SOCIETY AND GOVERNMENT
IN LOUDOUN COUNTY, VIRGINIA, 1790-1800

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Loudoun County is the geographically diverse area which forms the apex of the Piedmont region of Virginia. Within its borders mountains, limestone valleys, and the piedmont plain have a variety of soils. During the mid-eighteenth century the region was settled by successive waves of Germans and Quakers from Pennsylvania and Maryland, by small farmers from the south, by great landowners and their slaves from Tidewater, and by a sprinkling of Scots-Irish from the Shenandoah Valley to the west. These people followed a half dozen different faiths and tended to live in communities isolated from one another. All gained their livings either directly or indirectly from the soil and as farmers and planters were largely independent if not self-sufficient.

Descriptions of the physical setting, both natural (geographic and climatic) and man-made (the transportation network and towns), and of the development of Loudoun society form the backdrop against which Loudoun's county court is examined. The understanding of the court is central to an understanding of Loudoun's society because the court was the one institution which gave the community unity. The functioning of that court touched the lives of Loudoun's citizens daily, and an examination of its workings forms the heart of this study.

Its members were the leading men of the community both socially and economically. When sitting as members of the court they had jurisdiction over a broad range of executive

and legislative as well as judicial activities including the laying of the annual levy, the appropriation of funds, the passage of rules and regulations for the everyday ordering of society, the enforcement of laws, the administration of public welfare, the licensing of attorneys, ministers, ordinaries, mills, and retail stores, and the dispensing of justice in almost all civil and criminal cases. All of these functions are described and their execution analyzed. Only a small number of justices regularly attended meetings of the court and the bulk of work involved in operating local government fell on them and on the half dozen executive officers who administered the county between court sessions. These officers were drawn from the same group which made up the county court although they tended to be a bit less wealthy than their colleagues on the court.

This county court system met the basic governmental needs and provided a necessary element of social cohesion for a people of such diverse religious, economic, and ethnic backgrounds. In short, this is a study of the daily operation of society and government in one locale, Loudoun County, Virginia, during one specific period, the 1790s.

PREFACE

Over the last twenty years American historians, inspired in part by the work of the Annales school in France, have widened their field of inquiry to include not only great men, great public events (wars, revolutions, elections), and mass movements (the colonization of the New World, the Industrial Revolution, the rise of totalitarianism), but also the common man, his family and economic life, his beliefs and culture, and the structure of his political and social community. Efforts to understand American society as a whole have led to generalized treatments of life during broad eras. The value of such studies is unquestioned. However, Jesse Lemisch, a practitioner of viewing history "from the bottom up," notes that "no generalization has much meaning until we have actually examined the constituent parts of the entity about which we are generalizing."

It is the examination of one such "constituent part," Loudoun County, Virginia, at the end of the eighteenth century, which I have undertaken in this study. The people of Loudoun were not very articulate in a literary sense. Many were probably illiterate, and little of what the others put down on paper survives. Thus, any effort to understand them, the conditions of their lives, and the workings of their society must be primarily based on what they did, on legal records, and on the physical artifacts which have survived. When I

began this study, I was warned that I faced a paucity of source materials. In some areas such warnings proved true, but in others I found that a wealth of information was available. This wealth and the constraints of length have led me to focus only on the everyday functioning of society and local government in Loudoun. Even in this limited field I wished at times to know more than the source materials could tell. Having noted these limitations on the data, I still feel that a fairly clear portrait of society and government in Loudoun County can be limned for the 1790s. The relationship of Loudoun to other regions and the extent to which it typifies other areas are beyond the scope of this work. Perhaps a series of portraits like this one can become brushstrokes from which a portrait of America during its early national years can be discerned. In any case, I feel that this study can stand alone as an entity with a certain intrinsic value.

Anyone undertaking a study of any size incurs a great number of obligations. In particular I owe a great debt of gratitude to my mentor, Professor William W. Abbot, who has unstintingly advised and encouraged me during the preparation of this manuscript. I am indebted to Professor D. Alan Williams for reading and criticising the entire manuscript. My thanks are due also to the staffs of Alderman Library at the University of Virginia, the Archives Branch of the Virginia State Library in Richmond, and the

inter-library loan librarian of Nimitz Library of the United States Naval Academy. In addition, James A. Bear, Jr., of the Thomas Jefferson Memorial Foundation helped clear my view of eighteenth-century Virginia. John W. Huston of the Department of History, United States Naval Academy served as a source of encouragement, and my colleague Charles Todorich painstakingly proofread the final typescript.

