

## **PUBLIC GOOD**

### **PREFACE**

THE following pages are on a subject hitherto little understood but highly interesting to the United States.

They contain an investigation of the claims of Virginia to the vacant western territory, and of the right of the United States to the same; with some outlines of a plan for laying out a new state, to be applied as a fund, for carrying on the war, or redeeming the national debt.

The reader, in the course of this publication, will find it studiously plain, and, as far as I can judge, perfectly candid. What materials I could get at I have endeavoured to place in a clear line, and deduce such arguments therefrom as the subject required. In the prosecution of it, I have considered myself as an advocate for the right of the states, and taken no other liberty with the subject than what a counsel would, and ought to do, in behalf of a client.

I freely confess that the respect I had conceived, and still preserve, for the character of Virginia, was a constant check upon those sallies of imagination, which are fairly and advantageously indulged against an enemy, but ungenerous when against a friend.

If there is anything I have omitted or mistaken, to the injury of the intentions of Virginia or her claims, I shall gladly rectify it; or if there is any thing yet to add, should the subject require it, I shall as cheerfully undertake it; being fully convinced, that to have matters fairly discussed, and properly understood, is a principal means of preserving harmony and perpetuating friendship.

THE AUTHOR.

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When we take into view the mutual happiness and united interests of the states of America, and consider the important consequences to arise from a strict attention of each, and of all, to everything which is just, reasonable, and honourable; or the evils that will follow from an inattention to those principles; there cannot, and ought not, to remain a doubt but the governing rule of right and of mutual good must in all public cases finally preside.

The hand of providence has cast us into one common lot, and accomplished the independence of America, by the unanimous consent of the several parts, concurring at once in time, manner and circumstances. No superiority of interest, at the expense of the rest, induced the one, more than the other, into the measure. Virginia and Maryland, it is true, might foresee, that their staple commodity, tobacco, by being no longer monopolized by Britain, would bring them a better price abroad: for as the tax on it in England was treble

its first purchase from the planter, and they being now no longer compelled to send it under that obligation, and in the restricted manner they formerly were; it is easy to see, that the article, from the alteration of the circumstances of trade, will, and daily does, turn out to them with additional advantages.

But this being a natural consequence, produced by that common freedom and independence of which all are partakers, is therefore an advantage they are intitled to, and on which the rest of the states can congratulate them without feeling a wish to lessen, but rather to extend it. To contribute to the encreased prosperity of another, by the same means which occasion our own, is an agreeable reflection; and the more valuable any article of export becomes, the more riches will be introduced into and spread over the continent.

Yet this is an advantage which those two states derive from the independence of America superior to the local circumstances of the rest; and of the two it more particularly belongs to Virginia than Maryland, because the staple commodity of a considerable part of Maryland is flour, which, as it is an article that is the growth of Europe as well as of America, cannot obtain a foreign market but by under selling, or at least by limiting it to the current price abroad. But tobacco commands its own price. It is not a plant of almost universal growth, like wheat. There are but few soils and climes that produce it to advantage, and before the cultivation of it in Virginia and Maryland, the price was from four to sixteen shillings sterling a pound in England.(1)

But the condition of the vacant western territory of America makes a very different case to that of the circumstances of trade in any of the states. Those very lands, formed, in contemplation, the fund by which the debt of America would in the course of years be redeemed. They were considered as the common right of all; and it is only till lately that any pretension of claim has been made to the contrary.

That difficulties and differences will arise in communities, ought always to be looked for. The opposition of interests, real or supposed; the variety of judgments; the contrariety of temper; and, in short, the whole composition of man, in his individual capacity, is tainted with a disposition to contend; but in his social capacity there is either a right which, being proved, terminates the dispute, or a reasonableness in the measure, where no direct right can be made out, which decides or compromises the matter.

As I shall have frequent occasion to mention the word right, I wish to be clearly understood in my definition of it. There are various senses in which this term is used, and custom has, in many of them, afforded it an introduction contrary to its true meaning. We are so naturally inclined to give the utmost degree of force to our own case, that we call every pretension, however founded, a right; and by this means the term frequently stands opposed to justice and reason.

After Theodore was elected king of Corsica, not many years ago, by the meer choice of the natives, for their own convenience in opposing the Genoese, he went over into England, run himself into debt, got himself into jail, and on his release therefrom by the benefit of an act of insolvency, he surrendered up; what he called, his kingdom of Corsica, as a part of his personal property, for the use of his creditors; some of whom may hereafter call this a charter, or by any other name more fashionable, and ground thereon what they may term a right to the sovereignty and property of Corsica. But does not justice abhor such an action, both in him and them, under the prostituted name of a right, and must not laughter be excited where ever it is told.

A right, to be truly so, must be right within itself; yet many things have obtained the name of rights, which are originally founded in wrong. Of this kind are all rights by meer conquest, power or violence. In the cool moments of reflection we are obliged to allow, that the mode by which such a right is obtained, is not the best suited to that spirit of universal justice which ought to preside equally over all mankind. There is something in the establishment of such a right that we wish to slip over as easily as possible, and say as little about as can be. But in the case of a right founded in right the mind is carried chearfully into the subject, feels no compunction, suffers no distress, subjects its sensations to no violence, nor sees any thing in its way which requires an artificial smoothing.

From this introduction I proceed to examine into the claims of Virginia; first, as to the right, secondly as to the reasonableness, and lastly, as to the consequences.

The name, Virginia, originally bore a different meaning to what it does now. It stood in the place of the word North-America, and seems to have been a name comprehensive of all the English settlements or colonies on the continent, and not descriptive of any one as distinguished from the rest. All to the southward of the Chesapeake, as low as the Gulf of Mexico, was called South-Virginia, and all to the northward, North-Virginia, in a similar line of distinction, as we now call the whole continent North and South-America. (2)

The first charter or patent was to Sir Walter Raleigh by Queen Elizabeth, of England, in the year 1583, and had neither name nor bounds. Upon sir Walter's return, the name Virginia, was given to the whole country, including the now United States. Consequently the present Virginia, either as a province or state, can sit up no exclusive claim to the western territory under this patent, and that for two reasons: first, because the words of the patent run to sir Walter Raleigh, and such persons as he should nominate, themselves and their successors; which is a line of succession Virginia does not pretend to stand in; and secondly, because a prior question would arise, namely, who are to be understood by Virginians under this patent? and the answer would be, all the inhabitants of America, from New-England to Florida.

This patent, therefore, would destroy their exclusive claim, and invest the right collectively in the thirteen states.

But it unfortunately happened, that the settlers under this patent, partly from misconduct, the opposition of the Indians, and other calamities, discontinued the process, and the patent became extinct.

After this James the first, who, in the year 1602, succeeded Elizabeth, issued a new patent, which I come next to describe.

This patent differed from the former in this essential point, that it had limits, whereas the other had none: the former was intended to promote discoveries wherever they could be made, which accounts why no limits were affixed, and this to settle discoveries already made, which likewise assigns a reason why limits should be described.

In this patent were incorporated two companies, called the South-Virginia company, and the North-Virginia company, and sometimes the London company, and the Plymouth company.

The South-Virginia or London company was composed chiefly of London adventurers; the North-Virginia or Plymouth company was made up of adventurers from Plymouth in Devonshire, and other persons of the western parts of England.

