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British Land Policy and The American Revolution: A Belated Lecture in Economic History

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THE AMERICAN REVOLUTION**

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GEORGE O. VIRTUE



UNIVERSITY OF NEBRASKA STUDIES

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BRITISH LAND POLICY AND THE AMERICAN REVOLUTION

A BELATED LECTURE IN ECONOMIC HISTORY

GEORGE O. VIRTUE

If this were spoken from a pulpit instead of from a teacher's rostrum, I should be disposed to take as a text for what follows a passage from C. W. Alvord's study of *The Mississippi Valley in British Politics*. From the middle of the 18th century to the Revolution, how to deal with the great valley was, Alvord holds, the number one American problem of every British ministry: How to meet the claims of France to it and how to defend it once her claims were extinguished; how to meet the claims to it of the seaboard colonies by virtue of their charters; how to protect the Indian title to the soil and against the "frauds and abuses" of traders and settlers; and finally, how best to make it of the greatest advantage to the English economy. The conflicting claims of France and England to the territory were discussed at the close of King George's War, 1744-1748, but neither side was prepared for a showdown and they were left unsettled by the treaty of Aix-la-Chapelle. A "cold war" ensued, each party seeking to strengthen its claim to the valley by occupation in one form or another, especially at the strategic Forks of the Ohio. The English got there "firstest," but the French, counting guns, got there with the "mostest," and the Virginians were driven back to the Atlantic side of the mountains. The "cold war" lasted seven years. Then followed seven years of bloody war, 1765-1763. We call it the French and Indian War, but it became a worldwide war. In the end France lost heavily in the Far East, in the West Indies, and on the North American continent. She surrendered Canada with its eighty or ninety thousand French population and her claims to the great region west of the Appalachians as far as the Mississippi River, except a small area at the mouth of the river held by Spain. How these vast acquisitions were to be managed was a problem full of difficulties. Very soon, however, it was decided to mark off East Florida and West Florida for the establishment of separate colonies, and the same was done for Canada though more than ten years passed before a colonial government was set up there. The great interior region west of the mountains,

inhabited, save for a few French settlers in the Illinois country, only by scattered Indian tribes, was for the time being left an Imperial domain, without any commitment as to future colonial status.

These decisions were announced in the Royal Proclamation on North America, October 7, 1763. Recognizing the Indian title to the soil, it declared all lands not hitherto purchased or ceded to the King a reservation for the use of the Indians until so acquired. It forbade the Colonial governors to "presume to make grants" of such lands or to purchase them until the King's pleasure should be known. All private persons were, likewise, forbidden to make purchases of them or to occupy them except on special license first obtained; and if any had "willfully or inadvertently" seated themselves on lands the title to which had not been acquired by the Crown, they were enjoined "forthwith to remove themselves from such settlements." The Indian trade, hitherto free, was also brought under imperial regulation. All traders were required to secure license from the colonial governor and give security to observe the regulations prescribed in them.

By adopting a benevolent attitude toward the Indians, by placing the traders under strict regulation, by impliedly fixing western boundaries of the colonies at the mountains, by placing a sharp restriction upon westward expansion, the Proclamation reversed former British policy and ran counter to long-established colonial practices. It ran counter, too, to the interest of numerous speculators eager to secure grants ahead of the westward expansion they foresaw must ere long be underway. Some of the provisions were doubtless intended to be temporary, pending the adoption of a permanent policy for the western country. They, in fact became in a sense permanent through long delays due chiefly to personal and factional strife within the government. The chief point of contention was whether to permit the colonists to expand westward as they had always done, develop the land resources of the region and so increase the Imperial revenues, or to confine them to the seaboard where they would best serve the interest of the British economy, and reserve the great interior region as hunting-grounds for the Indians and so preserve the source of supply for the valuable fur trade. Well, it was the urge to westward expansion that led the colonists to resist the French intrusion into the upper Ohio country and to endure a long war for the right to occupy that

region. And this brings us to our text: "Through the exigencies of politics," says Alvord, "the British ministry had now established the same limits of colonization [as the French had set]. In trying to maintain these boundaries did Great Britain, like France, lose an empire?"¹ This is our problem.

The great urge to settlement beyond the mountains that became startlingly evident about the middle of the century did not come primarily from homeseekers. It is true that most of the better lands had been taken up for current or future use, but between the large holdings there were considerable tracts available for family-sized farms. The prime movers for westward expansion were men, already land-rich, who had learned from experience that the surest way to acquire wealth in America was to secure land ahead of migration. Accumulating information brought back to the settlements by traders and explorers gave rise to the vision of a great "inland empire" in the west; they would be builders of that empire and reap the emoluments due their services. The Indian danger and the long stretches of wilderness between the old settlements and the proposed new ones, made occupation by individual settlers impracticable; it must be "promoted" by men of means just as the peopling of Virginia and indeed most of the colonies had been promoted, largely through the "indented servant" system. How to secure families to found the new settlement was one of the chief concerns of the promoters. Soon plans took form beyond the means of individual promoters, and companies were formed to carry them through. From 1745 to 1754, 34 grants, ranging from 20,000 to 500,000 acres were made by Virginia alone in the region included in what is now West Virginia and eastern Kentucky. This was the beginning of the first great American speculative land boom. Checked by the French and Indian War and Pontiac's War which dovetailed with it, the movement was continued after the Peace of 1763 with greater vigor and on a grander scale. The number of speculators increased and so, too, did their aspirations; in their petitions for grants they sought not thousands, but millions, of acres; the field of operation was extended to the Great Lakes, to the Mississippi River; but it was in the upper Ohio country that the competitive struggle was fiercest—a region that was to remain

¹ Alvord, C. W. *The Mississippi Valley in British Politics*, II. 91.

a bone of contention between Indian tribes, Indians and Whites, traders and settlers, between Virginians and the rest of the world, including Pennsylvanians, Kentuckians and the Continental Congress.

Of the numerous speculative ventures in western lands in the quarter century preceding the Revolution, three will, for the purpose in hand, require particular attention: that of the Ohio Company of Virginia, that of the Mississippi Company, and that of the Grand Ohio Company seeking the so-called Walpole Grant.

THE OHIO COMPANY

While peace negotiations were going on toward the close of King George's War, a group composed mainly of Virginia planters formed a partnership under the name of the Ohio Company and petitioned Lt. Governor Gooch for a large grant of land. This was in 1747. The petition was denied on the ground that such a grant might embarrass the negotiators; whereupon the Company sent their petition to the King.² It was cordially received by the government. The question of strengthening its shadowy claims to the interior as against the shadowy claims of the French, had been considered as early as the 1720's when this method of forestalling the French was proposed by Governor Spotswood.³ But the time was not ripe for such a venture. By 1748 it seemed to be; and here was a body of well-to-do, capable men ready to establish and defend a settlement at the most strategic point for forestalling the French, for protecting the old settlements, and for resisting the pretensions

² For the memorial as sent to the King, see Kenneth P. Bailey, *The Ohio Company of Virginia*, 298-301. It was presented by John Hanbury, a London merchant and banker, onetime member of Parliament. The names of thirteen other members appear in the petition. Chief among them is the name of Thomas Lee, long a member of the King's Council in the colony and, at the time of his death about to be appointed Lt. Governor; Thomas Nelson, also a member of the Council; Lawrence Washington and his brother Augustus, and George Fairfax, all Virginians. Two or three members lived in Maryland, mentioned only as associates. Bailey finds that, first and last, through changes in ownership, there were 25 shareholders, some 20 of whom served in the House of Burgesses. Of the latecomers, mention should be made of George Mason who later became spokesman for the company; George Washington, never active in company affairs; and Robert Dinwiddie who succeeded Gooch as Lt. Governor in 1751 and took an active—perhaps a too active—part in the affairs of the company. The Ohio Company did not lack men of standing.

³ Bailey, Kenneth P. *The Ohio Company of Virginia*, 22, 256.

of the French, and all at their own expense. It, however, required all of 1748 and well into the next year to arrange all details of the concession, and it was not till July 1749 that the governor, following instructions from the King, made the grant.⁴

The grant did not pass title to any land; that, in this case, had to be earned. It provided that when the company had settled two hundred families upon the land to be granted within seven years and had built and garrisoned a fort for their protection, title would be given to 200,000 acres of land; and that an additional 300,000 acres would be patented on like conditions—settling 100 families for each 100,000 acres; all to be free of quit rents for ten years after title was given. The grant was made on these conditions. What were the motives of the government in making it?

Because of the outcome of the war which soon followed, it has been generally believed that the grant was made in pursuance of a plan of territorial expansion. If that was the government's purpose, it was kept in the background. There seems to have been no inclination even now to bring the question of dominion to an issue. There was, in fact, a more immediate interest to be promoted. Professor McIlwain has persuasively argued,⁵ that it is a mistake to ascribe the long-standing rivalry between British and French in the West "to a competition for territory, a hunger for land . . ." Contemporary documents show, he says, that so far as the English government was concerned, "trade rather than land was the chief ground of friction." The petitioners for the Ohio grant understood the British interest in the fur trade and disclose their own interest in it. It has been customary to regard the company as of a kind with the numerous speculations of the period. It was, indeed, a land company, but it was something more than that. It was also a colonizing and a trading company. The greater part of the petition is taken up with the favorable opportunity offered by the friendly

⁴ This like other "grants" of the period only gave authority to search for, pick and choose the specified acreage within limits often necessarily vague because of lack of geographical knowledge. In the present case the area of selection was between certain creeks "on the south side of the River Allegany, otherwise the Ohio," and between certain creeks on the north side of that stream "or in such other parts to the west of said mountains as shall be adjudged most proper by your Petitioners."

⁵ In his Introduction to Peter Wraxall's *Abridgement of the Indian Affairs*, (of New York) 1915. Charles H. McIlwain, ed.

attitude of the western Indians, their inclination "to trade solely with your Majesty's subjects," their desire that the inhabitants of Virginia "send them British goods and manufactures," a service Virginia was favorably situated for performing because of its easy access to the interior by way of the Potomac and the Monongahela and so to Lake Erie. The proposed settlement and fort would strengthen the frontier and be "the means of gaining a vast addition and increase to your Majesties subjects of that rich Branch of the Peltry and Furr Trade . . . and at the same time greatly promote the Consumption of Our own British Manufactures, enlarge Our Commerce, increase our shipping and Navigation and extend your Majesty's Empire in America and, in a short space of time, very considerably increase Your Majesty's Revenue of Quit Rents." For, it was argued, the company's settlement once established, great numbers of "Foreign Protestants would wish to settle in this fertile region." It was for promoting these national ends that the grant was justified.

The role of the fur trade in the colonial economy, as McIlwain says, has not been adequately realized. It was from the beginning, an important factor in the welfare of every colony, both for use and for export. As the agricultural frontier moved westward and the fur bearing animals were all but exterminated, so, too, was the Indian trade. By the middle of the 18th century the bulk of that trade was with the tribes west of the mountains, most of it channelled through New York to Albany. This was made possible by the long, firm friendship which from the Dutch period on had existed between the colony and the Iroquois (the Six Nations). This strong confederation, asserting a sort of overlordship over the western tribes, did not permit a direct trade between them and Albany. They themselves received the western furs and disposed of them to the English. But not all the tribes carried their peltry to the Iroquois. Some were in alliance—had trade relations—with the French whose traders had long ranged widely over the west—but mainly, it appears, in territory tributary to the Lakes and to the Mississippi. Although English traders had, since the Treaty of Utrecht, 1713, had equal rights with the French to trade "without molestation" in the western country, they were slow in exercising it. During the second quarter of the century they began to penetrate behind the mountains and by the end of that period it was estimated there were 300 of them, most of them Pennsylvanians, in the Ohio

country and northward to the Lakes region. Rivalry increased with numbers. DeNoyan, in charge of the important trading post at Detroit, wrote, "The English have been coming for a Number of years to Corrupt the Savages within the Sphere of this Post. I have resolved to have them pillaged. I will Begin by Sending them a Summons."⁶ One way of "corrupting" the Indians was to offer higher prices for their furs than the French could give; (this for several reasons, among them the offer of British rum as against French brandy). There was ground for French alarm; for the fur trade was a more important element in the Canadian economy than in that of the English colonists, and the French government, as well as the English, regarded it as a great national interest. The French, as Hulbert points out, had felt secure in the exploitation of the upper Ohio country because of its mountain barrier; but the English traders, especially the Pennsylvanians, had demonstrated that the mountains, though an obstacle, were not, for the French, a secure defense against the intrusion of English traders. Hitherto the southern colonies had had to be content with the less valuable peltry found in the more accessible hunting-grounds of their back-country. The Ohio Company of Virginia now proposed to establish itself in the rich fur-bearing region of the upper Ohio.

The company lost no time in launching this branch of their enterprise. In February, 1748, a few days after its petition was presented in London, and more than a year before it was finally acted upon, the partners voted an assessment on themselves for the purchase of "Indian goods" and sent an order to John Hanbury, their London member, to be filled by installments as it was judged the goods would be needed. It was stipulated that the amount should not exceed 4,000 pounds sterling. They apparently expected their banker member to carry the account in part, for the assessment made was only 100 pounds sterling per member.⁷ Whether this prompt action was taken on the assumption that their grant of land was certain to be allowed, or because of a determination in any case to engage in trade, is not certain. The next year they bought land and built a store-house on the Maryland side of the upper Potomac, where Cumberland now stands. In the fall soon after their grant was made they "employed Gentlemen to discover

⁶ Quoted by McIlwain (XVI) from *Wisconsin Historical Collections*, XVII, 358.

