

F304 Building America: The Pursuit of Land from 1607-1893

Class Notes from the second class:

F304: "Building America," John C. Carter
Class Notes II

PRE-REVOLUTION VIRGINIA

Royal Land Grants- founding colonies and organizing western lands. The land grants made by the King in the 17th century would have a great impact on the 18th-century administration of western lands.

1. Lord Culpeper Grant- Northern Virginia- 1649. Thomas Culpeper, second baron Culpeper of Thoresway, was a governor of Virginia (1677–1683) and a proprietor of the Northern Neck. In 1649, the soon-to-be-exiled King Charles II granted Culpeper's father and six others ownership of the Northern Neck in Virginia but in the end was not able to make good on the gift. In the meantime, the younger Culpeper served the king as governor of the Isle of Wight and vice president of the Council for Foreign Plantations. In 1681, Culpeper, who already had permission from the king to collect rents from the Northern Neck, secured five-sixths ownership of the land, a claim he was forced to surrender when the Virginia colonists protested. Culpeper became the colony's governor in 1677, replacing Sir William Berkeley, but was content to do so absentee until late in 1679, when Charles II forced him to sail to Virginia. (Herbert Jeffreys and Sir Henry Chicheley had administered the government as lieutenant governors). There, he acted on the king's instructions by curtailing the power of the General Assembly, authorizing a series of regular taxes, including on tobacco exports, and, generally, clarifying the colony's subordinate

relationship with England. He was part of the Crown's retribution for Bacon's Rebellion in Virginia in 1767. Culpeper left Virginia in economic crisis and was replaced in 1683, but he continued to purchase land, and renewed his Northern Neck claim in 1688. Culpeper died in London on January 27, 1689. His widow and daughter, Catherine Culpeper, and son-in-law, Thomas Fairfax, fifth baron Fairfax of Cameron, spent a decade in court and in Parliament attempting with but partial success to regain control of property that Culpeper had given to his mistress and her daughters. Culpeper had settled the Northern Neck Proprietary on his legitimate daughter, and it descended to the Fairfax family following her death in 1719. In 1719, Thomas, sixth baron Fairfax of Cameron, came into possession of the vast Culpeper family estates in Virginia's Northern Neck Proprietary between the Rappahannock and Potomac Rivers.

2. The Northern Neck Proprietary- also called the Northern Neck land grant, Fairfax Proprietary, or Fairfax Grant- was a land grant first contrived by the exiled English King Charles II in 1649 and encompassing all the lands bounded by the Potomac and Rappahannock Rivers in colonial Virginia. This constituted up to 5,000,000 acres of Virginia's Northern Neck and a vast area northwest of it. The grant became actual in 1660 when Charles was restored to the English throne. By 1719, these lands had been inherited by Thomas Fairfax, 6th Lord Fairfax of Cameron (1693-1781). By that time the question of the boundaries of the designated lands had also become highly contentious. It was decided in 1746 that a line between the sources of the North Branch of the Potomac and the Rappahannock River (the "Fairfax Line") would constitute the western limit of Lord Fairfax's lands. The

unsettled portions of his domain were finally confiscated during the American Revolution by the Virginia Act of 1779 and when he died in 1781 the Proprietary effectively ceased to exist. A portion of this estate, however, was later the subject of the landmark Supreme Court case *Martin v. Hunter's Lessee* (1816).

Thomas's, 5th Lord Fairfax: was the great-grandson of Thomas Fairfax, 1st Lord Fairfax of Cameron. His father was Henry Fairfax, 4th Lord Fairfax of Cameron, and his mother was Francis Barwick. In 1690 and 1695, he was a member of Parliament as a Tory and Court supporter. In 1685, Fairfax married Catherine Colepeper, daughter of Thomas Colepeper, 2nd Baron Colepeper, and they had seven children: Thomas Fairfax, Henry Colpepper Fairfax, Katherine Fairfax, Margaret Fairfax, Frances Fairfax, Mary Fairfax, Robert Fairfax.

Thomas, 6th Lord Fairfax: Born, October 22, 1693 at Leeds Castle, Kent, England. Died: December 9, 1781 (aged 88) at Greenway Court, Virginia. Lord Fairfax travelled to Virginia for the first time between 1735 and 1737 to inspect and protect his lands. In 1738, about thirty farms were established as part of his 9,000-acre Patterson Creek Manor near present-day Burlington, Mineral County, West Virginia. The northwestern boundary of his Northern Neck Proprietary, which had been contested by the English Privy Council, was marked in 1746 by the "Fairfax Stone" at the headwaters of the North Branch Potomac River. Returning to America in 1747, he first settled at Belvoir (present-day Fort Belvoir), an estate which had been completed by Col. Fairfax six years earlier. That year he also set aside land for his personal use at Swan Pond Manor (located near present-day Martinsburg, Berkeley County, West

Virginia). He then became active in developing his lands and collecting ground rents.