Tho' they were not to fix together, yet they were allowed to chuse their places of settlement any where on the coast of America, then called Virginia, between the latitudes of 34 and 45 degrees, which was a range of 760 miles: the south company was not to go below 34 degrees, nor the north company above 45 degrees. But the patent expressed, that as soon as they had made their choice, each was to become limited to 50 miles each way on the coast, and 100 up the country; so that the grant to each country was a square of 100 miles, and no more. The North-Virginia or Plymouth company settled to the eastward, and in the year 1614 changed the name, and called that part New-England. The South-Virginia or London company settled near cape Henry.

This then cannot be the patent of boundless extent, and that for two reasons: first, because the limits are described, namely, a square of 100 miles; and secondly, because there were two companies of equal rights included in the same patent.

Three years after this, that is, in the year 1609, the South-Virginia company applied for new powers from the Crown of England, which were granted them in a new patent, and the boundaries of the grant enlarged; and this is the charter or patent on which some of the present Virginians ground their pretension to boundless territory.

The first reflection that presents itself on this enlargement of the grant is, that it must be supposed to bear some intended degree of reasonable comparison to that which it superceded. The former could not be greater than a square of one hundred miles; and this new one being granted in lieu of that, and that within the space of three years, and by the same person, James the first, who was never famed either for profusion or generosity,

cannot, on a review of the time and circumstances of the grant, be supposed a very extravagant or very extraordinary one. If a square of one hundred miles was not sufficiently large, twice that quantity was as much as could well be expected or solicited: but to suppose that he, who had caution enough to confine the first grant within moderate bounds, should in so short a space as three years, supercede it by another grant of many million times greater content, is, on the face of the affair, a circumstantial nullity.

Whether this patent or charter was in existence or not at the time the Revolution commenced, is a matter I shall hereafter speak to, and confine myself in this place to the limits which the said patent or charter lays down.

The words are as follow:

"Beginning at the cape or point of land called cape or point Comfort, thence all along the seacoast to the NORTHWARD 200 miles; and from the said point or cape Comfort all along the seacoast to the southward 200 miles; and all that space or circuit of land lying from the seacoast of the precinct aforesaid up into the land throughout, from sea to sea, WEST and north-west."

The first remark I shall offer on the words of this grant is, that they are uncertain, obscure and unintelligible, and may be construed into such a variety of contradictory meanings as to leave at last no meaning at all.

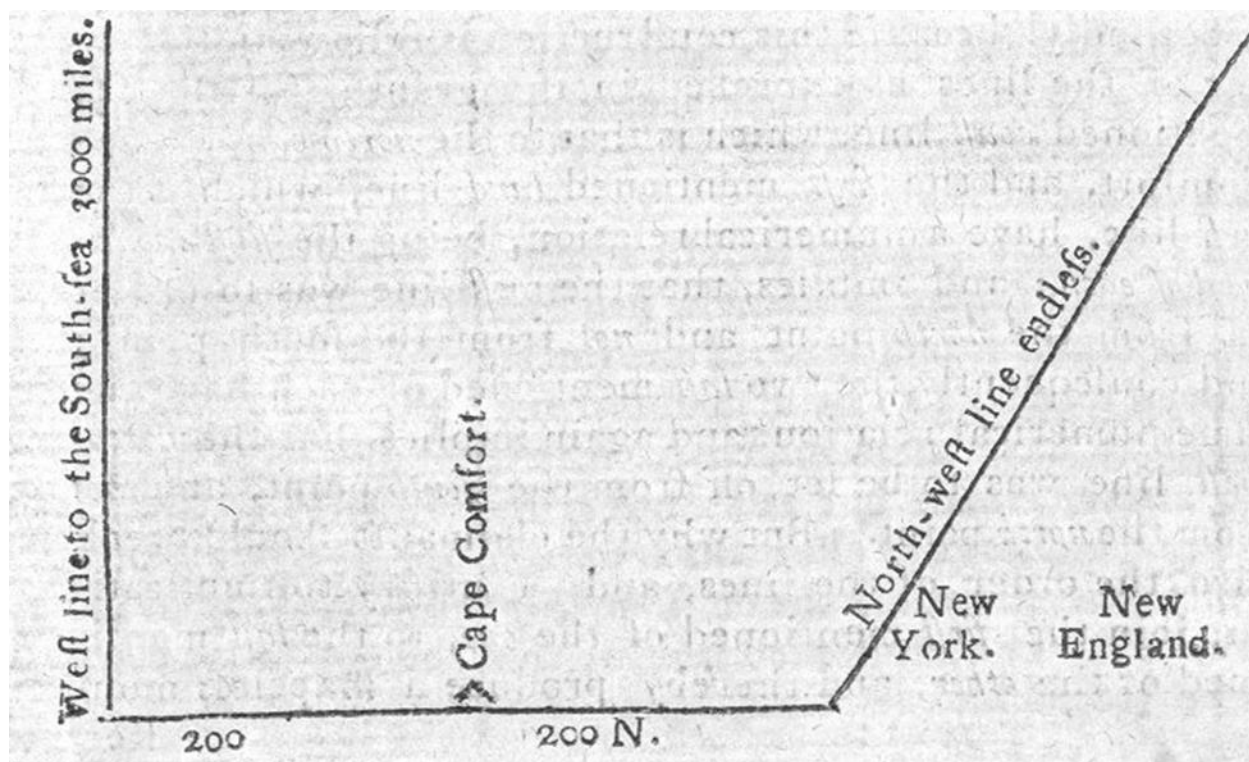
Whether the two hundred miles each way, from cape Comfort, were to be on a straight line, or ascertained by following the indented line of the coast, that is, "all along the seacoast," in and out as the coast lay, cannot now be fully determined; because, as either will admit of supposition, and nothing but supposition can be produced, therefore neither can be taken as positive. Thus far may be said, that had it been intended to be a straight line, the word straight ought to have been inserted, which would have made the matter clear; but as no inference can be well drawn to the advantage of that which does not appear against that which does, therefore the omission implies negatively in favor of the coast indented line, or that the 400 miles were to be traced on the windings of the coast, that is "all along the seacoast."

But what is meant by the words "west and north-west" is still more unintelligible. Whether they mean a west line and a north-west line, or whether they apply to the general lying of the land from the Atlantic, without regard to lines, cannot again be determined. But if they are supposed to mean lines to be run, then a new difficulty of more magnitude than all the rest arises; namely, From which end of the extent on the coast is the west line and the north-west line to be set off; as the difference in the contents of the grant, occasioned by transposing them, is many hundred millions of acres; and either includes or excludes a far greater quantity of land than the whole thirteen United States contain?

In short, there is not a boundary in this grant that is clear, fixt and defined. The coast line is uncertain, and that being the base on which the others are to be formed, renders the whole uncertain. But even if this line was admitted, in either shape, the other boundaries would still be on supposition, till it might be said there is no boundary at all, and consequently no charter; for words which describe nothing can give nothing.

The advocates for the Virginia claim, laying hold of these ambiguities, have explained the grant thus:

Four hundred miles on the sea coast, and from the south point a west line to the great south sea, and from the north point a north-west line to the said south sea. The figure which these lines produce will be thus:



But why, I ask, must the west land line be set off from the south point, any more than the north point? The grant or patent does not say from which it shall be, neither is it clear that a line is the thing intended by the words: but admitting that it is, on what grounds do the claimants proceed in making this choice? The answer, I presume, is easily given, namely, because it is the most beneficial explanation to themselves they can possibly make; as it takes in many thousand times more extent of country than any other explanation would. But this, tho' it be a very good reason to them, is a very bad reason to us; and tho' it may do for the claimants to hope upon, will not answer to plead upon; especially to the very people, who, to confirm the partiality of the claimants choice, must relinquish their own right and interest.