⁷ Bailey, *The Ohio Company of Virginia*, 69.

lands beyond the mountains." At the end of a year they had "made no considerable progress" and toward the end of 1750 Christopher Gist was selected to make the search for suitable lands and to cultivate friendship with the Indians. Two years were consumed in this task. He explored the region north of the Ohio as far west as the Great Miami and south of the Ohio as far as the Great Kanawha. It was in this latter quarter that he found the best lands for settlement, protected against danger from the north and free, as it was thought, from conflicting claims. The company petitioned the Governor and Council for leave to survey and take up its grant in the Kanawha region. This being denied, it was then decided to petition the King for an enlargement of the grant of 1749, and to have it all located within clearly defined boundaries, the company agreeing to settle an additional 100 families and to build two additional forts, one of them at the forks of the Kanawha and the Ohio.⁸ It was not till April 2, 1754, that this petition reached the Board of Trade. In the meanwhile a crisis had been reached in the affairs of the Ohio Company, and of the Empire.

The history of the company is a catalog of misfortunes. First of all Thomas Lee, the moving spirit of the enterprise, died in February 1751, and little more than year later Lawrence Washington after a long illness also died. To this loss of leadership is probably due the long delay in beginning operations. As already pointed out, the company from the first encountered hostility within the colony. The reason given by Lt. Governor Gooch for denying the company's petition was not his only one. He trained with a political faction opposed for reasons of its own, to the group, closely related by blood and marriage, which formed the Ohio Company. When the King reminded the governor that he had authority under his instructions to make grants and directed him to proceed with that on the Ohio, he used it to make a series of grants in the same general region. Among them was one of 800,000 acres made on the very day the Ohio Company's grant was announced, to a group known as the Loyal Company. Another notable grant was that made by Governor Dinwiddie's proclamation, to soldiers enlisting for military service on the frontier in 1754. These grants added to

⁸ *The Ohio Company*, 70; and the Company's Petition of 1754 for an Enlargement of their grant, 306-307. Bailey says young George Washington was sent out to "survey" lands for the company. I have found no confirmation of this.

those previously made, created a situation which made it impossible as Washington later declared, for any one to be certain of securing a title to the land he selected.

Conditions on the upper Ohio were further complicated by conflicting territorial claims. Pennsylvania's western boundary was set at five degrees west of the Delaware River, but the line had never been run. The major activities of the company, including the construction of a fort, were carried on in disputed territory which later was found to be well within the Penn grant. This territorial conflict sharpened the resentment of the Pennsylvania traders against the "interlopers" from the south and brought about relations little "short of war." They industriously spread the information among the Indians that the Ohio Company intended to take their land, to make a settlement, to build a strong-house, creating a distrust of the company never overcome. French traders pursued the same tactics. When the Ohio Company was formed, interference from Canada with its project seemed remote; as Thomas Lee wrote the Board of Trade, there was then no French danger. By 1750 that danger had to be reckoned with. The year before Celeron had appeared on the Ohio with his leaden plates, taking formal possession of the territory in the name of his King, and warning the Indians not to trade with the English. This was the first step in what proved to be a plan for establishing the French claims to the Ohio country. Whether it was taken as a counter-move to the Ohio Company project is not clear. As the months went by English traders were warned against trespassing on French territory, several of them were seized and carried off to Canada, the Indians who trafficked with the English were threatened and in 1752 the important Miami village of Pickawillamy was destroyed. By the early summer of 1753 the situation had become alarming to the Virginians. Word had been received that the French were building a line of forts from Lake Erie to the Allegheny. The intent seemed obvious—to establish themselves at the junction of that river with the Monongahela, a point recognized by all as of great strategic importance.

The Ohio Company was galvanized into action. The year before a conference of the Ohio Tribes had been assembled at Logstown on the Ohio a few miles below the Forks, ostensibly to receive presents the company had promised them as a seal of friendship. But there was other business on the agenda of the company. The Virginians wanted leave to build a fort on the Ohio. Historically

Indian policy had steadily opposed white men's forts in their territory, but in face of the present danger from the north, consent was readily given. The company wanted their right recognized to make settlements west of the mountains. Did the right given to build a fort imply the right to make settlements and to own the land on which they were made? This question was put to the Half-King of the Senecas, the chief spokesman for the Indians; his answer was, no. The River tribes had repudiated the pretended sale to the English, of lands west of the mountains by the Six Nations at Lancaster in 1744. He did not understand that Virginia had any lands there; and "it was only in the power of the Onondago Council to dispose of Ohio territory; but later that day," says Bailey cryptically, he "agreed to English settlements east of that river."⁹ With the fort and the settlements agreed to, a treaty was drawn up and duly signed. At a conference held at Winchester the next year (September, 1753) for the purpose of forming an alliance with all the tribes of the region to resist the French, and to secure confirmation of the Logstown Treaty, all efforts to induce the Indians to surrender title to their lands were in vain. A spokesman for the Indians summed up their attitude on these questions. There had been much talk, he said, of driving the French out of the Ohio country: "And brother, when we do that, we will consider what to say about the lands; and as to the strong-house that is to be built." (Bailey, p. 141).

In August, 1753, William Trent, an experienced trader from Pennsylvania, now employed by the Ohio Company on the Monongahela, sent Dinwiddie further details of the French advance and added that the Half-King of the Senecas "had been appointed to warn the French off Indian lands." A French officer told him, as later reported by Washington, that the Indians had no lands, they all belonged to his master the King; "you do not own as much land as the black of your finger nail."

Already the company had been roused by the activities of the French to take belated action with respect to the fort. At a meeting in July plans and specifications were drawn up for one to be built (at the Forks, as it turned out) and for a town to be laid out adjoining if the lay of the land permitted. George Mason was author-

⁹ *The Ohio Company of Virginia*, 135-137. This seems to refer to the Monongahela, sometimes called the Ohio.

ized to send an order to their merchant-member, Hanbury in London for twenty swivel guns and ammunition for the fort. A little later an assessment was made on the members for the purchase of supplies and for the employment of men to build the fort. But it was not till late in December, 1753, that the expedition was started on its way to the Forks.

The news which had roused the Ohio Company to action created a sense of alarm throughout the colonies and in England. The governor of Pennsylvania wrote Dinwiddie to learn what had been done about building the fort that had been decided upon four years before and that had been used by the Pennsylvania traders to create Indian distrust of the Virginians. He offered the assistance of his colony to carry it forward; an assistance which, although backed by the proprietors, he was never able to give. Dinwiddie had already written the home government describing the danger which threatened the colony, and suggesting "the utility of building some forts upon the Ohio in the western part of Virginia." It was autumn before a reply was received in the form of a letter of instructions for meeting the French danger. The suggestion to build forts on the Ohio "at the charge of the colony" was approved, and "thirty cannon of four-pounders" with appropriate stores, were ordered to be consigned to the governor. He was directed to call out and arm the militia; and in case obstructions were encountered in building the forts, "to meet force by force." The instructions went farther. If any Europeans, not British subjects, should be found to have built forts or should presume to do so, within the limits of Virginia or other English colony, the governor was authorized, after due warning "to take appropriate action." No indication was given as to "the limits of Virginia or other colony" the government was ready thus to defend. First of all, however, the governor was instructed to obtain accurate information as to the extent and character of the French fortifications, and the military strength of their support.

It was in pursuance of this last instruction that George Washington, October 21, 1753, was sent on his mission to carry Dinwiddie's warning to the French on the upper Allegheny against intrusion on British territory and to request the intruders peaceably to depart. The reply was what might have been expected. This and the report Washington brought back in mid-January, 1754, that the French planned to move to the Ohio in the Spring, led

to energetic action on the part of Governor Dinwiddie. He called the House of Burgesses to convene at the earliest possible date—a month hence; he directed two county lieutenants in charge of the militia to enlist volunteers for service and assemble them at Alexandria; he sent a Captain's commission to William Trent, an experienced Indian trader in the employ of the Ohio Company, and directed him to raise a company of 100 men and take them to the Forks to join others to be sent for the protection of the fort; he appointed John Carlyle, another member of the company, as commissary of supplies and stores; in order to stimulate enlistment he issued a proclamation¹⁰ which promised 200,000 acres of land on the Ohio for those who served in the companies to be raised, and, in accordance with his instructions, he called upon the governors of other colonies to furnish aid in meeting a common danger.

The Burgesses who met at Williamsburg in the middle of February were in no mood to co-operate with the governor. He had sent them home only a few weeks before in the midst of a bitter quarrel over the imposition of an additional fee—the famous “pistole fee,” to be charged against grants of land. But back of this there were fundamental questions to be answered: did the region occupied belong to the French or was that designed to be occupied part of Virginia; was it English territory; would war-like preparations lead to actual war; was the governor asking for funds to safeguard the interests of the Empire, of the colony, or of a private company? As a member of the company the governor was in an embarrassing position. But he might well have said he was acting in the interest of all. The King had chosen to subsidize the company as a spearhead—as a means of establishing English rights, whether of trade or territory, in a sort of no-man's land and he, Dinwiddie, had been instructed by the King to assert and protect those rights by force if necessary.

In the end a small appropriation was made and the governor's plan went forward. He appointed a colonel of the regiment to be raised. He appointed George Washington to command the little troop of volunteers assembled at Alexandria, and later ordered him to proceed to the Forks to protect the workmen on the fort. Washington began his march on April 2, 1754, the very day the Ohio Company's petition for an enlarged grant on the Kanawha was

¹⁰ *The Ohio Company Papers*, Kenneth P. Bailey ed. 25-26.

laid before the Board of Trade. The correspondence¹¹ between the young officer and the governor is the best source of information about the expedition. It unfolds a story of incredible hardships, and final failure. When Washington reached the Ohio Company's store house on the upper Potomac (Wills Creek) he learned that the French had driven the workmen away from the unfinished fort. He decided to move forward in the hope of retrieving it, opening as he went a road for supply wagons that did not come. When he reached the Great Meadows he did receive a reinforcement—an "Independent Company" of North Carolinians commanded by one Captain McKaye who had a royal commission. It proved to be an embarrassment, not an aid; neither the captain nor his men would obey the orders of a colonial officer of whatever rank—would not even salute him. The young provincial got his first lesson on his position in the British scheme of things. While at this place, he learned from Indian scouts of a detachment of French in a concealed position not far away. By a night march he came upon the party, fired upon it, killing a score, including the officer in command. The rest, some 20 men and officers surrendered and were sent back to Winchester. After a few days spent in clearing the meadow of bushes, he began his "march to Redstone Creek" on the Monongahela. He met hunters, traders and friendly Indians fleeing before a large force of French and Indians—it proved to be 700 strong—was deserted by his Indian "allies," was himself compelled to fall back to his improvised fort at Great Meadows, closely followed by the enemy. Here after an all-day fight he capitulated, and was allowed the next morning, July 4, 1754, to march off to the settlements, leaving the French in control of the Ohio country and the great valley. Braddock's expedition the next year likewise failed to retake the fort at the Forks. For the time being the English were confined to the Atlantic side of the mountains.¹²

The events just narrated came at the end of the seven-year period in which the Ohio Company was to earn its grant. It had failed to do so; legally it was dead, as has often been said. But if it was dead its ghost walked in London for ten eventful years and

¹¹ *Writings of George Washington*, Fitzpatrick, ed. Vol. I.

¹² In 1758 the Forbes expedition fitted out in Pennsylvania and moving over the Traders route crossed the mountains and reached the fort only to find it empty. The French had moved northward.

at Williamsburg much longer, seeking for an equitable settlement of the company's claims, a settlement it never got; and therein lies the reason for this extended account of the fortunes of the enterprise.

We shall hear more of the company as we proceed. But here some account of its ill-directed efforts to secure restorative measures may be added. Even before the close of the war, in 1760, counsel was employed in London to protect the Company's interests, but without result. In 1763, George Mercer, a member of the company, was sent over for the same purpose. The choice was not a fortunate one. Thomas P. Abernathy, in his *Western Land and the American Revolution*, tells us that he distinguished himself by eloping with a nobleman's daughter and by serving a term in a debtor's jail. In 1765 he secured an appointment as stamp collector for Virginia. The reception he received there was such that within a fortnight he was on his way back to London. From time to time he petitioned the government for a reaffirmation of the grant and remuneration for the damage done the Company's property by Braddock's army. In 1770 without authority from the American members, he merged the company with a larger enterprise on the Ohio. Two years later the agreement was repudiated by the company. George Mason was now spokesman for the home members. In 1773, following the example of others who had claims to lands in the West, and like them ignoring British authority, he engaged surveyers to lay off, in the Kentucky country, the 200,000 acres believed to be justly due the Ohio Company. They, in fact, surveyed tracts containing some 800,000 acres. It is not clear what his next step was to be. It was a time when the governor, Lord Dunmore, and the council were, quite contrary to law, authorizing surveys, and passing titles to claimants in closed territory, and it seems probable that Mason hoped to gain title from the same source. But his surveys lagged and by the time they were ready, the war was on and Dunmore was in retreat. In 1777 the twenty-five years of life of the company, as fixed in 1752, came to an end. The next year Mason made a last appeal to the Virginia assembly on behalf of the company. Six of the members were living in England, mostly in arrears. For these he made no special plea. For the American members he asked for an act of the assembly authorizing the issue of a patent to each for his proportionate share of 200,000 acres of land, upon payment of the customary "Right-Money" (10 shillings per 100 acres) in lieu

of the obligation in the original grant to build and garrison a fort. No action was ever taken on the petition. In 1792 Mason died leaving to his son his share of stock and his share of the company's assets when determined. These consisted of the land bought at Wills Creek in 1748, and a few tracts Mason had bought with borrowed money and held in trust for the company. When these debts were paid the assets were found to be 102 pound, 12 shillings, 9 pence.¹³

As has already been pointed out, when the war ended and the Pontiac uprising was suppressed, with England in undisputed control of the great valley, the invasion of the West took on new dimensions. Individual families now found it feasible to cross the mountains in search of new homes. Speculative enterprises took on new dimensions. The size of grants sought, as before stated, rose from thousands, to millions of acres. Two of these claim our special attention: that of the Mississippi Company, and that of the Philadelphia trading company of Boynton, Wharton, and Morgan which played a part in several undertakings and finally in the formation of the Grand Ohio Company, beneficiary of the "Walpole grant," and promoter of the colony of Vandalia.