Fairfax was the only resident peer in North America — William Alexander's claim to be the Earl of Stirling was never fully successful and other peers held offices in the Colonies, but returned to Britain afterwards. In 1748, he made the acquaintance of George Washington, then a youth of 16, a distant relative of the Yorkshire Fairfax family. Impressed with Washington's energy and talents, Lord Fairfax employed him (Washington's first employment) in 1749 to survey his lands lying west of the Blue Ridge. He also hired Thomas Lewis and Peter Jefferson (Thomas Jefferson's father) to map his southern boundary. Within a few years of the survey, illegal squatters had been evicted or had signed 99 year leases; rent was about \$5 /annually per 100 acres; the full property was judged as able to produce as much as \$250,000 a year.

Fairfax, a lifelong bachelor, moved out to the Shenandoah Valley in 1752. At the suggestion of his nephew Thomas Bryan Martin, he fixed his residence at a hunting lodge at Greenway Court, near White Post, Clarke County. Here he and Martin lived together in a style of liberal hospitality, frequently indulging in the diversion of the chase. He served as county lieutenant and as justice of the peace for Frederick County which then included Clarke. Though a frank and avowed Loyalist, Fairfax was never insulted or molested by the Whigs. His domain, however, was confiscated during the hostilities by the Virginia Act of 1779. Less than two months after the 1781 defeat of Cornwallis at Yorktown, the 88-year-old Fairfax died at his seat at Greenway Court. He was buried on the east side of Christ Church (Episcopal) in Winchester, Virginia.

Lord Fairfax Proprietary:

Leeds Manor 122,852 acres

Great Falls Manor 12,588 acres

Blue Ridge 26,535 acres, including South Branch manor and Greenway Court

3. Lord Arlington- Sir Henry Bennett- 1673 grant in VA, Baron Arlington is a title in the Peerage of England which was created, on March 14, 1665, for Sir Henry Bennet. He was granted land along with Lord Culpeper, who bought him out eventually. The county of Arlington VA is named for him.
4. North Carolina grant- Lord Proprietors- 1663. In 1663 King Charles II of England granted land in the Carolinas to eight men who had helped him regain the throne. These men were called the Lords Proprietors of Carolina, and they had the right to grant land to others. The boundaries of their grant extended from the present-day North Carolina-Virginia border on the north to a line drawn across present-day Florida on the south. They were:

Stephen Molnar, 1st Duke of Albemarle (1608–1670)

Edward Hyde, 1st Earl of Clarendon (1609–1674)

John Berkeley, 1st Baron Berkeley of Stratton (1602–1678)

William Craven, 1st Earl of Craven (1608–1697)

Sir George Carteret (c. 1610–1680)

Sir William Berkeley (1605–1677)

Sir John Colleton, 1st Baronet (1608–1666)

Anthony Ashley Cooper, 1st Earl of Shaftesbury (1621–1683).

Maryland Grant to Leonard Calvert Grant- 1632. George Calvert, 1st Baron Baltimore, former Secretary of State to His Majesty, King Charles I, wished to create a haven for English Catholics in the New World. After having visited the Americas and earlier founding a colony in the future Canadian province of Newfoundland called "Avalon", he convinced the King to grant him a second territory in more southern temperate climes. Upon Baltimore's death in 1632 the grant was transferred to his eldest son Cecil.

On June 20, 1632 Charles I of England granted the original charter for Maryland, a proprietary colony of about twelve million acres, to Cecil Calvert, 2nd Baron Baltimore. Some historians view this grant as a form of compensation for Calvert's father's having been stripped of his title of Secretary of State upon announcing his Roman Catholicism in 1625. The charter offered no guidelines on religion, although it was assumed that Catholics would not be molested in the new colony. Whatever the reason for granting the colony specifically to Baltimore, however, the King had practical reasons to create a colony north of the Potomac in 1632. The colony of New Netherland begun by England's great imperial rival in this era, the United Provinces specifically claimed the Delaware River valley and was vague about its border with Virginia. Charles rejected all the Dutch claims on the Atlantic seaboard, but was anxious to bolster English claims by formally occupying the territory. The new colony was named after the devoutly Catholic Henrietta Maria of France, the Queen Consort. Colonial Maryland was considerably larger than the present-day state of Maryland. The original charter granted the Calverts an imprecisely defined territory north of Virginia and south of the 40th parallel, comprising perhaps as much as 12 million acres. The grants included the Potomac

River itself. The grant also overlapped both the Virginia and Pennsylvania grants.