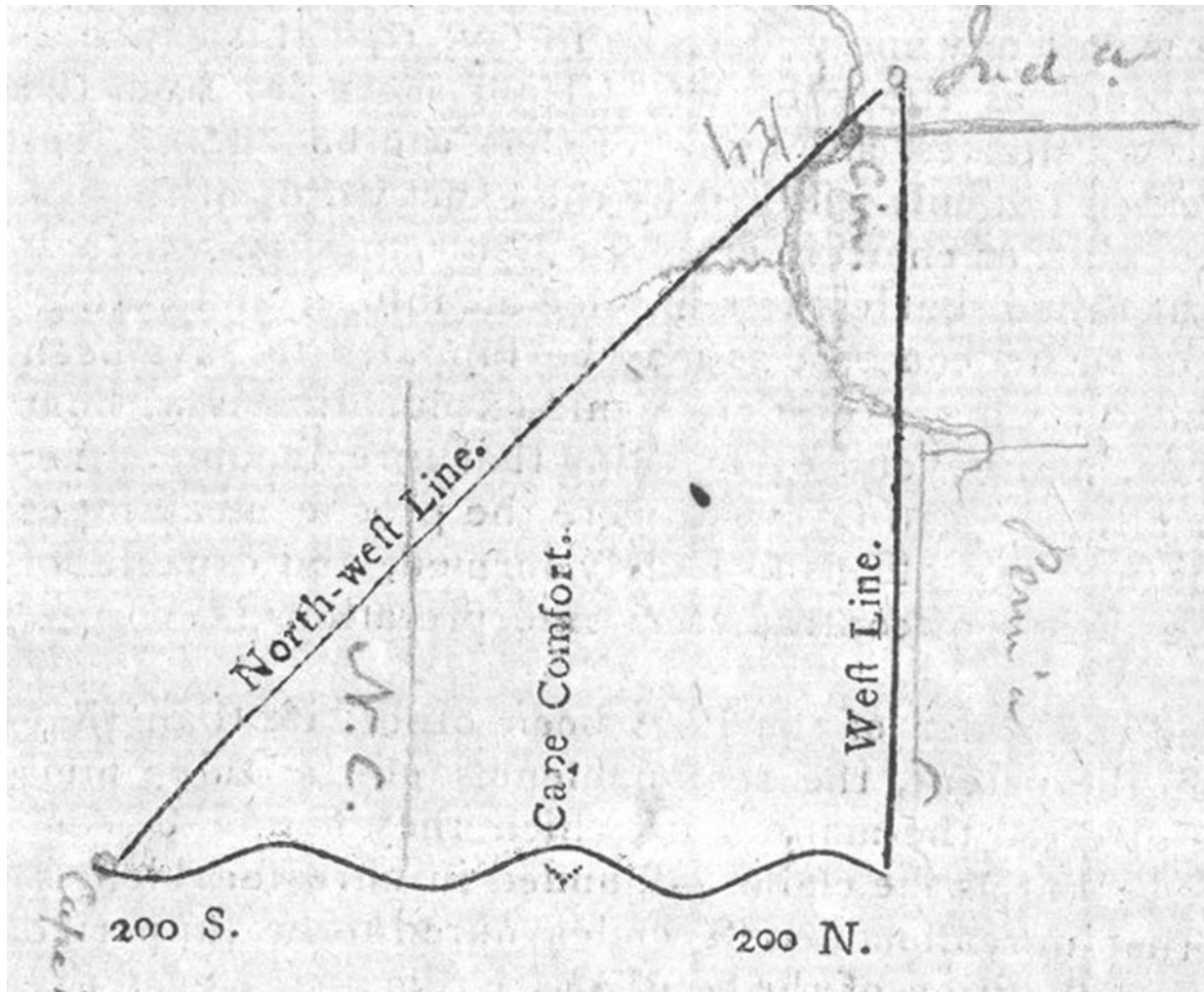
Why not set off the west land line from the north end of the coast line, and the northwest line from the south end of the same? there is some reason why this should be the construction, and none why the other should.

First, because, if the line of two hundred miles each way from cape Comfort, be traced by following the indented line of the coast, which seems to be the implied intention of the words, and a west line set off from the north end, and a north-west line from the south end, these lines will all unite (which the other construction never can) and form a compleat triangle, the contents of which will be about twenty nine or thirty millions of acres, or something larger than Pennsylvania; and

Secondly, because this construction is following the order of the lines expressed in the grant; for the first mentioned coast line, which is to the northward of cape Comfort, and the first mentioned land line, which is the west line, have a numerical relation, being the first mentioned of each; and implies, that the west line was to be set off from the north point and not from the south point; and consequently the two last mentioned of each have the same numerical relation, and again implies that the north-west line was to be set off from the south point, and not from the north point. But why the claimants should break thro' the order of the lines, and contrary to implication, join the first mentioned of the one, to the last mentioned of the other, and thereby produce a shapeless monster, for which there is no name nor any parallel in the world, either as to extent of soil and sovereignty, is a construction that cannot be supported.

The figure produced by following the order of the lines is as under.

N. B. If the reader will cast his eye again over the words of the patent on page 10 he will perceive the numerical relation alluded to, by observing, that the first mentioned coast line and the first mentioned land line are distinguished by CAPITALS. And the last mentioned of each by italics, which I have chosen to do to illustrate the explanation.



I presume that if four hundred miles be traced by following the inflexes of any sea shore, that the two extremes will not be more than three hundred miles distant from each other, on a straight line. Therefore, to find the contents of a triangle, whose base is three hundred miles, multiply the length of the base into half the perpendicular, which, in this case, is the west line, and the product will be the answer:

300 miles, length of the base.

150 half the perpendicular, (supposing it a right-angled triangle).

15000

300

45,000 contents of the grant in square miles.

640 acres in a square mile.



1800000

270000

28,800,000 contents in square acres.

Now will anyone undertake to say that this explanation is not as fairly drawn (if not more so) from the words themselves as any other that can be offered, because it is not only justified by the exact words of the patent, grant, or charter, or any other name by which it may be called, but by their implied meaning; and is likewise of such contents as may be supposed to have been intended; whereas the claimants explanation is without bounds, and beyond everything that is reasonable. Yet after all, who can say what was the precise meaning of terms and expressions so loosely formed, and capable of such a variety of contradictory interpretations?

Had the order of the lines been otherwise than they are in the patent, the reasonableness of the thing must have directed the manner in which they should be connected: but as the claim is founded in unreasonableness, and that unreasonableness endeavoured to be supported by a transposition of the lines, there remains no pretense for the claim to stand on.

Perhaps those who are interested in the claimants explanation will say that as the south sea is spoken of, the lines must be as they explain them, in order to reach it.

To this I reply; first, that no man then knew how far it was from the Atlantic to the south sea, as I shall presently show, but believed it to be but a short distance: and,

Secondly, that the uncertain and ambiguous manner in which the south sea is alluded to, (for it is not mentioned by name, but only "from sea to sea") serves to perplex the patent, and not to explain it; and as no right can be founded on an ambiguity, but on some proof cleared of ambiguity, therefore the allusive introduction of "sea to sea" can yield no service to the claim.

