have been a long time unsettled, by reason whereof and for want of sufficient Commissions and authorities from hence the hopeful improvements there receive no advance or encouragement, whereupon said Com'tee for America do propose it as necessary that some fit person be sent thither by his Highness as Governor* & do nominate Mr. Edward Diggs in that behalf, as one that would satisfy all parties and interests among them & desire that (the last ship of the year being forthwith to go thither) his Highness will at least nominate a Governor, that the Country may have intelligence thereof, and the minds of all concerned be the better satisfied. Ordered that it be offered to his Highness as the advice of the Council that his Highness will please to nominate such a person to be Governor of Virginia as his Highness shall think fit.

Sainsbury Abstracts, XVIII, 156-157.

* refers to the following footnote to the quoted passage above:

Their dislike for monarchical institutions and enthusiastic love for what they regarded as a republic, together with their ignorance of many records which have since come to light, induced Burk and Hening to give what is probably far from an exact justice of the freedom of Virginia between 1652 and 1660. They state that the colony chose its own governors and managed its own affairs without interference from England.

It is true that Parliament and the Protector were too occupied with more weighty and pressing business to exercise much control over the internal affairs of Virginia, but it is also probable that their influence was much greater than Burk and Hening believed. When the Parliament fleet set out to reduce Virginia and the other loyal Colonies, Richard Bennett, one of the commissioners, bore a sealed letter from the Council of State which was not to be opened until Virginia was reduced.... The contents of this letter are not known; but as Bennett was immediately chosen governor by the Virginia Assembly, it is a fair inference that it contained an order or request to that effect. No evidence has, as yet, come to light showing the reasons for the election of Governor Edward Diggs on March 31, 1655, but the text shows that he was believed to be persona grata to the English Government....

Ibid., p. 156.