THE MISSISSIPPI COMPANY

A month before the Proclamation on North America was issued, a group of Virginians with a few residents of Maryland formed a partnership for the purpose of acquiring western land, and adopted a memorial to the King praying for a grant of 2,500,000 acres on the westernmost boundary of the newly acquired territory. It was to be selected from an area to be bounded as follows: starting at the mouth of the Ohio, up the Mississippi 120 miles, thence east to the Wabash, down that stream to its mouth and continuing southward to the Tennessee River, westward to the Mississippi and up that river to the place of beginning. The petitioners represented themselves as fifty in number, as being "of good families with considerable influence in the counties where they live," and as "possessed of moderate fortune." A scanning of the list of the eighteen members present at the meeting of September 9, 1763, confirms this

¹³ For the later history of the company see Bailey's *The Ohio Company of Virginia*, 269-281. Various petitions of the company are printed in the appendix; that of 1778 on pages 320-327.

general character of the group not yet brought to its full membership. There were two Washingtons, four Lees, and two Fitzhughes. They were not without experience in such enterprises; one-third of those present were, or had been, members of the Ohio Company. The petitioners, it is evident, were familiar with the principles of British commercial policy. They pointed out that a population would be attracted to the region by its richness and by easy terms of acquiring land, which would soon be producing commodities most wanted by Great Britain, "now purchased of foreigners at very great expense, such as Hemp, Flax, Indigo, Iron . . . and Naval Stores;" and further that the inhabitants, devoted from interest to agriculture "will not think of interfering with the Mother Country in Manufactures but afford a never failing demand for them." The petitioners said little about the French and the Indian danger; they assumed, however, that the British government would take steps to provide military protection against those dangers and suggested two points within their area suitable for forts. Nothing is said in the petition about how the people of the expected settlement were to be governed, whether by Virginia laws,¹⁴ as a separate colony, or under a military establishment. It is clear there was no expectation of setting up a new proprietary colony. The articles of agreement provided that the grant if secured should be divided into fifty equal parts, 50,000 acres for each share, and assigned by lot. Mr. Thomas Cumming of London was chosen to present the petition and to "procure subscribers to the scheme not exceeding nine of such influence and fortune as may be likely to promote its success." No such persons seem ever to have been found and little if any official consideration was given to the memorial. There was reason for this. The Pontiac War was in full swing, and, at the very moment the company was framing its petition, the ministry was hastening the Proclamation on North America in the hope of quieting the general unrest by removing its causes. It placed the Indians, as we have seen, under Imperial supervision;¹⁵ it recognized the Indian ownership of the land and provided that it could be ceded

¹⁴ Carter points out, in another connection, that, in 1738, when Virginia created the frontier county of Augusta, its eastern boundary was fixed at the Blue Ridge Mountains and its western boundary at "the utmost limits of Virginia." *The Illinois Country*, 103.

¹⁵ The plan of supervision was elaborated the next year, 1764. It provided for two superintendents of Indian affairs, one for the region north of the

or sold only to the King at a public meeting; and it forbade all British subjects to occupy lands thus reserved for Indian hunting grounds, and ordered any who had occupied such lands to depart from them forthwith. The planting of settlements deep in the Indian country was no part of British policy in 1763. For five years the affairs of the Mississippi Company remained quiescent. Toward the end of 1768 it came to life again. Dr. Arthur Lee appeared in London with a new petition for a grant of 21½ million acres to be selected within an area lying between the 38th and 42nd parallels of latitude and extending from the Alleghenies "westward to the dividing line." The reason for this shift of interest from the lower Ohio country to the upper Ohio will be clearer after dealing with certain aspects of British policy toward the west which appear in this important year of 1768. It may be said at once, however, that the company's second petition fared scarcely better than the first. It was read in the Council December 16, 1768, was referred to the Board of Trade in the March following and there "considered" in May, 1770. This seems to close the official history of the company. Meanwhile another group of speculators had entered the lists for grants both on the Mississippi and in the upper Ohio Country, and to these we now turn.

THE VANDALIA ENTERPRISE

Before taking up the new competition on the Ohio, it will be well to mention another early attempt, this time by Pennsylvanians, to secure a grant of land on the Mississippi. The episode is worth recounting because it led to an important decision by the ministry concerning the ever-present western question and because it serves also to introduce us to a small but energetic group of men connected with the subject of this section, the great Walpole Grant and the plan to create a new proprietary colony on territory claimed by Virginia.

In the spring of 1766 a partnership was formed at Philadelphia for the purpose of acquiring land in the "Illinois Country." The original purpose was to purchase the land of the French settlers in

Ohio, the other for the region south of that river, and defined their powers. Sir William Johnson of New York colony was appointed as superintendent of the northern district. He played a conspicuous part in western affairs till his death in 1774.

that region who, it was supposed, would leave in considerable numbers when French authority should be formally turned over to the English. The idea originated with George Croghan, deputy of Sir William Johnson, Superintendent of Indian affairs for the northern district. As early as 1764, when in London on semi-official business, he had suggested to the Board of Trade that if these lands could be acquired by English subjects, they might become the basis of "a respectable colony." He later discussed the purchase as a personal venture with Johnson and had received his approval.¹⁶ Now, in March 1766, while in Philadelphia arranging for a shipment of goods to "the Illinois" for reconciling the Indians to the change of sovereignty, he discussed his plans with the trading firm of Boynton, Wharton, and Morgan with which he had an exclusive contract for supplying the Indian goods required in his district for "presents." The firm had long been engaged in the Indian trade on the upper Ohio and was now preparing to extend their operations to the rich fur-bearing country of the Illinois. It may have been for prudential reasons that Croghan was willing to share his enterprise with the trading company.¹⁷ At any rate it was decided to form a company and a few friends were invited to join in the speculation, among them Sir William Franklin, at the time governor of New Jersey. The prospect seemed promising that a colony and a civil government must soon be established in that quarter and this led Governor Franklin to propose that a grant of land be applied for. This being approved, articles of agreement were drawn forming the "Illinois Company." It was agreed, in addition to the purchase of French lands, to petition the King for a grant of "Twelve Hundred Thousand acres of land, and more thereof if to be procured," and provision was made for raising the necessary funds for the division of the land when acquired, and for admitting a limited number of additional partners. The agreement was signed by the members of the trading firm, including three Whartons, and by Governor Franklin, Joseph Galloway, long a well-known political figure in the province, John Hughes, and George

¹⁶ Alvord and Carter, *The New Regime*, Johnson's letter p. 4.

¹⁷ Croghan wrote Johnson in November, 1765, about certain reports "scandalous, injurious to me," adding . . . "I have always avoided the imputation of a Money-maker since my appointment in the Indian department." *The New Regime*, 55.

Croghan who signed also for Sir William Johnson. The agreement was sent to the Superintendent for his approval, which it received. It was not till July that Johnson received from the company its petition for a land grant, to be forwarded by him to the Colonial Secretary through Benjamin Franklin who had been made a partner and was to act as London agent for the company. The memorial was written by Sir William Franklin, but neither his name nor Johnson's was to appear in the matter. It was accompanied by a long series of notes headed: "Reasons for establishing a British Colony at the Illinois with some Proposals for carrying the same into immediate Execution."¹⁸ The reasons given were not unlike those put forward three years before by the Mississippi Company and those being currently pressed by General Phineas Lyman and the military adventurers, and they need not be recounted here. The boundaries proposed included the present state of Illinois, extended northward to the Wisconsin River which was to be followed to its source, thence eastward by portage and the Fox River to Lake Michigan, the western and southern shore of which was to be followed; thence eastward to Lake Erie and along its southern shore to the mouth of the Maumee River. The final link in the boundaries was this stream and the portage from it to the Wabash. It was suggested that it would be necessary for the Crown to purchase all Indian rights to the land between the Illinois and the Ohio rivers and fifty miles eastward from the Mississippi; "This would be a sufficient Tract to begin a Colony upon." A civil government should be provided and placed under a governor "experienced in the management of Indian Affairs, and who has given proofs of his influence with the Savages." The proposals for speedy settlement of the colony were: (1) To grant land in specified amounts to men and officers who had served in the King's forces on the condition; that they settle upon it; and (2) A grant to the Illinois Company (not named, but described as "a Company of Gentlemen of Character and Fortune"), say the twelve hundred thousand acres of land petitioned for, on condition that 2,000 persons be settled on it within a specified time after the grant or the arrival of a governor for the colony.

When in September Franklin received the company's papers, he acted with alacrity.¹⁹ He found that Lord Shelburne, who had

¹⁸ Alvord and Carter, *The New Regime, 1765-1767*, pp. 247-257.

¹⁹ A pretty fair record of his activity in the matter is found in his letters to his son. *Works* (Smyth ed.) Vols. 4 and 5.

recently become a Secretary of State for the Colonies, was favorable to western expansion but unconvinced as to the desirability of a colony on the Mississippi, and long remained so. The chief interest of the ministry in the colonies, now that the Stamp Act had been repealed, was how to increase the revenue from them and reduce expenses. Shelburne was looked to for plans to attain these ends. He was opposed to any new taxation which, by the beginning of 1767, the Chancellor of the Exchequer was hinting at.

He had opposed the Stamp Act, had voted for its repeal and against the Declaratory Act, not because he doubted the doctrine of parliamentary supremacy but because he thought it impolitic, in view of the existing state of mind in America. Where, then, was he to find the additional revenue expected from the colonies? For a century and a half the Crown had been granting land to all and sundry for a pittance, reserving a small annual payment in perpetuity, called, from its feudal origin, a quit-rent. It was well known that the collection of these rents had been notoriously irregular, the revenue disappointingly small; and now here was a great new region in the west about to be opened as he thought, to occupation. It was to the government's great land interests that Shelburne looked for additional American revenue. In December, 1766, he called upon colonial officials for detailed information regarding every aspect of land grants and quit rents, and for suggestions to improve their administration. He must have found the replies as they came in disappointing. In the proprietary colonies, the quit-rents went to the proprietors; in New England, only the memory of the Andros attempt to impose such a charge remained; all efforts to reform the system had met with little success; and in any case improved administration in the old colonies or the opening of the west would require time and could provide only a future revenue.

Equally baffling was the outlook for a reduction of expenses. The heavy cost of provisioning the military posts recently taken over from the French was in itself formidable; the Indian service directed by the Superintendents had proved to be expensive beyond all expectations, especially the item of "presents" necessary to keep the Indians pacified; the requirement that all trade should be carried on at the military posts required the maintenance there of "Commissaries of Indian affairs" charged with the supervision of all trade, the settling of trade disputes, and promoting harmonious

relations between whites and natives. Each post also had an interpreter and a blacksmith for the convenience of the natives without charge. The expense of imperial control of the west in the interest of the King's new wards was indeed burdensome.

Shelburne was not without advice concerning a course to pursue. There was Lord Barrington at the War Office, for example, who, with half-knowledge of the western question, recommended the withdrawal of the western garrisons, the confinement of the traders within the Proclamation line, in order to prevent them, "by cheating and misusing the natives, from bringing on national quarrels," thus leaving it to the Indians to come to the back settlements with their peltry for exchange. All this was based on the theory that: "the Country on the westward of our Frontier quite to the Mississippi was intended to be a desert for the Indians to hunt in and inhabit."²⁰ Shelburne, who held no such view of the future of the West, was not influenced by this naive proposal to curtail colonial expenses. But when in the spring of 1767, the Chancellor of the Exchequer called upon him for his estimates—it was virtually a demand for a reduction of expenses,—he was unable to comply because his plans for the West were not matured. This led to something like a "battle royal" according to Professor R. A. Humphreys,²¹ who attributes his failure to decide upon a plan of action to Shelburne's personal qualities which seemed to unfit him for the position he occupied, among them a sort of "academic hesitancy." The hero of the "battle" was the Chancellor, Charles Townshend, whose personal traits were in striking contrast to those of the Secretary. Lecky describes him as a man of "extraordinary comprehension . . . exuberance of animal spirits, a brilliant and ever ready wit, a man of clear, rapid, and spontaneous eloquence," but lacking in earnestness of character and loyalty to his colleagues. During the long illness of the prime minister, he had acquired an ascendancy in the cabinet which no one was courageous enough to challenge. At the beginning of the year he had let it be known that he had found a way of raising a colonial revenue free from the objections urged against the Stamp Act; and now in May, 1767, he

²⁰ *The New Regime*, pp. 234-243.

²¹ "Lord Shelburne and British Colonial Policy," *English Historical Review*, 50, pp. 257-277. *Ibid.*, Vol. 49, pp. 241-63 for Shelburne's relation to the Proclamation of 1763.

introduced two bills designed for that purpose. One of them provided for the creation of a Board of Commissioners of Customs charged with the enforcement of the Navigation Acts; the other, brought in without authorization by the cabinet, imposed duties on a few colonial imports, among them a three-penny tax on tea. He was the readier to father these bills, it may be said, because the landed interest in Parliament had just succeeded, against his protest, in reducing the English land tax by twenty-five per cent. There were indeed strong arguments for these laws, but as Lecky points out, there was a stronger one against them, namely that, as events proved, it was not possible to enforce them. That Townshend thought it was, says Lecky, "is a strange instance of the fallibility of political foresight."

It was in the midst of this turmoil over colonial affairs that Shelburne was cautiously working out a plan for the West that would be just, safeguard both Empire and colonial interests, and would meet the approval of a divided cabinet. Franklin had neglected no opportunity to press judiciously the importance of planting a colony in the Illinois, and at length he was able to report progress. On a day in August he dined with Shelburne, General Conway (formerly Colonial Secretary) being also a guest. He found them considering possible ways of reducing the expenses of administration in the West, one of them the dismissal of the Superintendents and the return of control of Indian trade to the provinces. It seems like a ready-made occasion for Franklin.