There is likewise an ambiguous mention made of two lands in this patent, as well as of two seas; viz. and all that "space or circuit of land lying from the sea coast of the precinct aforesaid up into the land throughout from sea to sea."

On which I remark, that the two lands here mentioned have the appearance of a major and a minor, or the greater out of which the less is to be taken: and the term from "sea to sea" may be said to apply descriptively to the land throughout, and not to the space or circuit of land patented to the company": in a similar manner that a former patent described a major of 706 miles in extent, out of which the minor, or square of one hundred miles, was to be chosen.

But to suppose, that because the south sea is darkly alluded to, it must therefore, (at whatever distance it might be, which then nobody knew, or for whatever purpose it might be introduced) be made a certain boundary, and that without regard to the reasonableness of the matter, or the order in which the lines are arranged, which is the only implication the patent gives for setting off the land lines, is a supposition that contradicts every thing which is reasonable.

The figure produced by following the order of the lines will be compleat in itself, let the distance to the south sea be more or less; because, if the land throughout from sea to sea had not been sufficiently extensive to admit the west land line and the north-west line to close, the south sea, in that case, would have eventually become a boundary: but if the extent of the land throughout from sea to sea, was so great, that the lines closed without reaching the said south sea, the figure was compleat without it.

Wherefore, as the order of the lines, when raised on the indented coast line, produces a regular figure of reasonable dimensions, and of about the same content, tho' not of the same shape, which Virginia now holds within the Allegheny Mountains; and by transposing them another figure is produced, for which there is no name, and cannot be compleated, as I shall presently explain, and of an extent greater than one half of Europe, it is needless to offer any other arguments to shew that the order of the lines must be the rule, if any rule can be drawn from the words, for ascertaining from which point the west line and north-west line were to be set off. Neither is it possible to suppose any other rule could be followed; because a north-west line set off two hundred miles above cape Comfort, would not only never touch the south sea, but would form a spiral line of infinite windings round the globe, and after passing over the northern parts of America and the frozen ocean, and then into the northern parts of Asia, would, when eternity should end and not before, terminate in the north pole.

This is the only manner in which I can express the effect of a north-west line, set off as above; because as its direction must always be between the north and the west, it consequently can never get into the pole nor yet come to a rest; and on the principle, that matter or space is capable of being eternally divided, must proceed on for ever.

But it was a prevailing opinion, at the time this patent was obtained, that the South sea was at no great distance from the Atlantic, and therefore it was needless, under that supposition, to regard which way the lines should be run; neither need we wonder at this error in the English government respecting America then, when we see so many and such glaring ones now, for which there is much less excuse.

Some circumstances favoured this mistake. Admiral sir Francis Drake not long before this, had, from the top of a mountain in the Isthmus of Darien, which is the center of North and South America, seen both the South sea and the Atlantic; the width of the part of the continent where he then was, not being above 70 miles; whereas its width opposite

Chesapeake bay is as great, if not greater, than in any other part, being from sea to sea, about the distance it is from America to England. But this could not then be known, because only two voyages had been made across the South sea; the one by the ship in which Magellan sailed, who died on his passage, and which was the first ship that sailed around the world, and the other by sir Francis Drake: but as neither of these sailed into a northern latitude in that ocean, high enough to fix the longitude of the western coast of America from the eastern, the distance across was intirely on supposition, and the errors they then ran into appear laughable to us who now know what the distance is.

That the company expected to come at the South sea without much trouble or traveling, and that the great body of land which intervened, so far from being their view in obtaining the charter, became their disappointment, may be collected from a circumstance mentioned in Stith's history of Virginia.

He relates, that, in the year 1608, which was at the time the company were soliciting this patent, they fitted up in England "a barge for captain Newport," (who was afterwards one of the joint deputy governors under the very charter we are now treating of) "which, for convenience of carriage, might be taken into five pieces, and with which he and his company were instructed to go up James River as far as the falls thereof, to discover the country of the Monakins, and from thence they were to proceed, carrying their barge beyond the falls to convey them to the south sea; being ordered not to return without a lump of gold, or a certainty of the said sea."

And Hutchinson, in his history of New England, which was called North-Virginia at the time this patent was obtained, says "the geography of this part of America was less understood than at present. A line to the Spanish settlements was imagined to be much shorter than it really was. Some of Champlain's people in the beginning of the last century, who had been but a few days march from Quebec, returned with great joy, supposing that from the top of a high mountain, they had discovered the South-Sea."

From these matters, which are evidences on record, it appears that the adventurers had no knowledge of the distance it was to the South-Sea, but supposed it to be no great way from the Atlantic; and also, that great extent of territory was not their object, but a short communication with the southern ocean, by which they might get into the neighborhood of the Gold Coast, and likewise carry on a commerce with the East-Indies.

Having thus shewn the confused and various interpretations this charter is subject to, and that it may be made to mean anything and nothing; I proceed to show, that, let the limits of it be more or less, the present state of Virginia does not, and cannot, as a matter of right, inherit under it.

I shall open this part of the subject by putting the following case:

Either Virginia stands in succession to the London company, to whom the charter was granted, or to the Crown of England. If to the London company, then it becomes her, as an outset in the matter, to shew who they were, and likewise that they were in possession to the commencement of the revolution. — If to the Crown, then the charter is of consequence superseded; because the Crown did not possess territories by charter, but by prerogative without charter. The notion of the Crown chartering to itself is a nullity; and in this case, the unpossessed lands, be they little or much, are in the same condition as if they had never been chartered at all; and the sovereignty of them devolves to the sovereignty of the United States.

The charter or patent of 1609 as well as that of 1606 was to Sir Thomas Gates, Sir George Summers, the reverend Richard Hackluit, prebend of Westminster, and others; and the government was then proprietary. These proprietors, by virtue of the charter of 1609, chose Lord Delaware for their governor, and Sir Thomas Gates, Sir George Summers, and captain Newport (the person who was to go with a boat to the South sea), joint deputy governors.

Was this the form of government either as to soil or constitution at the time the present revolution commenced? if not, the charter was not in being; for it matters not to us how it came to be out of being, so long as the present Virginians, or their ancestors, neither are nor were sufferers by the change then made.

But suppose it could not be proved to be in being, which it cannot, because being in a charter is power, it would only prove a right in behalf of the London company of adventurers, but how that right is to be disposed of is another question. We are not defending the right of the London company deceased 150 years ago, but taking up the matter at the place where we found it, and so far as the authority of the Crown of England was exercised when the revolution commenced.

The charter was a contract between the Crown of England and those adventurers for their own emolument, and not between the Crown and the people of Virginia; and whatever was the occasion of the contract becoming void, or surrendered up, or superceded, makes no part of the question now. It is sufficient that when the United States succeeded to sovereignty they found no such contract in existence or even in litigation. They found Virginia under the authority of the Crown of England, both as to soil and government, subject to quit-rents to the Crown and not to the company, and had been so for upwards of 150 years: and that an instrument or deed of writing, of a private nature, as all proprietary contracts are, so far as land is concerned, and which is now historically known, and in which Virginia was no party, and to which no succession in any line can be proved, and has ceased for 150 years, should now be raked from oblivion and held up as a charter whereon to assume a right to boundless territory, and' that by a perversion of the order of it, is something very singular and extraordinary.