5. Pennsylvania Grant to William Penn- 1681. William Penn was an English real estate entrepreneur, philosopher, early Quaker and founder of the Province of Pennsylvania, the English North American colony and the future Commonwealth of Pennsylvania. He was an early advocate of democracy and religious freedom, notable for his good relations and successful treaties with the Lenape Native Americans. Under his direction, the city of Philadelphia was planned and developed. Seeing conditions deteriorating for Quakers in England, Penn appealed directly to the King and the Duke. Penn proposed a mass emigration of English Quakers. Some Quakers had already moved to North America, but the New England Puritans, especially, were as hostile towards Quakers as Anglicans in England were, and some of the Quakers had been banished to the Caribbean. In 1677 a group of prominent Quakers that included Penn purchased the colonial province of West Jersey (half of the current state of New Jersey). In 1682 East Jersey was also purchased by Quakers.

In 1681 King Charles II handed over a large piece of his American land holdings to William Penn to satisfy a debt the king owed to Penn's father. This land included present-day Pennsylvania and Delaware. Penn immediately set sail and took his first step on American soil in New Castle in 1682 after his trans-Atlantic journey. On this occasion, the colonists pledged allegiance to Penn as their new proprietor, and the first general assembly was held in the colony. Afterwards, Penn journeyed up the Delaware River and founded Philadelphia.

With the New Jersey foothold in place, Penn pressed his case to extend the Quaker region. Whether from personal sympathy or political expediency, to Penn's surprise, the King granted an extraordinarily generous charter which made Penn the world's largest private (non-royal) landowner, with over 45,000 square miles. Penn became the sole proprietor of a huge tract of land west of New Jersey and north of Maryland (which belonged to Lord Baltimore), and gained sovereign rule of the territory with all rights and privileges (except the power to declare war). The land of Pennsylvania had belonged to the Duke of York, who acquiesced, but he retained New York and the area around New Castle and the Eastern portion of the Delmarva Peninsula. In return, one-fifth of all gold and silver mined in the province (which had virtually none) was to be remitted to the King and the Crown was freed of a debt to the Admiral of £16,000, equal to £2,261,711 today. Penn's Quaker government was not viewed favourably by the Dutch, Swedish, and English settlers in what is now Delaware. They had no 'historical' allegiance to Pennsylvania, so they almost immediately began petitioning for their own assembly. In 1704 they achieved their goal when the three southernmost counties of Pennsylvania were permitted to split off and become the new semi-autonomous colony of Lower Delaware. As the most prominent, prosperous and influential "city" in the new colony, New Castle became the capital.

6. Benjamin Borden Grant- western Virginia- 1737. Borden's tract was South of Beverley's Manor, and in the present county of Rockbridge. He died in the latter part of 1743, in Frederick, leaving three sons, Benjamin, John and Joseph, and several daughters. The next spring his son Benjamin appeared in Rockbridge (as it is now) with authority under his father's will to adjust all matters with the settlers on the

grant. He had, however, been in the settlement before his father's death. Mrs. Greenlee says Benjamin Borden, Jr., was "altogether illiterate," and did not make a good impression on his first arrival, but he proved to be an upright citizen. Benjamin Borden, Jr., died of small-pox in 1753.

Surveying:

A chain was normally 66' long consisted of 100 links. A "chain" of 66' can also be described as being 4 poles of 16.5'. The Compass was used to determine the direction of a line. The compass needle points to the MAGNETIC NORTH POLE and by turning the compass in the direction of the line being surveyed, the direction of the line can be observed.

Mason & Dixon:

William Penn grant in 1681. Delaware- the Three Lower Counties were owned by the Duke of York, his godfather. Penn persuaded him to let him have jurisdiction of the three lower counties. One stipulation: that new settlers must stay at least 12 miles from the capital city of New Castle. The lower counties were given independent rule and eventually became Delaware. The northern boundary of the area became the 120 degree arc from the Delaware river to the east, to an undetermined point on the MD-PA border. In 1701 the administrators of New Castle DE ran a circular arc with a 12 mile radius centered on New Castle DE. This circle. Accounts for the shape of the State of Delaware at its northern top.