"I took the opportunity," he wrote his son, August 28, 1767, "of urging it as one means of saving expense in supporting the outposts, that a settlement should be made in the Illinois country, expatiated on the various advantages, namely, furnishing provisions cheaper to the garrisons, securing the country, retaining the trade, raising a strength there, which on occasion of a future war, might easily be poured down the Mississippi upon the lower country, and into the Bay of Mexico, to be used against Cuba, the French Islands, or Mexico itself. I mentioned your plan, its being approved by Sir William Johnson, and the readiness and ability of the gentlemen concerned to carry the settlement into execution, with very little expense to government. The secretaries appeared finally to be fully convinced, and there remained no obstacle but the Board of Trade, which was to be brought over privately before the matter should be referred to them officially. In case of laying aside the superin-

tendents, a provision was thought of for Sir William Johnson. He will be made governor of the New Colony." (*Works*, Vol. 5, pp. 45-6.)

It is not known just when Shelburne reached a decision as to planting settlements on the western border, but there is reason for suspecting that it was before this conversation and that Franklin was kept unaware of it. Within a fortnight he presented his long waited-for report to the Cabinet on a "System for the Trade and Management of the Indians."²² The expenses, he said, were so great as to require reduction or adequate means of defraying them. The Stamp Act, designed for this purpose, was "too unpopular and unconstitutional to prove effectual;" the adequacy of the recent "Regulations and Duties" (was he thinking of those imposed by Townshend, who had died just a week before?) was doubtful. The plan of reduction he proposed is sufficiently shown by the questions he was authorized to submit to the Board of Trade and by the report of that body: Could the expenses of the Indian trade be safely reduced by turning the management back to the several provinces; by dispensing with the superintendents or at least curtailing their functions; by reducing the number of forts under imperial control or by turning them, also, over to the colonies; and finally whether by "establishing a government at Detroit and another at the Illinois the greater part of the expenses will not be rendered unnecessary"? It will be noticed that at this time Shelburne had in mind the erection of two colonies in the western country. While the matter was pending his attention was called to the military importance of occupying the region which the Mississippi Company had petitioned for in 1763, at the mouth of the Ohio, and the Secretary requested the Board to consider the advisability of planting a third colony in that region.

The Board made its report March 7, 1768. The primary concern here is its recommendation concerning the proposed new colonies; but it is well to note that the Board recognized that Imperial control of the great valley had not worked well and was very expensive, and it approved Lord Shelburne's suggestion for turn-

²² *Ill. Hist. Doc.*, XVI, pp. 12-21. For some reasons the questions and accompanying documents were not sent to the Board till October 5. The Secretary's letter was essentially a skillful argument for the position taken before the Cabinet. *Ibid.*, pp. 77-81.

ing back to the colonies the control of the Indian trade, for limiting the authority of the Superintendents, and for further economies in the military occupation. But here agreement ceased. The Board took a strong hostile attitude towards new inland colonies: they would not improve the fur trade but would prove the end of it; they would engender the hostility of the Indians, ever jealous of encroachment on their hunting grounds; they would not be a defense for the old colonies but would themselves stand in need of it. The findings of the Board were approved by the Council. And apparently the promoters saw some merit in the decision. A few days after it was announced, Franklin calmly wrote his son: "The purpose of the new colonies seems at present to be dropped, the change in the American administration not appearing favorable to it."

If this conclusion of the Board could be accepted with equanimity, surely the argument with which it was supported could not be. To erect new colonies in the interior, said the report, would be something new, a reversal of the policy of 1763 reserving the interior as hunting-grounds for the Indians; contrary indeed, to the great object of colonizing North America, namely "to improve and extend the commerce, navigation, and manufactures of this Kingdom, upon which its strength and security depend;" by promoting the fisheries; by encouraging the production of raw materials to be exchanged for "perfect manufactures and other products of the realm," and for supplying provisions and lumber for the island colonies. Increasing population will, of course, require new lands, admits the Board, but these have been made available—to the northward in Nova Scotia and southward in the new colonies of East and West Florida created by the proclamation of 1763. Moreover, negotiations were in progress for shifting the line of 1763 westward in order to allow the Middle Colonies to expand "themselves backwards" if and when necessary. Growth of population was thus provided for without planting settlements "above fifteen hundred miles from the sea," which would probably be compelled to manufacture for themselves. The theory and practice of British policy was familiar enough to the colonists, but this blunt official statement of the theory upon which the colonists were being "pushed around" for the supposed benefit of the Kingdom or some group in it, was an affront to self-conscious Americans of the 1760's and '70's. Franklin, though quiescent now was later to protest hotly against it when the Board was again blocking westward expansion. One

effect of the report of March 7, 1768 was a shift of the speculative ventures on the western border to the upper Ohio country already covered by numerous claims to royal favor. We have seen that in December the Mississippi Company switched its petition for 2½ million acres at the mouth of the Ohio to one for a like amount lying between 38 and 42 degrees of north latitude extending from the Alleghenies "westward to the dividing line," and that Dr. Arthur Lee was sent to London to act as agent for the Virginians. The record shows that the petition was received, referred to the Board of Trade and there two years later was "considered," probably in the hope of finding in it grounds for opposing the more famous petition of Thomas Walpole and associates for a grant on the Ohio, at the time before the Board.

Already, long before the fate of its Illinois venture was known, the Wharton group had an enterprise well under way for securing a large tract of land in the much coveted upper Ohio country. The project dated back to Pontiac's War. The traders in the Ohio country, most of them Pennsylvanians, suffered heavy losses at the hands of the Indians and at the close of the war a few of them appealed to Sir William Johnson and General Amherst for aid in securing indemnification from the home government. It might seem strange that in a general disaster in which thousands had lost property, life and freedom, the traders should be singled out for succor; but so it was. Sympathetic replies having been received from the Superintendent and the Commander-in-chief, a general meeting was called near the end of 1763 of traders who had been despoiled, including some of those who had suffered losses in 1754, and the Philadelphia merchants who had made advances to active traders. George Croghan who was one of the "sufferers," was preparing to go to London on semi-official business, and to him the traders delegated authority to present their claims to the Board of Trade. He had also a private matter to place before the Board—the confirmation of an "unsolicited" grant of 200,000 acres of land which the Indians had made to him out of gratitude for his "constant efforts to maintain peace." To this prayer and that of the traders, the Board turned a deaf ear. After spending the greater part of 1764 on his mission he returned empty-handed.

The traders now turned their attention to securing satisfaction directly from the Indians. Again they turned to Sir William Johnson and again he promised support. In the spring of 1765, pur-

suant to a request from the Board of Trade to sound out the Indians with respect to a new line between the colonies and their reservation a conference with the Six Nations was held at his home. He found them agreeable to the proposal and so reported to his superiors. At this meeting he presented the case of the traders to the Indians and found them willing to make reparation for the losses they had occasioned. The only way they could do this was to give the traders part of their land; and this they would do when the proposed new line was established. How they were brought to this agreement is not clear. Representatives of the two trading firms who had suffered most were at the conference—William Trent of Simons, Trent and Franks, and Samuel Wharton of Boynton, Wharton and Morgan and from what we know of the ways of the traders and of these particular men, it is safe to assume that presents as well as the superintendent's appeal paved the way to a decision. During the year George Croghan got the same kind of assurance from the Ohio tribes. They were sorry for the damage they had caused and were "not only very willing, but anxious to make reparation to . . . the unhappy sufferers." The only way they could do this was "by a Surrender of a part of their Country, which they would most cheerfully do, and especially of that part, which lies on this side of the River Ohio [on the back part of Virginia] as it was now of no use to them as Hunting Ground."²³ This restitution must wait, however, on the fixing of the new boundary line. To hasten this was the next care of the Traders.

They had long to wait; for it was not till the end of 1767 that instructions were sent to Johnson to treat for the new line and for the purchase of the new lands to be surrendered to the Crown. Dr. Franklin discovered the cause of the long delay. In the summer of 1767 he received a package of letters for the ministry, written by collusion, thinks Alvord, calling attention to the danger of an Indian war because of the lawless invasion of the Indian country. Events were moving faster than the government. The trickle of population crossing the mountains before the war had increased to a stream since the end of the Pontiac uprising, in defiance of the Proclamation of 1763; they were settling upon any lands that caught their fancy "without leave or license." The very thing was

²³ Croghan writing from Philadelphia to B. Franklin, December 12, 1765. *The New Regime*. 60-64.

happening that Burke a few years later told Parliament must happen if the government persisted in its policy of "hedging in the population,"—of keeping "as a liar for wild beasts that land which God, by a special charter, has given to the children of men." He denounced as "neither prudent nor practicable . . . this avarice of desolation, this hoarding of a royal wilderness." "Stop your grants." he said, "and the people will occupy without grants."

All this Lord Shelburne at least seemed to have been conscious of in 1767 when Franklin handed him the package of letters from his friends urging, in the interest of law, order and peace, the speedy settlement of the proposed new boundary line which had received Indian approval two years before. To Franklin's surprise, Shelburne knew nothing of Sir William's report on the subject; it had been lost in the Board of Trade. It was later found, however, and in December 1767 instructions were sent to Johnson to treat with the Indians for a new boundary and the cession of lands lying east of it.

And so was set in motion the most important conference yet held with the Indians. It was called by Sir William Johnson to meet in September, 1768, at Fort Stanwix where Rome, New York, now stands. The call went out to the Six Nations, some Canadian tribes, and the semi-independent tribes on the Ohio in order to avoid a common cause of treaty violation, that not all tribes concerned had given their assent. It was a long journey for some of the tribes and it was not till near the end of October that Sir William thought it wise to convene the congress formally.

In the meanwhile important preparations had been made for it by the traders. William Trent and Samuel Wharton had spent the summer visiting various tribes renewing old acquaintances and making new ones; they were early at Fort Stanwix as the nations were gathering, looking after the interests of the traders' Company; and when, on October 24, the Congress was formally opened, they had reason to be satisfied with the results of their labors. Sir William's negotiations had also gone well. The new line agreed upon was more favorable to English interests than he had been instructed to secure. It ran roughly along the course of the Allegheny River and down the Ohio as far as the mouth of the Tennessee. He had been instructed to carry the line only to the mouth of the Great Kanawha, there to meet the line already agreed upon with the Southern tribes. The Indians were in a generous

mood. They wished to confirm the grant of 200,000 acres of land to George Croghan in lieu of one previously made. They wished also to compensate the traders for the losses inflicted in 1763 by a grant of land lying within the territory they proposed to cede to the Crown; and so they executed a deed for a tract on the Ohio lying roughly between the Little Kanawha and the Monogahela containing about 3,500,000 acres, the consideration being 85,916 pounds, 10 shillings, 8 pence, the amount of losses suffered by the traders. The deed, however, was made, not directly to the traders, but to the King, "to and for the only use, benefit, and behoof" of the traders. The Indians insisted that this sale and the Croghan grant be made part of the treaty; otherwise they would agree to no line or cession of territory. Agreement on the traders' grant was reached on November 3rd, and on the treaty two days later.²⁴

By this treaty the government had, after five years of fumbling with the western land question, taken the first step toward a solution of it. A new Indian line was established and the King was now not only sovereign over but, on payment of the stipulated price of something over ten thousand pounds, would-be owner of the land of a vast territory extending from the mountains along the southern bank of the Ohio almost to its mouth. What now was to be the policy for disposing of it? The answer to that question was to be only slowly unfolded over the next six years. Meanwhile grants were authorized here and there through the royal governors, and one of magnificent proportions was soon under consideration by the ministry to be made directly by the King. But it was not till 1774 that a plan for the orderly disposal of land, and so the orderly western advance of population, was adopted. Our chief concern is with the large grant just referred to and to that we now turn.

The traders were well aware that Indian grants or sale to private persons were forbidden by the Proclamation of 1763 and must have had misgivings about the success of their devious method of securing their grant through a fictitious sale to the Crown for their "only use." In any case the King's confirmation would, as they then believed, be required. Soon after the treaty was signed the "Indiana Company" as the traders' company was now called, decided to send agents to London to support the "justice and reasonableness" of

²⁴ For the Treaty of Fort Stanwix, see Alvord, *Miss. Valley*, II, 61-89; Lewis, G. E. *The Indiana Company*, 35-72.

their cause. One of these was William Trent who had been indispensable in the negotiations with the Indians; the other was Samuel Wharton who was to be chief spokesman for the company in England. He went abroad with introductions to men of influence, and with power of attorney to act for the company. But when he arrived in London early in 1769 he found that the confirmation of the treaty was itself in doubt. This was due to the attitude assumed by Lord Hillsborough, recently appointed colonial secretary and soon to become president of the Board of Trade. Promptly on receipt of the treaty he had, without consulting the council, censured Sir William Johnson for exceeding his authority in running the new Indian line along the course of the Tennessee River instead of the Great Kanawha; for including the grants to Croghan and to the traders in the treaty, and for the large price he had agreed to pay for the cession. The reason given for opposing the more western line was that it did not conform with the boundary previously agreed upon with the southern Indians and would rouse discontent among them, especially the Cherokees who were believed to have a better claim than the Six Nations to the land between the Kanawha and the Tennessee. It is to be kept in mind, however, that Hillsborough was consistently opposed to encroachment on the Indian hunting-grounds in the interest of peace and of the preservation of the fur trade, and opposed to the unrestricted western extension of settlement when allowed at all. His position on the boundary was overruled by the council as to the line and he was compelled to write Sir William a face-saving letter saying in effect that the boundary would stand as in the treaty; but the grant to the traders would not.²⁵

Samuel Wharton was disappointed but not dismayed by the firm stand taken by Hillsborough against the Indiana grant. He was, however, a man of many devices. By midyear 1769 he had taken advantage of the prevalent hunger for American land in London and had organized a company for the purpose of purchasing western land as a speculative enterprise. He was extraordinarily successful in enlisting men of influence, among them Thomas Walpole, merchant-banker and member of Parliament. The petition for the pur-

²⁵ *Documents relating to the Colonial History of New York*, Vol. VIII, Hillsborough to Johnson, Jan. 4, 1769, 158-163; Board of Trade to the King, April 25, 1769, 161-166; Johnson to Hillsborough, Aug. 21, 179-184.

chase of 2,400,000 acres of land was, in due course, considered by the Board of Trade and a hearing called for December 20, 1769. Lord Hillsborough presided. For some reason the secretary stepped out of his role as the opponent of westward migration and assumed that of an expansionist. Why, he asked, did not the petitioners request a larger grant, large enough to form a colony back of the mountains? The members present promptly accepted the suggestion; they would be glad to buy a larger tract. Hillsborough said the sale of land was a treasury matter; the lords of that department were in session at the moment; he would inquire their pleasure as to the plan. In a matter of minutes he was able to report them favorable to it. And so was set going a project of great moment to the many claimants in the upper Ohio country, including the "suffering traders of 1763," the Ohio Company, the Mississippi Company, to the numerous unlawful settlers west of the mountains, and to the colony of Virginia; a project which by his later opposition to it, brought about the downfall of Lord Hillsborough.