If there was any innovation on the part of the crown, the contest rested between the crown and the proprietors, the London company, and not between Virginia and the said crown. It

was not her charter; it was the company's charter, and the only parties in the case were the crown and the company.

But why, if Virginia contends for the immutability of charters, has she selected this in preference to the two former ones? All her arguments arising from this principle must go to the first charter and not to the last; but by placing them to the last, instead of the first, she admits a fact against her principle; because, in order to establish the last, she proves the first to be vacated by the second in the space of 23 years, the second to be vacated by the third in the space of three years; and why the third should not be vacated by the fourth form of government, issuing from the same power with the former two, and which took place about 25 years after, and continued in being for 150 years since, and under which all her public and private business was transacted, her purchases made, her warrants for survey and patents for land obtained, is too mysterious to account for.

Either the re-assumption of the London company's charter into the hands of the crown was an usurpation, or it was not. If it was, then, strictly speaking, is everything which Virginia has done under that usurpation illegal, and she may be said to have lived in the most curious species of rebellion ever known; rebellion against the London company of adventurers. For if the charter to the company (for it was not to the Virginians) ought to be in being now, it ought to have been in being then; and why she should admit its vacation then, and reject it now, is unaccountable; or why she should esteem her purchases of land got which were then made contrary to this charter, and now contend for the cooperation of the same charter to possess new territory by, are circumstances which cannot be reconciled.

But whether the charter, as it is called, ought to be extinct or not, cannot make a question with us. All the parties concerned in it are deceased, and no successors, in any regular line of succession, appear to claim. Neither the London company of adventurers, their heirs or assigns, were in possession of the exercise of this charter at the commencement of the revolution; and therefore the state of Virginia does not, in point of fact, succeed to and inherit from the company.

But say they, we succeed to and inherit from the Crown of England, which was the immediate possessor of the sovereignty at the time we entered, and had been so for 150 years.

To say this, is to say there is no charter at all. A charter is an assurance from one party to another, and cannot be from the same party to itself.

But before I enter further on this case I shall concisely state how this charter came to be re-assumed by the power which granted it, the Crown of England.

I have already stated that it was a proprietary charter, or grant, to sir Thomas Gates and others, who were called the London company, and sometimes the South-Virginia company,

to distinguish them from those who settled to the eastward (now New-England) and were then called the North-Virginia or Plymouth company.

Oldmixon's history of Virginia (in his account of the British empire in America) published in the year 1708, gives a concise progress of the affair. He attributes it to the misconduct, contentions and mismanagements of the proprietors, and their innovations upon the Indians, which had so exasperated them, that they fell on the settlers and destroyed at one time 334 men, women and children.

"Some time after this massacre, says he, several gentlemen in England procured grants of land from the company, and others came over on their private accounts to make settlements; among the former was one captain Martin, who was named to be of the council. This man raised so many differences among them, that new distractions followed, which the Indians observing, took heart and once more fell upon the settlers on the borders, destroying, without pitying either age, sex, or condition.

"These and other calamities, being chiefly imputed to the mismanagement of the proprietors, whose losses had so discouraged most of their best members, that they sold their shares, and Charles the first on his accession to the throne dissolved the company, and took the colony into his own immediate direction. He appointed the governor and council himself, ordered all patents and processes to issue in his own name, and reserved a quit-rent of two shillings sterling for every hundred acres."

Thus far our author. Now it is impossible for us at this distance of time to say what were all the exact causes of the change; neither have we any business with it. The company might surrender it, or they might not, or they might forfeit it by not fulfilling conditions, or they might sell it, or the Crown might, as far as we know, take it from them. But what are either of these cases to Virginia, or any other which can be produced. She was not a party in the matter. It was not her charter, neither can she ingraft any right upon it or suffer any injury under it.

If the charter was vacated, it must have been by the London company; if it was surrendered it must be by the same; and if it was sold nobody else could sell it, and if it was taken from them, nobody else could lose it; and yet Virginia calls this her charter, which it was not within her power to hold, to sell, to vacate, or to lose.

But if she puts her right upon the ground that it never was sold, surrendered, lost, or vacated, by the London company, she admits that if they had sold, surrendered, lost, or vacated it, it would have become extinct, and to her no charter at all. And in this case, the only thing to prove is the fact, which is, has this charter been the rule of government, and of purchasing or procuring unappropriated lands in Virginia, from the time it was granted to the time of the revolution? Answer, the charter has not been the rule of government, nor of purchasing and procuring lands, neither have any lands been purchased or procured under its sanction or authority for upwards of 150 years.

But if she goes a step further, and says that they could not vacate, surrender, sell, or lose it, by any act they could do, so neither could they vacate, surrender, sell or lose that of 1606, which was three years prior to this: and this argument, so far from establishing the charter of 1609, would destroy it; and in its stead confirm the preceding one, which limited the Company to a square of 100 miles. And if she still goes back to that of sir Walter Raleigh, that only places her in the light of Americans common with all.

The only fact that can be clearly proved is that the Crown of England exercised the power of dominion and government in Virginia, and of the disposal of the lands, and that the charter had neither been the rule of government nor purchasing land for upwards of 150 years, and this places Virginia in succession to the Crown, and not to the Company. Consequently it proves a lapse of the charter into the hands of the crown by some means or other.

Now to suppose that the charter could return into the hands of the Crown and yet remain in force, is to suppose that a man could be bound by a bond of obligation to himself.

Its very being in the hands of the crown from which it issued is a cessation of its existence; and an effectual unchartering all that part of the Grant which was not before disposed of. And consequently the state of Virginia standing thus in succession to the crown, can be intitled to no more extent of country as a state under the union, than what it possessed as a province under the crown. And all lands exterior to these bounds as well of Virginia as the rest of the states, devolve, in the order of succession to the sovereignty of the United States for the benefit of all.

And this brings the case to what were the limits of Virginia as a province under the crown of England.

Charter it had none. Its limits then rested at the discretion of the authority to which it was subject. Maryland and Pennsylvania became it's boundary to the eastward and northward and North-Carolina to the southward, therefore the boundary to the westward was the only principal line to be ascertained.

As Virginia from a proprietary soil and government was become what then bore the name of a royal one, the extent of the province, as the order of things then stood (for something must always be admitted whereon to form a beginning) was wholly at the disposal of the crown of England, who might enlarge, or diminish, or erect new governments to the westward, by the same authoritative right that Virginia now can divide a county into two, if too large, or too inconvenient.

To say, as has been said, that Pennsylvania, Maryland and North-Carolina, were taken out of Virginia, is no more than to say, they were taken out of America; because Virginia was the common name of all the country, north and south: and to say they were taken out of the chartered limits of Virginia, is likewise to say nothing; because after the dissolution or

extinction of the proprietary company, there was nobody to whom any provincial limits became chartered. The extinction of the company was the extinction of the chartered limits. The patent could not survive the company, because it was to them a right, which, when they expired ceased to be anybody's else in their stead.

But to return to the western boundary of Virginia at the commencement of the revolution.

Charters, like proclamations, were the sole act of the crown, and if the former were adequate to fix limits to the lands which it gave away, sold, or otherwise disposed of, the latter were equally adequate to fix limits or divisions to those which it retained; and therefore, the western limits of Virginia, as the proprietary company was extinct and consequently the patent with it, must be looked for in the line of proclamations.

I am not fond of quoting these old remains of former arrogance, but as we must begin somewhere, and as the states have agreed to regulate the right of each State to territory, by the condition each stood in with the crown of England at the commencement of the revolution, we have no other rule to go by; and any rule which can be agreed on is better than none.