My deepest appreciation extends to my parents for their support in several ways. Only others who have undergone the rigors involved in obtaining a degree can appreciate the debt I owe my wife. Her constant support and understanding made it all possible.

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THE SETTING

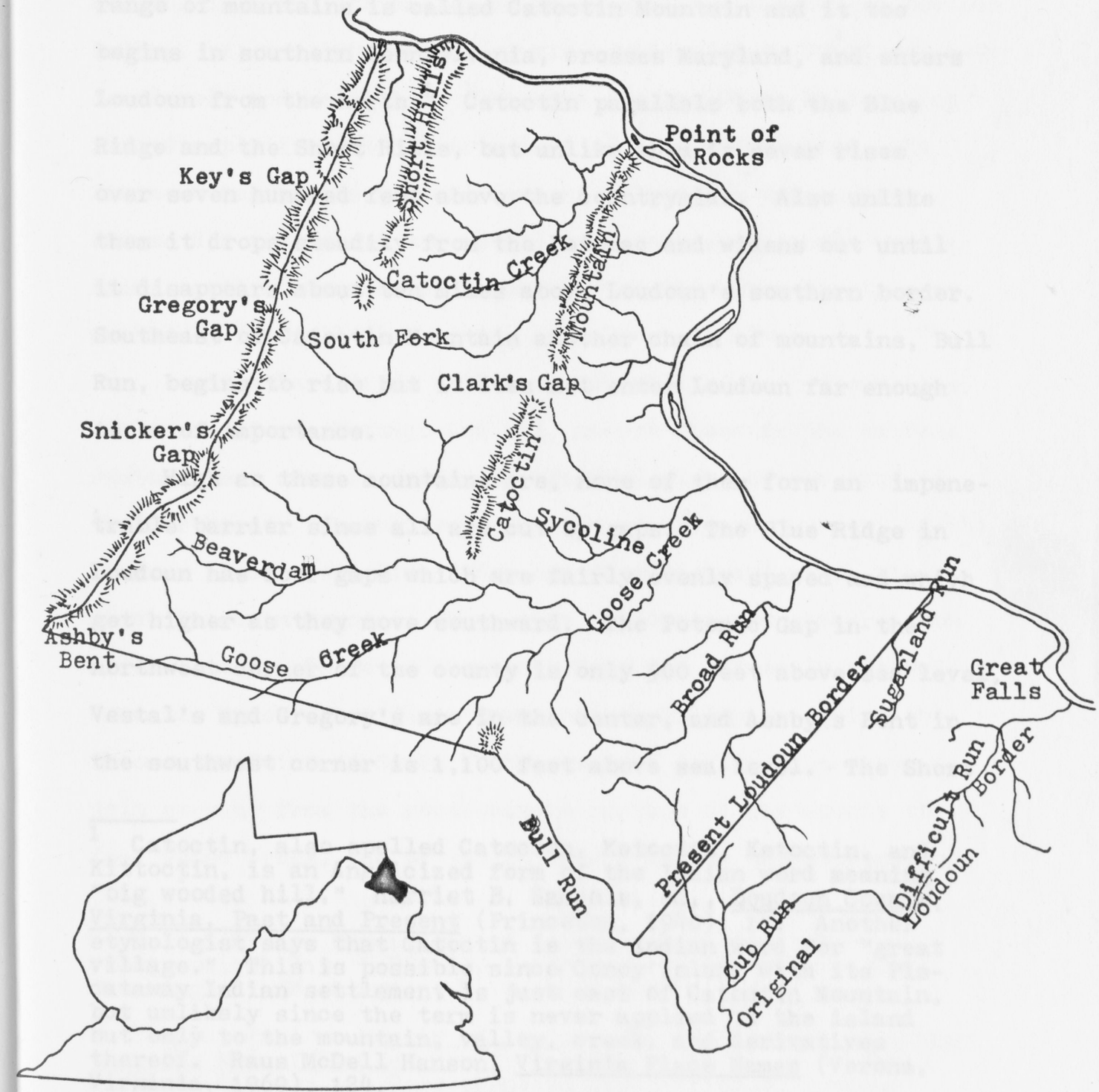
Loudoun County is a meeting place of cultures, a melting pot. To examine it is to examine a process and to study it at any specific time is to view one stage in that process. It was settled by people with differing religions, societies, traditions, economies, politics, and even differing languages. All of these factors interacted and all of them were influenced by the physical environment. Loudoun society was never totally static, but there was one period of relative calm. It is as if it stopped after its settlement and rested before moving on. All the elements were present, the pot was filled but the heat had not yet been applied.