Events now moved swiftly. Within a week (December 27) a new and enlarged company was formed to consist of 72 shares and the boundaries of the desired territory agreed upon. They were ample enough and suitably chosen for a colony, estimated to embrace 20 million acres.²⁶ Another week and agreement with the Treasury had been reached January 4, 1770, as to the price to be paid—10,460 pounds, 7 shillings, 3 pence, the cost to the Empire of the entire cession as agreed upon at Fort Stanwix.

Some minor obstacles were encountered by the company and it was not till early May that the petition of "Thomas Walpole and associates" was presented to the King's Council. Arthur Lee was pressing for action on the Mississippi Company's petition but seems to have got little or no official encouragement.²⁷ Edward Montague, London agent for Virginia, asked for a stay of proceedings on the grant for the new colony until his government could be heard from,²⁸ thus raising a question of considerable value to Lord Hills-

²⁶ The boundaries are given by Alvord, *Miss. Valley*, II, 103.

²⁷ It should be remembered, however, that it was in this month of May, 1770, that the Board, apparently looking for reasons for rejecting the Walpole petition, "considered" the petition of the Mississippi Company; this was the last official notice of it.

²⁸ When news of the proposed grant reached Virginia it seems not to have induced much action. On April 15, 1770, however, Washington wrote the governor that the grant "if obtained will, in my humble opinion, give a fatal

borough a little later. Two days before the Walpole group had been given its first hearing at the Board of Trade, George Mercer who for six years had been in London on behalf of the Ohio Company, presented a petition to that body praying it "not to make any grant within the limits prescribed by the Royal Instructions" under which the grant of 500,000 acres of land had been authorized to his company on conditions which it is now ready to fulfill.²⁹ Wharton seems to have thought this claim had some merit. Negotiations were begun with Mercer which resulted in an agreement to merge the Ohio Company with the Walpole enterprise, the old company to receive two shares in the new one, now to be called the Grand Ohio Company. For some reason not apparent Mercer was also assigned one share, and he was given to understand that he was to be the governor of the new "province." His action had been taken without authority from the home members, and there was a long delay in reporting it to them; and, it may be added, a much longer delay before any action was taken by them. When it was taken it was in the form of a repudiation of the transaction. The next day after the bargain was made with Mercer the new company presented its petition to the council for authority to purchase the desired territory on the terms already agreed upon with the Treasury. On May 25, 1770, it was sent to the Board of Trade for study and recommendations, and there it was to be lodged for two years.

In view of the fact that their petition had been acted upon favorably by two important government agencies, the members of the Grand Ohio Company seem warranted in expecting the Board of Trade to act promptly. That they did not was due to the influence of Lord Hillsborough, Colonial Secretary, and the proposer of the new colony. Sensing that the sale of the territory was in high favor, he tried first to induce other officers to sit in with the Board and thus share the responsibility for decisions reached on so important a question. Another more serviceable reason for delay was the desire to protect the interests of Virginia. That he was

blow to the interests of this country." This did not prevent him from trying later to buy shares in the new company. On Nov. 24, 1770, he wrote George Croghan offering to buy his share and asking the price. A year later he wrote George Mercer, inquiring the price of shares in London. *Writings* III. 9, 26, and 72.

²⁹ Kenneth P. Bailey, *The Ohio Company of Virginia*, Appendix 317.

able to postpone action so long is the more remarkable when the character of the membership of the company is considered. The list of members³⁰ marks it as more English than American; Samuel Wharton in his search for men of "influence" had done well. At the head of the list stands the name of the Earl of Hertford, who as Lord Chamberlain was supposed to have much influence with the King. There was Lord Camden, the Lord Chancellor "who," says Alvord, "took shares in the company and at every crisis was a valued adviser." Two other members of the higher nobility held shares though their names do not appear in the list; Lord Rochford and the Earl of Gower, both members of the Privy Council. Of the commonalty there was George Grenville of Stamp Act fame whose share, after his death, was held by his brother, Earl Temple; Thomas Bradshaw, Under-Secretary of the Treasury, who was credited at the time with having carried "the land company through its early stages" (Alvord II. 98); there was of course the name of Thomas Walpole whose political and financial standing has already been noted; and it was believed that other names in the list were covers for men high in official life.

Nor were the American members wanting in weight. There was Sir William Johnson, much trusted and highly honored appointee of the Crown who was in constant communication with the commanding General on this side and the colonial office in London; there were the two Franklins, father and son, both appointees of the Crown, the one as assistant postmaster general in America, the other as royal governor of New Jersey; and Samuel Wharton who had business connections in London and whose influence there is shown by the character of the men he enlisted in his enterprise. The name of the Indiana Company whose affairs took him to London does not appear on the list; but at the reorganization at which the elder Franklin presided, at the meeting of December 27, 1769, it was "unanimously agreed to reserve to the Indiana Company and to George Croghan their respective grants."³¹ In addition to this the name of Croghan appears on the list as a member in his own right as does that of Samuel Wharton, his father, and each of three brothers.

³⁰ Alvord, *Miss. Valley*, II, 98.

³¹ Lewis, *The Indiana Company*, 92.

In spite of this array of men of "influence," Lord Hillsborough was able to defer action on the petition for many months. It was only when the King let it be known that he was interested to know when a report on the new colony could be expected that the Board acted. Its report on the Walpole petition was sent to the Council April 15, 1772. As must have been expected, the report recommended that the prayer of the memorialists be denied. The supporting argument was much the same as that used in 1768 against erecting colonies in the Illinois country. Indeed, many paragraphs of the earlier report were lifted verbatim from it for use in the present one. In accord with established colonial policy, it ran, the proclamation line of 1763 had set the limit of western settlement "at such a distance from the seacoast, as that all settlements should lie within reach of the trade and commerce of this Kingdom;" and notwithstanding that the Fort Stanwix line had reduced the hunting grounds of the Indians it did not enlarge the area in which settlements could be made, for the prohibition against settlement west of the 1763 line remained unchanged. That in fact was true, and Hillsborough, speaking for the Board, would have the temporary prohibition of that year made permanent.

One can well imagine that when Wharton saw the report he rubbed his hands in glee and said: "Now hath the Lord delivered him into mine hands." Arguments that had weight as against planting colonies on the Mississippi in 1768, had little or no relevancy as against the Vandalia Colony in 1772 where there were already some 30,000 settlers in active commercial communication with the seaboard; and when on July 1, the council, at the instance of Lord Gower, permitted the petitioners to state their case, Wharton took full advantage of the many weaknesses in Hillsborough's position. His *Observations on the Foregoing Report*,³² supplemented by his ready response to questions asked, left little of merit in the argument in the report. The Council apparently took little time in reaching a decision in the matter. Contrary to the Secretary's recommendation it advised the King to grant the petition, and directed the Board of Trade to prepare a form of

³² *Writings of Benjamin Franklin*, 5:467-478 for the Report; *Observations on the Foregoing Report*, 479 ff. This pamphlet long believed to be by Franklin was actually written by Wharton. Alvord, *Miss. Valley*, 2:132n. See also Franklin's *Writings*, 5:410.

government for the new colony. Hillsborough had declared that rather than work out the details for making effective such a grant he would resign. In August he reluctantly gave up his office of Colonial Secretary and retired from the cabinet.

Whether the decision of the Council was due to Wharton's masterly presentation of the petitioners' case; to the self-interest of council members Gower and Rochford; to a recognition of the colony as in the national interest; or to the "exigencies of British politics" at the moment, who can tell? It seems probably that they each had some part in determining the Council's action. Alvord's analysis of the situation is of special importance, however, to our inquiry. He points out that just at this time there was a fractional conspiracy on foot to bring about the fall of the North ministry. The scheme was to humiliate the Colonial Secretary, the "best and firmest friend of North," force him to resign, and so bring about the downfall of the prime minister. This factional scheming was the easier and safer because of the general dislike of Hillsborough by his fellow ministers, and because the King was believed to be tired of the Secretary and "his administration which had weakened the affection and respect of the colonies for a royal government." The conspiracy failed of its main purpose; North treated the resignation as purely voluntary and remained in office—remained to inject, as it turned out, the affairs of the East India Company into the already delicate American situation.

Lord Dartmouth succeeded Hillsborough as Colonial Secretary and President of the Board of Trade. His appointment was altogether to the liking of the Walpole associates. His attitude toward the colonies was friendly, he was known to be in favor of westward expansion, and was himself the owner of 40,000 acres of land in West Florida. Indeed, according to Alvord, "he had been selected with the avowed purpose of forwarding the enterprise on the upper Ohio." (*Miss. Val.* II, 149). The Board received the petition the day Dartmouth took office with instructions to report on such reservations in the grant as seemed advisable, and to prepare a constitution for the new colony soon to be called Vandalia.

The Board of Trade proceeded deliberately and it was not till May of 1773 that it reported to the Council. There were reasons for the delay. The "opposition" was performing its function of opposing whatever the government proposed; General Gage writing from New York questioned the wisdom of western settlement on

the usual anti-expansionist grounds and he was soon in London where he "was thought to have great influence;" there was an undercurrent of hostile opinion abroad in the city, partly because so many public officials were due to become beneficiaries of the grant as to give the whole enterprise the appearance of a "job." Moreover, the voice of Virginia was being heard in firmer tones through its new governor, Lord Dunmore. Nevertheless, the Board, after almost a year, made its report to the Council on May 6, 1773.

Some important reservations in the grant were recommended. All legal settlements on the grant prior to the day negotiations were begun with the Treasury were to be respected. Reservation was made of the 200,000 acres promised under the Dinwiddie proclamation of 1754. Instead of the purchase price being paid by installments over five years the whole was to be paid the day the title was passed; and it was stipulated that the proprietors were to pay the expense of setting up and maintaining the colony. The boundaries of the colony were extended beyond those prayed for in the petition, though apparently without changing the area of the grant. The western boundary was to follow the course of the Kentucky River, and another slice was taken of Virginia territory by a shift of the southern boundary, which, as Alvord points out, cut that colony off from contact with the West.

The Council, on receiving the report, referred it to a special committee consisting of Lords Gower and Rochford, both members of the company, and Lord Dartmouth. It was not expected that such a committee would reach any conclusions adverse to the interests of the Grand Ohio Company. It did not. Early in July the council sent the petition to the Attorney General and the Solicitor General for a legal check-up with instructions to prepare the grant in form for the King's signature. The law officers found plenty to check. On one pretext or another, they retained the papers until the King was in a fair way to having no land in the colonies to grant. Alvord has tried to ferret out, without much success it must be said, the political influences back of the law officers' "masterly inactivity." All we can safely say is that they "stalled."

During the year 1773, the ministry decided upon two measures which proved to be disturbers of the relative quiet prevailing at the time in the colonies. One had to do with a new method of dispos-

ing of crown lands to be discussed presently; the other was a plan for aiding the East Indian Company in finding an enlarged market for its tea in the colonies. The practical working of this second measure is a familiar story and need not detain us. When Thomas Wharton saw the extremes to which the Americans went in their opposition to landing the tea, he feared a political reaction in London injurious to colonial interests including the enterprise on the upper Ohio, and he wrote his brother Samuel: "I . . . most ardently wish thou may be in possession of the grant, before the arrival of full accounts respecting the conduct of the Americans touching the tea, as I fear it will strengthen our enemies to oppose the completion thereof." ³³ It may well have done so. The "Bloomsbury Gang," as the followers of Lord Bedford were called, a faction always hostile to the colonies, joined in the general clamor for laws that would put the Americans in their proper place. They had supported the two tax laws and opposed their repeal. It was at their insistence that the Tea Tax was retained and that the Declaratory Act was passed. The tea affair gave the occasion for invoking that Act. There followed logically enough the retaliatory acts, the first Continental Congress, and the second Congress. In the summer of 1774 Wharton and Walpole sent a memorial to the King praying for the early completion of the grant. What, if any action was taken on the memorial I do not know; but in May or June, 1775, two years after receiving the papers, the attorney general and the solicitor general returned the grant ready for the King's signature. It was never signed; hostilities had begun.

REFORM OF THE LAND SYSTEM, 1774

While the Walpole grant was pending, the ministry for the first time gave serious thought to the reform of the imperial land policy. The reform so far as it went at this time had to do mainly with changes in the terms and method of disposing of crown lands. Before considering these changes, it will be convenient to take a look at the system which had grown up during a century and a half.