From the proclamation then of 1763, the western limits of Virginia, as a province under the crown of England, are described so as not to extend beyond the heads of any of the rivers which empty themselves into the Atlantic, and consequently the limits did not pass over the Allegheny Mountain.

Extract from the proclamation of 1763 so far as respects boundary:

"AND WHEREAS it is just and reasonable, and essential to our interest, and the security of our colonies, that the several nations or tribes of Indians, with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories, as, not having been ceded to, or purchased by us, are reserved to them or any of them as their hunting grounds; we do therefore, with the advice of our privy council, declare it to be our royal will and pleasure that no governor, or commander in chief, in any of our colonies of Quebec, east Florida, or west Florida, do presume, upon any pretence whatever, to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions: As ALSO that no governor or commander in chief of our colonies or plantations in America, do presume, for the present, and until our further pleasure be known, to grant warrants of survey or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic ocean, from the west or north-west, or upon any lands whatever, which not having been ceded to or purchased by us, as aforesaid, are reserved unto the said Indians, or any of them.

"And we do further declare it to be our royal will and pleasure, for the present, as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians,



all lands and territories, not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's-Bay company; as also all the lands and territories lying to the westward of the sources of the rivers, which fall into the sea from the west and north-west, as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our especial leave and license for that purpose first obtained:

"And we do further strictly enjoin and require all persons whatever, who have either willfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands, which, not having been ceded to, or purchased by us, are still reserved to the said Indians, as aforesaid, forthwith to remove themselves from such settlements."

It is easy for us to understand, that the frequent and plausible mention of the Indians was only a speciousness to create an idea of the humanity of government. The object and intention of the proclamation was the western boundary, which is here signified not to extend beyond the heads of the rivers: and these, then, are the western limits which Virginia had as a province under the crown of Britain.

And agreeable to the intention of this proclamation, and the limits described thereby, lord Hillsborough, then secretary of state in England, addressed an official letter, of the 31st of July, 1770, to Lord Bottetourt, at that time governor of Virginia, which letter was laid before the Council of Virginia by Mr. president Nelson, and by him answered on the 18th of October in the same year, of which the following are extracts:

"On the evening of the day Your lordship's letter to the governor was delivered to me, and as it contains matters of great variety and importance, it was read in council, and, together with the several papers inclosed, it hath been maturely considered, and I now trouble your lordship with theirs as well as my own opinion upon the subject of them.

"We do not presume to say to whom our gracious sovereign shall grant the vacant lands," and "with regard to the establishment of a new colony on the back of Virginia, it is a subject of too great political importance for me to presume to give an opinion upon, however, permit me, my lord, to observe, that when that part of the country shall become sufficiently populated it may be a wise and prudent measure."

On the death of Lord Bottetourt, Lord Dunmore was appointed to the government, and he, either from ignorance of the subject, or other motives, made a grant of some lands on the Ohio to certain of his friends and favorites, which produced the following letter from Lord Dartmouth, who succeeded lord Hillsborough as secretary of state:

"I think fit to inclose your lordship a copy of lord Hillsborough's letter to lord Bottetourt, of the 31st of July, 1770, the receipt of which was acknowledged by Mr. president Nelson, a

few days before Lord Bottetourt's death, and appears by his answer to it, to have been laid before the council. That board, therefore, could not be ignorant of what has passed here upon Mr. Walpole's application, nor of the king's express command, contained in lord Hillsborough's letter, that no lands should be granted beyond the limits of the royal proclamation of 1763, until the king's further pleasure was signified; and I have only to observe, that it must have been a very extraordinary neglect in them not to have informed your lordship of that letter and those orders."

On these documents I shall make no remarks. They are their own evidence, and show what the limits of Virginia were while a British province; and as there was then no other authority by which they could be fixed, and as the grant to the London company could not be a grant to any but themselves, and of consequence ceased to be when they ceased to exist, it remained a matter of choice in the crown, on its re-assumption of the lands, to limit or divide them into separate governments, as it judged best, and from which there was not, and could not, in the order of government, be any appeal. Neither was Virginia, as a province, affected by it, because the monies, in any case, arising from the sale of lands, did not go into her treasury; and whether to the crown or to the proprietors was to her indifferent. And it is likewise evident, from the secretary's letter, and the president's answer, that it was in contemplation to lay out a new colony on the back of Virginia, between the Allegheny Mountains and the Ohio.

Having thus gone thro' the several charters, or grants, and their relation to each other, and shewn that Virginia cannot stand in succession to a private Grant, which has been extinct for upwards of 150 years; and that the western limits of Virginia, at the commencement of the revolution, were at the heads of the rivers emptying themselves into the Atlantic, none of which are beyond the Allegheny Mountains; I now proceed to the second part, namely,

The reasonableness of her claims:

Virginia, as a British province, stood in a different situation with the crown of England to any of the other provinces, because she had no ascertained limits, but such as arose from laying off new provinces and the proclamation of 1763. For the name, Virginia, as I have before mentioned, was the general name of all the country, and the dominion out of which the several governments were laid off: and, in strict propriety, conformable to the origin of names, the province of Virginia was taken out of the dominion of Virginia. For the term, dominion, could not appertain to the province, which retained the name of Virginia, but the crown, and from thence was applied to the whole country, and signified its being an appendage to the crown of England, as they say now, "our dominion of Wales."

It is not possible to suppose there could exist an idea that Virginia, as a British province, was to be extended to the south sea, at the distance of three thousand miles. The dominion, as appertaining at that time to the crown, might be claimed to extend so far, but as a province the thought was not conceivable, nor the practice possible. And it is more than probable, that the deception made use of to obtain the patent of 1609, by

representing the south sea to be near where the Allegheny Mountains are, was one cause of its becoming extinct; and it is worthy of remarking, that no history (at least that I have met with) mentions any dispute or litigation, between the crown and the company, in consequence of the extinction of the patent, and the re-assumption of the lands; and therefore the negative evidence corroborating with the positive, make it, as certain as such a case can possibly be, that either the company received a compensation for the patent, or quitted it quietly, ashamed of the imposition they had acted, and their subsequent maladministration. Men are not inclined to give up a claim where there is any ground to contend on, and the silence in which the patent expired is a presumptive proof that its fate, from whatever cause, was just.

There is one general policy which seems to have prevailed with the English in laying off new governments, which was not to make them larger than their own country, that they might the easier hold them manageable: this was the case with everyone except Canada, the extension of whose limits was for the politic purpose of recognizing new acquisitions of territory, not immediately convenient for colonization.

But, in order to give this matter a chance thro' all its cases, I will admit what no man can suppose, which is, that there is an English charter that fixes Virginia to extend from the Atlantic to the south sea, and contained within a due west line, set off two hundred miles below cape Comfort, and a north west line, set off two hundred miles above it. Her side, then, on the Atlantic (according to an explanation given in Mr. Bradford's paper of September 29<sup>th</sup> 1779, by an advocate for the Virginia claims) will be four hundred miles; her side to the south three thousand; her side to the west four thousand; and her north west line about five thousand; and the quantity of land contained within these dimensions will be almost 4,000,000,000, that is, four thousand million of acres, which is more than ten times the quantity contained within the present United States, and above an hundred times greater than the kingdom of England.