It is that era of relative calm, the 1790s, which will be examined here. But first a look at Loudoun's geography, her land, her people, and her development prior to that time is in order.

I
Physical Setting

Loudoun County is the diamond shaped area which forms the apex of the Piedmont region in Virginia. Topographically diverse it is a region of rockstrewn, rolling hills and valleys.

The Blue Ridge Mountains run south-southwesterly along Loudoun's western border and rise to a height of 1,000 to 1,600 feet above sea level, which is from 300 to 900 feet above the adjacent countryside. Parallel to and four miles



LOUDOUN COUNTY

east of the Blue Ridge lie the Short Hills. These are as high as the Blue Ridge but end abruptly only fifteen miles below their entry into the county at the Potomac. A third range of mountains is called Catoctin Mountain and it too begins in southern Pennsylvania, crosses Maryland, and enters Loudoun from the north.[1] Catoctin parallels both the Blue Ridge and the Short Hills, but unlike them it never rises over seven hundred feet above the countryside. Also unlike them it drops steadily from the Potomac and widens out until it disappears about ten miles above Loudoun's southern border. Southeast of Catoctin Mountain another chain of mountains, Bull Run, begins to rise but it does not enter Loudoun far enough to be of importance.

High as these mountains are, none of them form an impenetrable barrier since all are cut by gaps. The Blue Ridge in Loudoun has four gaps which are fairly evenly spaced and which get higher as they move southward. The Potomac Gap in the northwest corner of the county is only 500 feet above sea level, Vestal's and Gregory's are in the center, and Ashby's Bent in the southwest corner is 1,100 feet above sea level. The Short

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[1] Catoctin, also spelled Catocton, Ketocton, Ketoctin, and Kittoctin, is an Anglicized form of the Indian word meaning "big wooded hill." Harriet B. Samuels, ed., Loudoun County, Virginia, Past and Present (Princeton, 1940), 14. Another etymologist says that Catoctin is the Indian word for "great village." This is possible since Conoy Island with its Piscataway Indian settlement is just east of Catoctin Mountain, but unlikely since the term is never applied to the island but only to the mountain, valley, creek, and derivatives thereof. Raus McDell Hanson, Virginia Place Names (Verona, Virginia, 1969), 124.

Hills are cut at Hillsborough and Catoctin Mountain is cut near its center by Clark's Gap.[2]

Between the Blue Ridge and Catoctin Mountain lies a high sloping intermediate valley or base-level plain known as Loudoun Valley. It is eight to twelve miles wide, 350 to 730 feet above sea level, and relatively flat save for the Short Hills which rise steeply from its floor. East of Catoctin Mountain the Piedmont begins its gradual descent (elevation varies from 200 to 250 feet above sea level) by a series of gentle undulations until Loudoun ends on the edge of Tidewater Virginia as marked by the fall line of the state's great rivers.[3]

Loudoun herself is well watered. All of her streams are affluents of the Potomac and all, except those in the extreme southeastern corner, follow the general slope of the land to the northeast. In the western third of the county, most of the streams rise in the Blue Ridge and flow eastward until they reach Catoctin Mountain where they are deflected either north or southward. Those in the north feed the extremely crooked Catoctin Creek which flows down Loudoun Valley and joins the Potomac at Point of Rocks. Those waters deflected southward join streams from the southwestern portion of the county to feed Goose Creek, one of the Potomac's larger tributaries.

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[2] United States Department of Interior Geological Survey Topographical Map, 1:250,000 scale series, "Baltimore" and "Washington" (Washington, D.C., 1966-1967).