You will recall that when the London Company was dispossessed of Virginia in the 1620's, the government took over with the land certain methods of disposal which had recently been adopted by the company. The company was land-rich; land was the cheap

factor of production and it was freely used to secure the scarce factor, labor. Under the "reform" administration of Sir Edwin Sandys in 1619, the company put in operation a five year plan for recruiting the colony. Shortly before it had declared its first "dividend" in land to the "old adventurers," that is to shareholders and to those who had adventured their persons in the colony, and a second division or dividend in land was promised "when the first shall be sufficiently peopled." To further encourage the peopling of the colony the old members were now promised the old adventurers' 50 acres for each person transported to Virginia before mid-summer, 1625, and as much more when the first allotment should be peopled. All these grants were to be in absolute ownership. New subscribers before this date were promised dividends the same as the old adventurers, except that grants made on the basis of persons transported were to be subject to an annual rent of 12 pence per 50 acres. "Planters," that is settlers going out at their own expense, were promised 50 acres each in his own right at the first division, and, this "being peopled," the same at the second division. They too, were allowed 50 acres for each person they transported, subject, of course, to the 12 pence rent. Thus appeared in America this vestige of feudalism, the "quit-rent."

The plan, together with certain other reforms set in operation by Sandys, worked well. From 1607 to 1618 about 1800 persons had gone to reside in the colony; from 1619 to 1624 the number was 4,749. (Brown, *The First Republic*, 285, 612). The practice of granting land for "head-rights" was adopted by the Crown, and with modifications, was continued to the eve of the Revolution. It fitted in with the indented servant system by which the colonies were in large part peopled.

In the quit-rents the Crown had a long established source of revenue which though unquestioned, was, nevertheless a constant source of friction—over the time and place of collection, the medium of payment, and the use to which the revenue was put. Because of lax administration, official venality, and dishonest land owners, the rents were usually in arrears and the yield disappointingly small. Efforts to improve the administration had generally been futile. Two devices for escaping payment may be mentioned. One grew out of the method of surveying and designating boundaries of grants, which was so crude that errors in calculating acreages might honestly be made. But the errors were so great in some cases,

probably in many, as to indicate fraud. Bond, in his *Quit Rent System*, cites, as an example, a 1000 acre grant surveyed and so listed on the rent-roll; a re-survey showed there were 5,000 acres in the track. Fitzpatrick tells of a grant of 13,986 acres in the Illinois country, which was found later to contain 30,000 acres. Another method of evasion was described by Governor Dinwiddie. Grantees would delay for long periods taking out their patents and thus avoid placing their land on the tax roll. He declared in 1754, that a million acres in Virginia were thus escaping rent payments. Bond found three tracts in New York of perhaps more than a million acres each which paid only a nominal rent.

If these frauds could be practiced in the settled regions, what a field for similar frauds was opened when grants began to be made beyond the mountains! Lord Shelburne when he became secretary of state, understood the situation and proposed to do something about it. As already noted, one of the chief concerns of every ministry of the period was to find ways of reducing imperial expenses in the colonies, or increasing the revenue for them or both. Shelburne shared this concern and as already pointed out he was consistently opposed to all tax proposals. The most obvious way to increase the revenue, he wrote General Gage, was "by taking care of the quit-rents and by turning the grants of lands to real benefit." The implication here is, that he would charge a price for the King's land in place of the usual nominal sum paid. Thus he thought an "American fund to defray American expenses in part or in whole," could be provided.³⁴ Accordingly, in the year of the repeal of the Stamp Act, he set afoot an inquiry into all aspects of land grants and rents. "Nothing can be more reasonable than that the proprietors of large tracks . . . should either pay their quit-rents punctually for the time to come, or relinquish their grant in favor of those who will." He sought information regarding the manner of making grants with a view to future policy, "particularly in the new and conquered provinces," such as "would lighten the burden which lies upon the Mother Country." Before the inquiry was completed, Shelburne was out of power and colonial affairs were dominated by Lord Hillsborough whose chief concern in the new provinces was to reserve them as hunting-grounds; an idea he held to the day

³⁴ Fitzmaurice, *Life of Lord Shelburne*, I, pp. 305-7.

he was over-ruled by the Council in the Walpole matter and had to resign.

Mention has been made of a land reform measure set on foot in 1773. Whether it grew out of a belated recognition of the merit in Shelburne's idea of "turning the grants of lands to a real benefit;" or was suggested by the unexpected and novel offer of the Walpole associates to pay a substantial price for their grant; or, whether it came as a happy thought to some one that western lands so eagerly sought after had a market value, I do not know. At any rate the Board of Trade was instructed to bring in a report on the subject, and in April, 1773, the colonial governors were instructed to refrain from passing any patents or issuing any permits of survey, until the King's pleasure was known, on pain of dismissal.

The King's pleasure was made known in his instructions to the Royal Governors on February 3, 1774.³⁵ All previous instructions relating to the laying out and granting of lands were revoked and annulled. The governor, surveyor general, secretary, and receiver general of quit-rents, in each province were directed to lay off in districts such lands as it would be "most advantageous to the public interest and welfare" to have settled and improved. They were directed to "cause actual surveys" to be made of lots containing not more than 1,000, and not less than 100 acres, and these were to be numbered and a map made for the district. The lands thus laid off were to be offered for sale at a time and place fixed by the officers named and sold to the "best bidder," but only after being duly advertised for four months, and at a price not less than six pence sterling per acre, and reserving an annual quit-rent of one half penny sterling per acre; and there was a reservation not of the usual royal fifth, but of all mines of gold, silver, and precious stones."³⁶

³⁵ *Documents Relating to the Colonial History of New York*, VIII, 409-413; S. E. Morison, *Documents Relating to the American Revolution*, 97-98.

³⁶ Note that the old rate was 10 shillings per 100 acres, and 2 shillings quit rents per 100 acres in Virginia. The new rates figure out a price of 50 shillings, and a quit-rent of 4 shillings per hundred acres, not in tobacco or currency but in sterling. The new regulations annulled the method of acquiring land by "head-rights." But George Mason would not have it so. In June, 1774, he petitioned the governor and Council of Virginia for permission to take up land "upon the western waters" on the presentation of certificates of "importation rights" he had bought at great expense. He argued that this method of acquiring land had been authorized by the Charter of 1609 and had been reaffirmed by Charles II; that "Titles to a great part of the lands of this Colony have been

This new land policy must have been pleasing to Lord Shelburne. Provision was at last made for "turning the grants of land to real benefit." The logical next step would be to collect the quit-rents due by the terms of previous grants; and the English temper at the time was such that the long over-due reform of that system might be expected to follow.³⁷ And so would be created an "American fund for the American colonies" from sources to which the Crown had an unquestioned right.

Unquestioned till this fateful year of 1774. When it became certain that a continental congress would convene to take counsel concerning "many unwarrantable encroachments and usurpations of Parliament," Thomas Jefferson prepared what he hoped would become the instructions to the Virginia delegates to that meeting. Being regarded as too bold for the occasion, they were not so used, but were later printed under the title, *A Summary View of the Rights of British America*. He later, in his Autobiography, admitted that the ideas in the document were a leap too far ahead—two years ahead, as events proved. We may leave aside his denunciation of the navigation acts and the recent laws which had roused the colonies to united action except to note that he denounc-

granted on this basis; and that the King 'ever observant of the Law' could not have intended that his regulations should 'affect land due . . . under the royal charter.' "Dunmore had already been rebuked by Lord Dartmouth for exceeding his authority in making grants and no action was taken at this time. Under a law drafted by Jefferson and Mason in 1779, the old terms for acquiring land were restored including purchase with head rights. *Papers of Thomas Jefferson*, Vol. I, 112-115, Princeton.

³⁷ I have come upon no documentary evidence that the ministry contemplated such a step at the time; nor have I found signs of alarm in Virginia over the probability that it would be taken. It should be remembered, however, that Lord Shelburne in his letter to Gage in 1766 had said that if land owners did not pay the rent due the Crown, they ought to surrender their holdings to someone who would; and that one of the grievances of Jefferson in the *Summary View* was that under a law of George II, land in the colonies could be seized for debt. One wonders if, in this year, 1774, when the ministry for the first time turned seriously to the land for revenue, Jefferson may not have had in mind the prospect of a tightening up of the administration, re-surveys, and the possible seizure of land to satisfy debts due to the Crown. A strict administration of the old rents would affect adversely more Virginians probably than the doubling of the rent in new grants beyond the mountains. Even in New England where there were no quit-rents there seems to have been fear they might be imposed. "Hitherto many of the Colonists have been free from quit-rents; but if the breath of a British House of Commons can originate an Act for taking away all our money, our lands will go next or be subject to rack rents." (Boston Town Meeting. November 1772.)

ed them not merely because of the injury they inflicted. "The true ground" he said, "on which we declare these acts void is, that the British parliament has no right to exercise its authority over us."

Our present interest in the *Summary View* lies in the conception of British land policy held by Jefferson. At three different points, he discusses as many aspects of the subject:

1. Claiming the same rights and immunities for Americans as were enjoyed by Englishmen, he protests against an Act passed during the reign of George II "by which American lands are made subject to the demands of British creditors while their own lands remained unanswerable for their debts." This law was passed no doubt as an aid to British creditors suing for the collection of private mercantile debts; but, as Bond points out, distraint was about the only means the government had for the collection of arrears in quit-rents. It seems to have been used sparingly if at all.

2. Jefferson's second point had to do with the arbitrary dismemberment, by the Stuart princes, of "this country which had been acquired by the lives and labor of individual adventurers," parting it out and distributing it to favorites and followers of their fortunes, and erecting them into distinct and independent governments. This was peculiarly a Virginia grievance. In this way had Virginia been "parted" and Maryland "erected." In this way was it now proposed to set up the Vandalia government; in this way all that part of Virginia north of the Ohio it was now proposed to attach to another colony.³⁸ But, says Jefferson, it is believed that those acts of Stuart despotism "his Majesty's prudence and understanding will prevent him from imitating at this day; as no exercise of such power of dividing and dismembering a country, has ever occurred in his Majesty's realm of England though now of very ancient standing; nor could it be justified or acquiesced under there, or in any part of his Majesty's empire."

3. Jefferson would have the delegates remind the King of an error which at a very early period had crept in as to the nature of our land holding. The error had to do with the ownership and disposal of the soil. It had long been held that "all land in England was held either mediately or immediately of the Crown." The idea was borrowed from those holdings which were truly feudal;

³⁸ The Walpole grant, and the Quebec Act were both pending when Jefferson wrote, The Quebec Act passed the Lords June 17, 1774, signed June 22.

that is had been surrendered to the King at the time of the Conquest and by him "granted out subject to feudal duties." This happened to a large part of the land of the kingdom. But much was left in the hands of Saxons who "held their lands as they did their personal property, in absolute dominion, disencumbered with any superior." These lands were by law made liable to military duties as were the feuds; but they were never surrendered to a King, "they were never derived from his grants, and therefore not holden of him." These lands, Jefferson held, still form the basis or groundwork of the Common law, to prevail wherever the exception (the feuds) have not been taken. They prevail in this country. America was not conquered by William the Norman, nor its lands surrendered to him or to any of his successors; the tenure there is allodial. But the early settlers were farmers, not lawyers, and they accepted grants on the "fictitious principle that all lands belong originally to the King." As long as grants were made for small sums and rents were reasonable, there "was no inducement to arrest the error . . . but his majesty has lately taken it upon himself to advance the terms of purchase and of holding to the double of what they were; by which means the acquisition of lands being rendered difficult, the population of our country is likely to be checked." It is time, therefore, for us to lay this matter before his Majesty, and to declare that he has no right to grant lands of himself. It would seem to follow, if he had no right to grant, he had no right to collect quit-rents.

So far as I can learn Virginia was the only colony in which the British land policy was put forward as a "grievance" in the revolutionary movement, and there it did not gain official recognition. It was not mentioned in the Declarations and Resolves of the first Continental Congress, but it appears in the Declaration of Independence:

"He has endeavored to prevent the population of these States; for that purpose obstructing the laws for Naturalization of Foreigners, refusing to pass others to encourage their migration hither, *and by raising the conditions of new appropriations of land.*" (Italics supplied.)

The Quebec Act, however, furnished ample grounds for complaint against the government's land policy. Here was an instance of that "parting" the territory of one government and attaching it to another which Jefferson thought his majesty's prudence would

keep him from consummating. But it was not a good point to raise in the Declaration; for there were men in the Congress and throughout the country who scouted Virginia's claim to the region north of the Ohio. His complaint was given a political turn—that the Act abolishes the free system of English laws in Canada, establishing an arbitrary government there and “extending its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies.”

This idea was not of American origin; it was voiced in Parliament during the debate by men of such character that they cannot be regarded as mere mouthpieces of the opposition. The Quebec Act has long been grouped in our school books with the coercive acts of 1774, and not unnaturally so in view of its time relationship to the whole batch of legislation of that year. The government at the time and historians ever since have denied any punitive intent, none more convincingly than Reginald Coupland in his *The Quebec Act*. Oxford, 1925. He points out that this long over-due measure had been in preparation long before the occasion for retaliation arose; that the religious toleration given the Catholics was in accord with the treaty and was anyway justified by its own merit; that the French population were unfitted for and did not want representative government; and that the continuance of the French Civil law without trial by jury was both wise, and under the circumstances, necessary. It was these provisions that roused most criticism at home and among the English and Scotch in Canada who had come in to take over the French fur trade. But in addition to these abhorrent provisions, the Americans found their pride injured and their political and economic interests ignored by the extension of the Province southward to the Ohio.

It has been contended that the colonies had no ground for complaint since the Act guaranteed the integrity of their boundaries and the government had steadily been vacating Indian claims and opening them to occupation. This is true in one notable case north of the Ohio and more notably true in the South; but even there much of the occupation had been lawless and patents were secured through the weakness or the collusion of royal officials. North of the river the ban at the Proclamation line continued and was sometimes violated by the speculators as in the case of the Wabash enterprise and by settlers in the upper Ohio region.