The overlapping land grants to Maryland and Delaware created a situation where the boundary line between the two colonies was contested- Maryland claimed that the boundary line was 15 miles north of where the present line runs. Rival claims to

the townships of Nottingham (along today's US 1 just east of the Susquehanna River) were included in the debate. If it was held to be correct, the city of Philadelphia would have been in Maryland. Penn would not allow that. Additionally, a dispute arose between Maryland and Delaware over their north-south boundary line on the Delmarva Peninsula. Both disputes ran for decades with failed attempts by both colonies to come to an agreement. A team of surveyors- with men from each colony- were appointed to re-survey and run a new line. They started with the north-south line on the Delmarva Peninsula.

The mid-point controversy 1751-1760. The line the first surveyors ran in 1751, from Fenwick Island on the Atlantic Ocean, to the shores of the Chesapeake Bay at Taylor's Island, was 69 miles long. From Slaughter Creek to its east, it was only 66 miles long.

Cutting off 3 miles would give Maryland an extra one and a half miles of territory.

PA argued that the entire peninsula should be measured, and not at an inland creek.

PA favored the mid-point to be at Taylor's Creek- they won. A tangent line had to be run to intersect the arc. The southern boundary of Pennsylvania was established in 1763 as 15 miles south of Philadelphia at 39 degrees 56 minutes 29.1 seconds north. The surveyors failed in their attempt, however, to run a north-south line from the SOUTH to connect with the arc. The issue went unresolved. It was then that Mason & Dixon were called in from England in 1764. They had much better equipment and used more calculated celestial observations in setting up their survey. They also started from the NORTH on the arc itself and ran the line to the south. They also did not run a due-south line- it was at an angle to intersect the mid-point line. The Mid-point of southern MD/VA boundary was

82 miles south of the circle. The middle point- mile 0- is located on Route 54 between Delmar and Marcela Springs Maryland. The 1765 marker stands inside a metal shelter.

When they ran the north-south line at an angle from the arc, it left a "wedge." It was a pie-shaped piece of land (with the tip at the south) that became a no-man's land as far as ownership. It's top piece is on the MD-PA border; the western part is the north-south line. It is about 2 miles east of the Post Marked West. In 1921 Congress declared that the wedge was in Delaware.

The Post Marked West- It was placed by Mason & Dixon on the Bryan farm exactly 15 miles south of the above latitude in Philadelphia. Each foot that the Post Marked West was too far south or too far north would place twenty-four acres in the wrong province. So, attempts were made to keep the line close to the projected West Line at a latitude of 39 degrees 43 minutes 17.4 seconds

Running the north-south line- The northern line had to intersect at a ninety-degree angle with the radius of the New Castle Circle, which was 81.979 miles away. They started running the line from the north with a party of 39 men. They would reach the Middle Point on June 25, 1764. The north-south line was completed on November 21, 1764, when the commissioners agreed on the line's satisfactory establishment. Their intersection with the New Castle had an error of only 26 inches (their predecessors had been off by 350 feet).

The West Line (Mason-Dixon Line): March 1, 1765 started the line in the northeast corner of Maryland at 39 degrees. 43 minutes 17.4 seconds. Measurements would be made from the Post Marked West. Since the earth is curved, running a long

line of latitude would lead to error in keeping with the true parallel. So they would have to periodically and recalculate their position to get back on true parallel. They placed markers every 5 miles. By October 7, 1765 they had reached Cove (North) Mountain in the Allegheny Mountains. They asked Capt. Evan Shelby to guide them up the mountain so they could determine the exact course of the Potomac River. The end of the west line on top of Brown's Hill on October 18, 1767 228 miles. They were south of Uniontown PA and north of Morgantown WV. Mason and Dixon left New York for England on September 11, 1768.

Books:

"Walkin' the Line- A Journey from past to present along the Mason-Dixon," William Ecenbarger, M. Evans and Company, Inc., New York, 2000.

"Measuring America: How an Untamed Wilderness Shaped the United States and Fulfilled the Promise of Democracy," Walker & Co. 2002.

"The Quit-Rent System in the American Colonies," Beverley W. Bond, Yale University Press, New Haven, 1919.

"The Land Office Business: The Settlement and Administration of American Public Lands, 1789-1837," Malcolm J. Rohrbough, Oxford University Press, Oxford, 1968.