To reason on a case like his is such a waste of time, and such an excess of folly, that it ought not to be reasoned upon. It is impossible to suppose that any patent to private persons could be so intentionally absurd, and the claim grounded thereon, is as wild as any thing the imagination of man ever conceived.

But if, as I before mentioned, there was a charter which bore such an explanation, and Virginia stood in succession to it, What would that be to us, any more than the will of Alexander, had he taken it into his head to have bequeathed away the world? Such a charter, or grant must have been obtained by imposition and a false representation of the country, or granted in error, or both; and in any of, or all, these cases, the United States must reject the matter as something they can not know, for the merits will not bear an argument, and the pretension of right stands upon no better ground.

Our case is an original one; and many matters attending it must be determined on their own merits and reasonableness. The territory of the rest of the states is, in general, within

known bounds of moderate extent, and the quota which each state is to furnish toward the expense and service of the war, must be ascertained upon some rule of comparison. The number of inhabitants of each state formed the first rule; and it was naturally supposed that those numbers bore nearly the same proportion to each other, which the territory of each state did. Virginia on this scale, would be about one fifth larger than Pennsylvania, which would be as much dominion as any state could manage with happiness and convenience.

When I first began this subject my intention was to be extensive on the merits, and concise on the matter of the right; instead of which, I have been extensive on the matter of right, and concise on the merits of reasonableness: and this alteration in my design arose consequentially from the nature of the subject; for as a reasonable thing the claim can be supported by no argument, and therefore needs none to refute it; but as there is a strange propensity in mankind to shelter themselves under the sanction of right, however unreasonable that supposed right may be, I found it most conducive to the interest of the case, to shew, that the right stands upon no better grounds than the reason. And shall therefore proceed to make some observations on

The consequences of the claim.

The claim being unreasonable in itself and standing on no ground of right, but such as, if true, must from the quarter it is drawn be offensive, has a tendency to create disgust and sour the minds of the rest of the states. Those lands are capable, under the management of the United States, of repaying the charges of the war, and some of them, as I shall hereafter show, might, I presume, be made an immediate advantage of.

I distinguish three different descriptions of land in America at the commencement of the revolution. Proprietary or chartered lands, as was the case in Pennsylvania. Crown lands, within the described limits of any of the crown governments; and crown residuary lands that were without or beyond the limits of any province; and those last were held in reserve whereon to erect new governments and lay out new provinces; as appears to have been the design by lord Hillsborough's letter, and the president's answer, wherein he says "with respect to the establishment of a new colony on the back of Virginia, it is a subject of too great political importance for me to presume to give an opinion upon; however, permit me, my lord, to observe, that when that part of the country shall become populated, it may be a wise and prudent measure."

The expression is, a new colony on the back of Virginia; and referred to lands between the heads of the rivers and the Ohio. This is a proof that those lands were not considered within but beyond the limits of Virginia as a colony; and the other expression in the letter is equally descriptive, namely, "We do not presume to say, to whom our Gracious Sovereign shall grant his vacant lands." Certainly then, the same right, which, at that time rested in the crown rests now in the more supreme authority of the United States; and therefore addressing the president's letter to the circumstances of the revolution it will run thus.

We do not presume to say to whom the sovereign United States shall grant their vacant lands, and with respect to the settlement of a new colony on the back of Virginia, it is a matter of too much political importance for me to give an opinion upon; however, permit me to observe, that when that part of the country shall become populated it may be a wise and prudent measure.

It must occur to every person, on reflection, that those lands are too distant to be within the government of any of the present states; and, I may presume to suppose, that were a calculation justly made, Virginia has lost more by the decrease of taxables, than she has gained by what lands she has made sale of; therefore she is not only doing the rest of the states wrong in point of equity, but herself and them an injury in point of strength, service, and revenue.

It is only the United States, and not any single State, that can lay off new states, and incorporate them in the union by representation; therefore the situation which the settlers on those lands will be in, under the assumed right of Virginia, will be hazardous and distressing, and they will feel themselves at last like the aliens to the common wealth of Israel, their habitations unsafe and their title precarious.

And when men reflect on that peace, harmony, quietude, and security, which are necessary to prosperity, especially in making new settlements, and think that when the war shall be ended, their happiness and safety will depend on a union with the states, and not a scattered people, un- connected with, and politically unknown to the rest, they will feel but little inclination to put themselves in a situation, which, however solitary and recluse it may appear at present, will then be uncertain and unsafe, and their troubles will have to begin where those of the United States shall end.

It is probable that some of the inhabitants of Virginia may be inclined to suppose that the writer of this, by taking up the subject in the manner he has done, is arguing unfriendly against their interest. To which he wishes to reply:

That the most extraordinary part of the whole is, that Virginia should countenance such a claim. For it is worthy of observing that, from the beginning of the contest with Britain, and long after, there was not a people in America who discovered, thro' all the variety and multiplicity of public business, a greater fund of true wisdom, fortitude, and disinterestedness than the then colony of Virginia. They were loved — they were revered. Their investigation of the assumed rights of Britain had a sagacity which was uncommon. Their reasonings were piercing, difficult to be equaled and impossible to be refuted, and their public spirit was exceeded by none. But since this unfortunate land scheme has taken place, their powers seem to be absorbed; a Torpor has overshadowed them; and every one asks, What is become of Virginia?

It seldom happens that the romantic schemes of extensive dominion are of any service to a government, and never to a people. They assuredly end at last in loss, trouble, division and disappointment. And was even the title of Virginia good, and the claim admissible, she would derive more lasting and real benefit by participating in it than by attempting the management of an object so infinitely beyond her reach. Her share with the rest, under the supremacy of the United States, which is the only authority adequate to the purpose, would be worth more to her than what the whole would produce under the management of herself alone. And that for several reasons:

First, because her claim not being admissible nor yet manageable, she cannot make a good title to the purchasers, and consequently can get but little for the lands.

Secondly, because the distance the settlers will be from her, will immediately put them out of all government and protection, so far, at least as relates to Virginia: and by this means she will render her frontiers a refuge to desperadoes, and a hiding place from justice; and the consequence will be perpetual unsafety to her own peace, and that of the neighbouring States.

Thirdly, Because her quota of expence for carrying on the war, admitting her to engross such an immensity of territory, would be greater than she can either support or supply, and could not be less, upon a reasonable rule of proportion, than nine tenths of the whole. And,

Lastly, because she must sooner or later relinquish them, and therefore to see her own interest wisely at first, is preferable to the alternative of finding it out by misfortune at last.

I have now gone thro' my examination of the claim of Virginia, in every case which I proposed; and for several reasons, wish the lot had fallen to another person.

But as this is a most important matter, in which all are interested, and the substantial good of Virginia not injured but promoted, and as few men have leisure, and still fewer have inclination, to go into intricate investigation, I have at last ventured on the subject.

The succession of the United States to the vacant western territory is a right they originally set out upon; and in the pamphlet, Common Sense, I frequently mentioned those lands as a national fund for the benefit of all; therefore, resuming the subject where I then left off, I shall conclude with concisely reducing to system what I then only hinted.

In my last piece, the Crisis Extraordinary, I estimated the annual amount of the charge of war and the support of the several governments at two million pounds sterling, and the peace establishment at three quarters of a million, and, by a comparison of the taxes of this country with those of England, proved that the whole yearly expense to us, to defend the country, is but a third of what Britain would have drawn from us by taxes, had she succeeded in her attempt to conquer; and our peace establishment only an eighth part; and likewise shewed, that it was within the ability of the states to carry on the whole of the

war by taxation, without having recourse to any other modes or funds. To have a clear idea of taxation is necessary to every country, and the more funds we can discover and organize, the less will be the hope of the enemy, and the readier their disposition to peace, which it is now their interest more than ours to promote.