The colonists may be pardoned for not taking the assurance given in the Act at its face value. There was no such guarantee in it as it passed the Lords. Debate on it began in the Commons on May 26. On May 31, Thomas Penn presented a petition there "against the boundary provisions of the Bill," although that of Pennsylvania had, it seems, been adequately safeguarded. It was probably this petition that led the Commons to adopt amendments, later agreed to in the other chamber, providing that nothing in the Act should "affect the Boundaries of any other Colonies"; and further that nothing in it should be construed to alter "any Right, or Possession derived under any Grant . . . or to Lands within the said Province, or the Provinces thereto adjoining." This seems reassuring, but it is not strange that the Atlantic colonies which for a hundred or a hundred and fifty years had been nursing the idea of sea-to-sea charter grants, were not impressed, in view of the unquestioned purpose of the Act to establish a civil government from Quebec over their hinterland. It is not necessary for us to pass judgment upon the validity of their "claims" and "rights" beyond the mountains. Our concern is with the causes, reasons, which impelled loyal subjects, especially Virginians, to become rebels. Coupland may be right in saying that the Revolution would have occurred had there been no Quebec Act; but there can be no question that it was a contributing factor.

Regardless of what, if any, safeguard was really given by the "saving clause" of the Act, there were provisions in and with it affecting the material interests of an increasing number of Americans, speculators, traders and settlers alike, whose faces were turned toward the west. Notwithstanding the failure of the imperial control set up in 1763 for the whole Mississippi Valley, the Act reaffirmed that policy for the Northwest. This was done with the sincere purpose, doubtless, of protecting the interests of the Indians; and we may be certain for the protection of England's economic interests. Even before the Act went into effect the discredited rules of 1764 for regulating the Indian trade were re-established there and made a part of the law of the land,³⁹ to be administered of

³⁹ Through the instructions sent by Lord Dartmouth to Governor Carleton, January 3, 1775. *Documents Relating the Constitutional History of Canada*, 614-620. The regulations may also be found in *New York Colonial Documents*, 6:903, and in *Illinois Historical Collections*, 10:273 ff.

course from Quebec. Likewise, if and when districts were opened for occupation, surveyed, and offered for sale, under the new land instructions of 1774, it would be done by the King's officers at Quebec, far removed from the influence of the most likely purchasers. It is little wonder, therefore, that the land-minded Richard Henry Lee regarded the Quebec Act as the most intolerable of the Intolerable Acts.

All this, however, was borrowing trouble. On June 7, 1775, Dartmouth wrote Carleton: "I have also the satisfaction to acquaint you, that an Account published here for a Skirmish between the King's Troops and the Provincials in the neighborhood of Boston . . . has had no other effect than to increase that Indignation, which every Friend to Government feels for the Insult offered the Constitution, in the rebellious Resistance to the Authority of Parliament by the People of North America."

With the Declaration of Independence, the western question which had so long bedeviled the ministry, became an American question, whether for the States or the central government remained to be decided. As everyone knows the decision was in favor of the central government—a price paid by the "landed" states for union under the Articles. The agreement to surrender the State claims in the west was reached in 1781. It was not till 1784 that the Congress passed its great land ordinance, and not till 1787 that the greater ordinance for governing the Northwest Territory was enacted. In the meantime the speculators and the home seekers were having pretty much their own way in the West. South of the Ohio, Virginia successfully contested the claim of Richard Henderson to a part of Kentucky. North of the Ohio, Governor Patrick Henry strengthened the State's Charter claim by furnishing George Rogers Clark with men and money for his so-called "Conquest of the Northwest," while at the same time pleading inability to supply the State's quota of men and funds for an expedition planned by the Congress in the same region. In 1779, under a law drafted by Jefferson and Mason, the State opened a land office and, disregarding the protest of the Congress against such action while the question of jurisdiction was pending, began granting lands west of the mountains at the old Virginia rates. By the close of the Revolution some 4000 grants had been made aggregating more than a million and

a quarter acres, 80 per cent of it going to Virginians,⁴⁰ 10,000 acres going to Patrick Henry.

The transfer of state claims to the central government was not effected without a good deal of bargaining and delay. Some concessions were made especially to Virginia and to Connecticut. It was not completed till 1805. By that time, under the rule of unrestricted migration, Kentucky, Tennessee, and Ohio had become populous enough to be admitted into the Union as states. One wonders what, in the face of this "general inclination to settlement," as Shelburne called it, would have been the outcome of England's renewed attempt to regulate the westward movement under the Instructions of 1774.

What, now, shall we say in answer to Alvord's question: Did England like France lose an empire by trying to confine the colonists between the Alleghenies and the sea? Or, put in another way: Was England's policy with respect to the Mississippi Valley a determining factor in bringing about the revolt of the colonies? Your economic determinist could make a plausible argument that it was. He could assume (and would not be far wrong) that Virginia was necessary to a successful revolt; that Virginia's ties to the mother country were closer and apparently more enduring than those of any other colony, and that some special reason must be found to explain why this most trusted and loyal colony joined with the constitutionally non-conformist colonies at the north, and, indeed, took a leading part in the revolution. He could point out that Virginia had such a grievance in Great Britain's western policy. He could show that no sooner had the French barrier been removed than the King's proclamation set up a legal barrier—staying the "Course of Empire"; that the restriction came to be felt in all the colonies, but most in Virginia, first by her speculators, later by

⁴⁰ Isaac S. Harrell, *Loyalism in Virginia*, pp. 18-22. The land law of 1779 criticized as belying Jefferson's professed interest in disposing of the western lands to those who would occupy and use them thus assuring more equal distribution of ownership; this on the ground that million acre tracts were later acquired in the region covered by the law. *The Papers of Thomas Jefferson*, Vol. 2, 133, prints the draft as prepared by Jefferson and Mason, with copious notes. It gives every indication of being designed to promote small holdings. In the course of its passage the bill underwent many changes in the interest of the land companies and other speculators. The bill and the law provided for purchases with "importation-rights" in which Mason was much interested.

home-seekers; that her speculators were men of vision, position, and influence but their petitions for land were treated with scant courtesy, and that of the Mississippi Company was simply ignored. The Ohio Company's London agents during five or six years of effort could never get a hearing on the company's request for a reaffirmation of its grant or for remuneration for the destruction of its property by the King's army. And yet the King's officers acquiesced in, indeed promoted, the Indiana grant to the "suffering traders" of Pennsylvania, to be carved out of Virginia territory. This was in 1768. Two years later the King gave his assent to the sale of 20 or 30 million acres of Virginia territory to a company of Pennsylvanians and land-hungry Britons high in official life, and to the erection of an independent colony there, with boundaries so fixed that the "old Dominion" was cut off from all contact with the West. And finally, the Quebec Act put an end to her claims north of the Ohio.

Your economic determinist could go on to show that it was a Virginian who first questioned publicly the King's ownership of unappropriated lands; it was a Virginian who introduced in the Continental Congress at the behest of an extra-legal convention at Williamsburg, the resolution of June 7, 1776, declaring that these colonies are and of right ought to be free and independent states; it was a Virginian who drafted the formal Declaration adopted a month later; and it was a Virginian who was placed at the head of the army. All this is true; and it is also true that all the men named and many more had a deep interest in England's management of the great inland region at their back door.

But, while the King was doubtless right in saying that Hillsborough's administration of the West "had weakened the affection and respect of the colonies for a royal government," it does not spell out the answer implied in Alford's question. That would be too simple an answer to a complex problem. The "speculators," influential as they were, were too few in number to carry their own colony with them on the question of opening the West to exploitation. There were many men of influence who were opposed or luke warm on that issue. These, the speculators, and people throughout the colonies, had other economic grievances, if we must have "economic causes of the Revolution." It was Patrick Henry, a western land speculator later if not at the time, who in 1765 warned the King that Charles I had his Cromwell. The Virginians

entered into a non-importation agreement in protest against the Townshend act in its amended form retaining the tax on tea and into the Continental Association of 1774; most of the colonists felt themselves injured by parliamentary interference with their paper currency designed as they knew to repair their loss of specie caused by British commercial regulation, but designed, it was currently believed in England, to cheat their creditors on that side. Out of deference to those who in our own time hold latitudinarian views concerning "property," who think it less noble to contend for property rights than to contend for personal and political rights, it may be said that there were plenty of violations of both these classes of rights. One theme that ran through all the controversy was the right to be treated as Englishmen; they were consistently treated as colonials—as underlings. John Adams even in his old age could not think of the treatment of the Virginians during the French and Indian War without growing red in the face with indignation. Each colony had a legislature but its enactments were regularly suspended till the pleasure of the King was made known; and at any moment, on the least sign of protest against regulations imposed upon them, the members could be, and often were, sent home like naughty school boys. It is little wonder that they began to inquire into the source of the authority exercised over them. "Can any one reason be given," asked Jefferson, "why 160,000 electors in the island of Great Britain should give law to four million in these states. . . ." It was not, he said, because of the injury wrought by the acts of trade and navigation that we protest against them. "The true ground on which we declare these acts void is that the British parliament has no right to exercise authority over us. . . . The exercise of free trade with other parts of the world [belonged to them] as of natural right."

In arriving at these revolutionary conclusions the colonists were guided by the prevailing philosophy of the time. Where the positive law was against them, they appealed to a higher law—"natural law." The "rights" contended for in the Declaration and Resolves of 1774 were theirs "by the immutable laws of nature, the principles of the English Constitution, and our several charters or compacts." George Mason leaned heavily on the doctrine in the Virginia bill of rights: "All men are by nature equally free and independent and have certain inherent rights of which, when they enter into a state of society, they cannot by any compact divest their posterity."

One will not go far in the writings of the period without coming upon variants of these terms; and he will not, I think, be able to understand and appraise the movement for separation without some knowledge of the philosophy back of them.

Carl Becker, more than most American historians, appreciated this and in his *Declaration of Independence*, dealt with the subject at some length. "That there is a 'natural order' in the world," he says, "explicitly designed by God for the guidance of mankind; that the 'laws' of this natural order may be discovered by reason; that these laws so discovered furnish a reliable and immutable standard for testing the ideas, the conduct, and the institutions of men—these were the accepted premises, the preconceptions, of most eighteenth-century thinking, not only in America but also in England and France." These views were held by jurists, by philosophers, by theologians, and by the common man. Blackstone stated the central doctrine in no uncertain terms: "This law of nature," he says, "being coeval with man and dictated by God himself, is superior to any other; no human laws are of any validity if contrary to this; and such of them as are valid derive their force and authority from this origin."

Such a doctrine is a ready-made instrument of revolution. It was, indeed, elaborated by John Locke in his *Two Treatises of Civil Government* as a refutation of the doctrine of the divine right of Kings which he regarded as a ready-made instrument of tyranny, and was used to justify the English Revolution of 1688. It was from the writings of Locke, especially his *Second Treatise*, that the colonists received their instruction in the doctrine of Natural Rights. How well they were instructed will be clear when you compare the literature of the period with Locke's writings.

Briefly, the argument of the *Second Treatise* runs as follows: Before there was any government men were in the state of freedom and equality, no one having authority over another, each in a sense a law unto himself, subject only to the law of nature; for "the state of nature has a law of nature to govern it; and reason which is that law teaches all mankind . . . that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions." If anyone violates this law, he may be punished by the injured party "not according to the passionate heats . . . of his own will," but only to the extent required to secure reparation and to restrain. There being ob-

vious inconveniences and limitations in such a state, and mankind "being but in ill condition while they remain in it, are quickly driven into society . . . 'tis not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic." They surrender their "executive power," each to redress his own injuries, agree to set up a "legislative" to make rules of action, and an "executive" to enforce them; "all this directed to no other end but the peace, safety, and public good." The "legislative" is the supreme authority in the community; but it is not absolute. There remains still in the people a supreme authority to alter the "legislative" when they act contrary to the trust reposed in them." They betray their trust when they endeavor to invade the property of the subject, and to make themselves . . . masters or arbitrary disposers of the lives, liberties, or fortunes of the people." And so of the executive "when he sets up his own arbitrary will in place of the laws"; by hindering the legislature from assembling or from acting freely; or when "he employs the force, treasure and offices of the society to corrupt the representatives of the society," or by "solicitations, threats, promises," brings in legislators "who have promised beforehand what to vote and what to enact." By such acts he puts himself "in a state of war against the people" who are thus "absolved from further obedience and left to the common refuge which God has provided for all men against force and violence."

Who, now, shall decide when the trust has been violated? Locke has a ready answer: The "injured party," he says, the people. They do not have this power by the constitution, "yet they have by a law antecedent and paramount to all positive laws of men, reserved that ultimate determination which belongs to all mankind, where there lies no appeal on earth, viz., to judge whether they have just cause to make their appeal to heaven." Does not this hypothesis lay "a ferment for frequent rebellion?" Perhaps, admits Locke, but no more than the exercise of despotic power which threatens the "lives, liberties, or fortunes of the people." But the danger of revolt is not so great as some imagine. "Revolutions do not happen upon every little mismanagement of public affairs . . . great mistakes . . . and all the slips of human frailty will be borne without mutiny or murmur . . . peoples are averse to quit their old constitutions . . . but if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people . . .

it is not to be wondered that they should rouse themselves and endeavor to put the rule in such hands which may secure to them the ends for which government was at first erected . . .”

It was such “a long train of abuses and usurpations, pursuing invariably the same Object,” that led to the revolt and loss of empire. No one of the measures complained of was of sufficient importance in its economic effects or in its political implications, to cause the separation.⁴¹ All taken together seemed, in the light of the prevailing philosophy, to disclose a design, having “in direct object the establishment of an absolute tyranny over these states.” In fact despotism was inherent in British colonial theory as set forth in the Declaratory Act of 1766, and in the reports of the Board of Trade already quoted. It required only the legislation of 1774 to disclose its “absolute” character. From this there seemed “no appeal on earth,” leaving the colonies free to decide “whether they had just cause to appeal to heaven.”

If we cannot agree with Alvord that England’s loss of Empire was due to her bungling western policy, or even with Professor Lewis that it was “a main cause of the split” between England and the colonies (*The Indiana Company*, 77), we can agree with what seems to be Alvord’s second thought on the subject expressed toward the end of his second volume: “If historians would interpret rightly the causes of the American Revolution, they must not let their vision be circumscribed by the sequence of events in the East. Rather let their eyes seek a wider horizon that will bring within their view the occurrences beyond the mountains, where the British ministers experimented in imperialism and sought a basis for their future colonial policy in the administration of the West.”

One cannot go over the literature of this period of our history without being intrigued by the old question: What were the real motives of the men who led the colonies into the revolt? The problem with which we have been dealing illustrates in some measure the difficulty in finding the answer to that question. A recent writer in discussing the “Causes of the Revolution” has said, after nearly two centuries of labor by the historians, that this question remains “more than ever a major one.” The main point, he says,

⁴¹ Carl Becker, *The Beginnings of the American People*, 215-217.

on which they are divided is the extent to which the motives of the patriots were economic or were political and constitutional. Is the distinction worth the labor spent upon it? Locke did not make it. He spoke always of "life, liberty, and property" as equally sacred. The patriots did not make it. The Virginia bill of rights includes among the "inherent rights" of men "the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety." Jefferson expressed the same idea in happier phrase in the Declaration, and the Constitution throws a protecting shield about this trio of rights with some pre-eminence given to property. It is only in our time that it has become commonplace to set "human rights" off against "property rights" by those who think it noble to defend the one and ignoble, "selfish," to defend the other. It is a sign of the time; of the revolution through which we are muddling our way. Of course property has no "rights," but persons owning property whether natural or corporate, have, and it is not unworthy to defend them.

It seems safe, however, to predict that the debate of the historians will continue into the indefinite future. Those who believe that all history is a history of class struggle, primarily for material ends, will continue to regard the Revolution as a classic illustration of their theory. Historians of another school, who believe that men do not live by bread alone, will continue to stress the non-material motives of the revolutionists. Fully aware of the material interests involved in the controversy, they regard encroachments upon them as occasions for inquiring into and defending their "rights" established in law, in the charters, or belonging to them as free men. The great watchwords of the Revolution were not mere abstractions. What the colonists wanted was "liberty" to do this or that; "freedom" from this or that. At some points the issue was economic, at other points non-economic. What they wanted fundamentally was "liberty" to enjoy the fruits of their industry: to convert their raw materials into goods for use, to sell their exports in the best market, to regulate their own currency, to move freely from one part of the country to another. They wanted "freedom" from arbitrary authority—from arbitrary arrest, from being sent overseas for trial, from being tried in admiralty courts without a jury of their peers, from having foreign troops quartered on them in time of peace; they wanted freedom of speech in their legislatures without having them

dissolved or suspended, freedom from taxation without their consent, freedom of trade, freedom from Parliamentary amendment of their charters. In a word, they wanted that *freedom of choice* which distinguishes free men from the unfree.

These matters are fairly representative of the general field of controversy that led to separation. Who can tell whether or to what extent they were economic or were political and constitutional. Taking particular items, who can tell whether it was the economic loss wrought by the trade laws, or the extraordinary measures found necessary to enforce them, that brought the colonists to the fighting point? Who can tell whether those who opposed the taxes did so with hand on pocketbook, or with eyes on the law books from the Magna Charta down? Supporters of the tax measures in Parliament argued that the amount to be raised constituted no real grievance (though large enough, it appears, to warrant risking the integrity of Empire by pressing to secure it.) To these Burke replied: "If they consider nothing in taxes but their weight as pecuniary impositions, there might be some pretence for this denial; but men may be sorely touched and deeply grieved in their privileges, as well as in their purses. Men may lose little in property by the act which takes away all their freedom." Who can tell whether or to what extent loyal Virginians were turned into revolutionists because opportunity was denied them to acquire great landed estates in the West; or, because a few scattered Indian tribes, and a group of Pennsylvanian and English speculators were given preferential treatment within their own boundaries; or because of the ineptitude of the government in dealing with the western question, and indeed with many other phases of colonial policy?

And this brings us back once more to our text. It will be recalled that Alvord attributes the mismanagement of the Mississippi Valley to "the exigencies of British politics." Well, those exigencies were what they were at the time because of the collapse of party government. The country had long—perhaps too long—been ruled by the Whig party, or the great Whig families, if you like. Whatever its faults, and there seems to have been many, it had permanence, continuity. On the accession of George III, all this was changed. The party was broken into a number of factions, led by this or that political personage, none of them nor the Tories strong enough to form a ministry; and hence the necessity of carrying on government by coalition ministries, difficult enough in time of

war and more difficult in time of peace. The most potent of these factions was known as the "King's Friends," made up, Burke declared, of mediocrities who thought by attaching themselves to the Court to gain "a degree of power which they could never hope to derive from natural influence or from honorable service"—a "cabal of the closet and the back-stairs," he contemptuously called it. The King's great design was to restore to the Crown some of the power and dignity lost under the Whigs. He would make the ministry responsible to him as well as to Parliament. Burke saw in the King's plans an influence that "strikes a palsy into every nerve of our Constitution, making Ministers fearful of attempting and incapable of executing any useful plan of domestic arrangement, or of foreign policy." (*Thoughts on the Present Discontents*, 1770). And so it came about that during the critical period following the peace of 1763, British policy was determined, according to Burke, by "an Administration Constitutionally impotent, because supported by no party." Alvord has amply illustrated this impotence in his study of British politics in the management of the region west of the mountains, and has shown the factional influences responsible for the policy adopted. Doubtless similar studies of other colonial issues as they arose would disclose a similar relationship between factionalism and ministerial mishaps in dealing with a large range of colonial affairs.

What, it may be asked, could party government have done that was not, or could not, have been done by a factional regime? Burke's idea of party was that it is made up of a body of men bound together by common political principles led by men who had gained distinction and public confidence by public service. If such a party had been in power led by men of statesman stature (in which the country was not lacking) there would have been some comprehension of what could *not* be done in the colonies as well as reasonable assurance of what *could* be done. Such a government might reasonably be expected (1) to recognize the dignity, worth, and maturity of the "colonials," earned by their achievements in conquering the wilderness and in establishing stable civil governments; (2) to study the grounds of complaint against the laws of trade before attempting to enforce them by extraordinary means of doubtful legality. Such a study would have disclosed that the regulations of a hundred years' growth, were heavily weighted in favor of British interests with little or no regard for colonial welfare;

that each new one tended, as Carl Becker has pointed out, to increase the burden imposed by every other;⁴² and it might have led, as a matter of policy, to a recodification of the laws with due regard to the interest of this outlying part of the Empire. So important did Lecky regard the diversion of the colony trade from its natural channels and Grenville's enforcement policy with its attendant incidents, he ventured the opinion that: "If the 'Wealth of Nations' had been published a century earlier, and if its principles had passed into legislation, it is quite possible that the separation of England and her colonies might have been indefinitely adjourned." (*American Revolution*. Woodburn, ed., p. 46) Such a government as we have supposed might (3) have adopted Shelburne's plan for raising an "American fund" by the sale of land and the rigorous collection of quit rents on old and new grants, allowing the "course of empire" to take its way legally as it did illegally, thus avoiding the most disastrous of Grenville's policies—the imposition of taxes.

There was another feature of politics at the seat of Empire that

⁴² "Only when regarded as a whole was the policy of Grenville seen to spell disaster. Each new law seemed carefully designed to increase the burdens imposed by every other. The Sugar Act, for example, taken by itself, was perhaps the most grievous of all. The British sugar island, to which it virtually restricted the West Indian trade of the Northern colonies, offered no sufficient market for their lumber and provisions, nor could they, like the Spanish island, furnish the silver needed by continental merchants to settle London balances on account of imported English commodities. Exports to the West Indies and imports from England must, therefore, be reduced; the one event would cripple essential colonial industries such as the fisheries and the distilling of rum, while the other would force the colonists to devote themselves to these very domestic manufactures which it was the policy of the English Government to discourage. These disadvantages, which attached to the Sugar Act itself, were accentuated by almost every other cardinal measure of Grenville's colonial policy. With the chief source of colonial specie cut off, the Stamp Act increased the demand for it by 60,000 pounds; when the need for paper money as a legal tender was more than ever felt, its further use was shortly to be forbidden altogether; when the diminished demand for labor, occasioned by restrictions upon the West Indian trade, was likely to stimulate migration into the interior, the West was closed to settlement. And the close of the French war, which had raised the debt of the colonies to an unprecedented figure, was the moment selected for restricting trade, remodeling the monetary system, and imposing upon the colonies taxes for protection against a danger which no longer threatened. Little wonder that to the colonial mind the measures of Grenville carried all the force of an argument from design: any part, separated from the whole, might signify nothing; the perfect correlation of the completed scheme was evidence enough that somewhere a malignant purpose was at work bent upon the destruction of English liberties."—*Beginnings of the American People*, 215-217.

must have strengthened the American resistance to any encroachment from that quarter upon their "rights." I refer to the political corruption which characterized British politics during most of the eighteenth century. It seems to have reached classic perfection during the long ministry of Sir Robert Walpole (1721-1742). The evil lived after him in the Newcastle ministry. Under the new monarch, the "King's Friends" set out to cure the evil: "Party was to be totally done away, with all its evil works. Corruption was to be cast down from Court." But in a few months, says Burke, they "soused over head and ears into the deepest and dirtiest pits of corruption." While the repeal of the Stamp Act was pending, Pitt wrote Shelburne: "The evils are I fear, incurable. Faction shakes and corruption saps the country to its foundation."

All this was known to the colonists; they were kept well informed by such opposition pamphlets as that of Burke and by their agents in London. George Croghan, the Pennsylvania back-woodsman, was shocked by what he saw of it. Franklin, writing to his son, quoted the going price of a seat in Parliament and gave an estimate of the sterling value of the King's "corruption fund." George III was ready enough to bow Lord Hillsborough out of the ministry because by his western policy he had alienated the affection of the colonists for Royal government. How much more must their affection for him and for England have been alienated by his mishandling of colonial affairs due to the factionalism for which in large measure he was responsible; and by the reasonable suspicion that every decision made in London affecting the colonies was tainted by the great national malady from which they were essentially free. For, as Lecky points out, in the colonies: "Political corruption, the great cancer of English life, was almost unknown."

Such was the plight of England in the hour of triumph over an ancient foe—England to whom the world is so much indebted for her contribution to the principles and the administration of government by free men. In that hour, with the collusion if not under the compulsion of a wilful king, she had forsaken the path by which her real greatness had been attained. Shelburne understood this. He notes that while four French Kings in the seventeenth century were raising their country "to the utmost pitch of grandeur," the English people were engaged in resisting encroachments upon their rights and liberties by four kings of the "weak and bigoted house of Stuart . . . and by this means procured for us

what was worth more than all the French conquests." (*Life*, 2: 358) Burke understood it. He told the House of Commons that in decrying and impairing the liberties of the Colonies, they were endangering their own. "In effect," he said, "we suffer as much at home by this loosening of all ties, and this concussion of all established opinions, as we do abroad; for in order to prove that the Americans have no rights to their liberties, we are every day endeavoring to subvert the maxims which preserve the whole spirit of our own. To prove that the Americans ought not to be free, we are obliged to depreciate the value of liberty itself; and we never seem to gain a paltry advantage over them in debate without attacking some of those principles or deriding some of those feelings, for which our ancestors shed their blood."

One of those principles was resistance to arbitrary authority. From the beginning of the constitutional struggle in the colonies over taxation, a few powerful voices were raised in Parliament in support of their position. As the purpose of the King's counter-revolution unfolded, it was found that the home country was itself faced with a constitutional problem. The Wilkes affair, running through the second half of the 1760's, furnished a home-made illustration of Parliamentary usurpation which the Americans were resisting. The case involved questions of freedom of the press, false arrest and imprisonment, expulsion from Parliament and finally of seating a member who had not been chosen by the electors. Wilkes was himself an unsavory character, but he was regarded as a victim of ministerial persecution and the reaction was so great in Parliament and on the streets to the latest step in the affair, that, at a nod from their master, the "King's Friends" deserted the ministry and it fell—the fourth Whig Ministry in a row to be upset by the King. Meanwhile the Tories had been gaining strength and the King chose one of them, Lord North, to form a ministry. "His compact body of 'King's Friends,'" says an English historian, "aided by mercenary helpers from among the Whigs, preserved a constant majority in Parliament" for twelve years (1770-1792). It fell to him to retain the Tea Tax, to attempt to bribe the colonists into paying it, to invite trouble by sending the East India Company tea to American ports, to see the coercive acts through Parliament, to conduct a long war against his judgment, to hear of the surrender at Yorktown, to see his long-sustained majority melt way, and to see his successor negotiate for England an inglorious peace.

So ended what was begun, using Shelburne's words, as a "constitutional war" and became a war for Independence. For twenty years a struggle had been going on between two unequal parts of the Empire, to establish in practice what they regarded as their respective "rights," confessedly ill-defined, under the English constitution, various charter grants, and under the great "charter of nature." We can best look upon the struggle as a series of "challenge" and "responses," between the two parties to the conflict. Both parties had to learn in the hard way that they had only such "rights" as they found on experience they could exercise. There are many things in the American conduct of the revolution we must wish were otherwise—acts that were unlawful under any code, mob violence, destruction of other men's property, the treatment of the loyalists. If, however, we center our attention upon the leaders of the Revolution from the beginning to its consummation in the establishment of the Republic, we cannot but admire and approve, barring a few slips of sharp practice, their wisdom, their integrity, courage and persistence, the high level of their statesmanship; and be everlastingly grateful to them for the heritage they left us.