I have already remarked that only the United States and not any particular state can lay off new states and incorporate them into the union by representation; keeping, therefore, this idea in view, I ask, might not a substantial fund be quickly created by laying off a new state, so as to contain between twenty and thirty millions of acres, and opening a land office in all countries in Europe for hard money, and in this country for supplies in kind, at a certain price.

The tract of land that seems best adapted to answer this purpose is contained between the Allegheny Mountains and the river Ohio, as far north as the Pennsylvania line, thence extending down the said river to the falls thereof, thence due south into the latitude of the North Carolina line, and thence east to the Allegheny Mountains aforesaid. — I the more readily mention this tract because it is fighting the enemy with their own weapons, as it includes the same ground on which a new colony would have been erected for the emolument of the crown of England, as appears by lords Hillsborough's and Dartmouth's letters, had not the revolution prevented its being carried into execution.

It is probable that there may be some spots of private property within this tract, but to incorporate them into some government will render them more profitable to the owners and the condition of the scattered settlers more eligible and happy than at present.

If twenty millions of acres of this new State be patented and sold at twenty pounds sterling per hundred acres, they will produce four million pounds sterling, which, if applied to continental expences only will support the war for three years, should Britain be so unwise as to prosecute it against her own direct interest and against the interest and policy of all Europe. The several states will then have to raise taxes for their internal government only, and the continental taxes as soon as the fund begins to operate will lessen, and if sufficiently productive will cease.

Lands are the real riches of the habitable world, and the natural funds of America. The funds of other countries are, in general, artificially constructed; the creatures of necessity and contrivance dependent upon credit, and always exposed to hazard and uncertainty. But lands can neither be annihilated nor lose their value; on the contrary, they universally rise with population, and rapidly so, when under the security of effectual government. But this it is impossible for Virginia to give, and, therefore, that which is capable of defraying the expenses of the empire, will, under the management of any single state, produce only a fugitive support to wandering individuals.

I shall now inquire into the effects which the laying out of a new State, under the authority of the United States, will have upon Virginia.

It is the very circumstance she ought to and must wish for when she examines the matter thro' all its cases and consequences.

The present settlers beyond her reach, and her supposed authority over them remaining in herself, they will appear to her as revolters, and she to them as oppressors; and this will produce such a spirit of mutual dislike that in a little time a total disagreement will take place, to the disadvantage of both.

But under the authority of the United States the matter is manageable, and Virginia will be eased of a disagreeable consequence.

Besides this, a sale of the lands, continentally, for the purpose of supporting the expence of the war, will save her a greater share of taxes, than the small sale which she could make herself, and the small price she could get for them would produce.

She would likewise have two advantages which no other state in the union enjoys; first, a frontier state for her defense against the incursions of the Indians; and the second is, that the laying out and peopling a new state on the back of an old one, situated as she is, is doubling the quantity of its trade.

The new state which is here proposed to be laid out, may send its exports down the Mississippi, but its imports must come thro' Chesapeake Bay, and consequently Virginia will become the market for the new state; because, tho' there is a navigation from it, there is none into it, on account of the rapidity of the Mississippi.

There are certain circumstances that will produce certain events whether men think of them or not. The events do not depend upon thinking, but are the natural consequence of acting; and according to the system which Virginia has gone upon, the issue will be, that she will get involved with the back settlers in a contention about rights, till they dispute with their own claims, and, soured by the contention, will go to any other state for their commerce; both of which may be prevented, a perfect harmony established, the strength of the States increased, and the expenses of the war defrayed, by settling the matter now on the plan of a general right; and every day it is delayed, the difficulty will be increased and the advantages lessened.

But if it should happen, as it possibly may, that the war should end before the money, which the new state may produce be expended, the remainder of the lands therein may be set apart to reimburse those, whose houses have been burned by the enemy, as this is a species of suffering which it was impossible to prevent, because houses are not movable property: and it ought not to be that because we cannot do everything, that we ought not to do what we can.



Having said this much on the subject, I think it necessary to remark that the prospect of a new fund, so far from abating our endeavours in making every immediate provision for the army, ought to quicken us therein; for should the states see it expedient to go upon the measure, it will be at least a year before it can be productive. I the more freely mention this, because there is a dangerous species of popularity, which, I fear, some men are seeking from their constituents by giving them grounds to believe that if they are elected they will lighten the taxes; a measure which, in the present state of things, cannot be done without exposing the country to the ravages of the enemy by disabling the army from defending it.

Where knowledge is a duty ignorance is a crime; and if any man, whose duty it was to know better, has encouraged such an expectation, he has either deceived himself or them: besides, no country can be defended without expence, and let any man compare his portion of temporary inconveniences arising from taxation with the real distresses of the army for want of supplies, and the difference is not only sufficient to strike him dumb, but make him thankful that worse consequences have not followed.

In advancing this doctrine, I speak with an honest freedom to the country; for as it is their good to be defended, so it is their interest to provide that defense, at least till other funds can be organized.

As the laying out new states will some time or other be the business of the country, and as it is yet a new business to us; and as the influence of the war has scarcely afforded leisure for reflecting on distant circumstances, I shall throw together a few hints for facilitating that measure, whenever it may be proper for adopting it.

The United States now standing on the line of sovereignty, the vacant territory is their property collectively, but the persons by whom it may hereafter be peopled will also have an equal right with ourselves; and therefore, as new states shall be laid off and incorporated with the present, they will become partakers of the remaining territory with us who are already in possession. And this consideration ought to heighten the value of lands to new emigrants: because, in making the purchases, they not only gain an immediate property, but become initiated into the right and heirship of the States to a property in reserve, which is an additional advantage to what any purchasers under the late government of England enjoyed.

The setting off the boundary of any new state will naturally be the first step, and as it must be supposed not to be peopled at the time it is laid off, a constitution must be formed by the United States, as the rule of government in any new state, for a certain term of years, (perhaps ten) or until the state becomes peopled to a certain number of inhabitants; after which, the whole and sole right of modeling their government to rest with themselves.

A question may arise, whether a new state should immediately possess an equal right with the present ones in all cases which may come before Congress.

This, experience will best determine; but at a first view of the matter it appears thus: That it ought to be immediately incorporated into the union on the ground of a family right, such a state standing in the line of a younger child of the same stock; but as new emigrants will have something to learn when they first come to America, and a new state requiring aid rather than capable of giving it, it might be most convenient to admit its immediate representation into Congress, there to sit, hear and debate on all questions and matters, but not to vote on any till after the expiration of seven years.

I shall in this place take the opportunity of renewing a hint which I formerly threw out in the pamphlet Common Sense, and which the several states will, sooner or later, see the convenience, if not the necessity, of adopting; which is, that of electing a Continental Convention, for the purpose of forming a Continental Constitution, defining and describing the powers and authority of Congress.

Those of entering into treaties, and making peace, they naturally possess, in behalf of the states, for their separate as well as their united good: but the internal control and dictatorial powers of Congress are not sufficiently defined, and appear to be too much in some cases and too little in others; and therefore, to have them marked out legally will give additional energy to the whole, and a new confidence to the several parts.