[3] Yardley Taylor, Memoir of Loudoun County Virginia to Accompany the Map of Loudoun County (Leesburg, 1853), 6-8; James W. Head, History and Comprehensive Description of Loudoun County Virginia (n.p., 1908), 18-20; Henry Howe, Historical Collections of Virginia (Charlestown, S.C., 1845), 352-353; Joseph Martin, Gazeteer of Virginia and the District of Columbia (Charlottesville, 1835), 206-207.

Goose Creek's headwaters lie in Fauquier County about twenty miles south of the Loudoun border. As it crosses Loudoun it is joined by such tributaries as Beaverdam Creek, Little River, North Fork, Tuscarora Creek, Hunger Run, Cromwell's Run, and Sycoline to drain over half the county before emptying into the Potomac just east of Leesburg. East of this region, Broad Run and Sugarland drain considerable areas as does Difficult Run, the eastern border of Loudoun until 1798. Cub and Bull Runs form the southeastern border of Loudoun before meeting and flowing into the Occoquan River, another of the Potomac's many tributaries. Each of these streams contains many sites suitable for mills, and together they make Loudoun one of the state's best watered counties. None of them is large enough to form a barrier to travel; except in floodtime, all may be forded at several places. At the same time, none were navigable during the eighteenth century. Two of the streams, Goose Creek and its Little River branch, were large enough that they were converted into canals during the first half of the nineteenth century.

A second water resource for Loudoun is its numerous springs. These are a product of the slaty sub-soil of Loudoun's hills and mountains. The soil's porosity allows water to seep downward through the hills and then to rise to the surface on the surrounding plains. The largest of these springs is located just north of Leesburg and is aptly named Big Spring. This same soil porosity accounts for the fact that the Potomac has fewer swampy areas than are found along the James and

Roanoke Rivers and keeps Loudoun from suffering the erosion and washouts that plague the Virginia Piedmont regions to the south.[4]

Loudoun was not as uniformly blessed with regard to soil. During the 1790s it had within its borders all kinds from rich alluvial loam to relatively unproductive clays and almost sterile sands. Generally, its eastern section, that part lying east of a line through Leesburg and Aldie, was less productive than the region to the west, partly because its soil was inferior (notably it lacked limestone), but largely because of the uninterrupted cultivation of tobacco and then corn during the colonial era.[5]

In Loudoun Valley, between the Blue Ridge and Catoctin Mountain, the topsoil was a sandy loam of from eight to twelve inches in depth. It was light and except where the subsoil contained a great deal of quartz retained moisture well, thus giving crops good drought resistance.[6]

East of Catoctin Mountain and south and west of the Potomac River runs a band of Penn Clay. Although called a clay, this reddish-brown iron-bearing soil was in fact a loam. Its depth varied from six to twelve inches and it was among

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[4] Isaac Weld, Jr., Travels Through the States of North America and the Provinces of Upper and Lower Canada, During the Years 1795, 1796, and 1797, 2 vols. (London, 1799), I, 203-204 and Taylor, Memoir, 26-27.

[5] Johann David Schoepf, Travels in the Confederation, 1783-1784, 2 vols., translated and edited by Alfred J. Morrison (Philadelphia, 1911), II, 34; Thomas Jefferson to Sir John Sinclair, 30 June 1803, Albert E. Berg, ed., The Writings of Thomas Jefferson, 20 vols. (Washington, 1907), X, 396.

[6] Head, Loudoun, 53-55; Taylor, Memoir, 11.

the best soils in Virginia. Water was seldom a problem since the area was dotted with limestone springs and the heavy clay subsoil prevented excessive seepage.[7]

Just south of this Penn Clay, and actually an extension of it, lays an area of Penn Stony loam, so named because of the large numbers of sandstone fragments intermixed with it. It began just south of Leesburg and spread out to cover the Piedmont Plateau region of southeastern Loudoun. This type of soil was easily depleted but if cared for was of average fertility and capable of producing good wheat crops.[8]

Most of the rest of Loudoun was covered with a patchwork of loams of which Cecil loam (covering about a third of the county) was most common. These loams generally varied from eight to twelve inches in depth and rested on subsoils of clay. From Goose Creek eastward they tended to become thinner and less productive.[9] In this region the land was quite level and the soil quite loose and easy to cultivate, but it did not hold water very well and in dry spells this could be a problem.[10] East of Broad Run the soil became very thin and in places was only a few inches deep. Here the subsurface rock was so dense that water could not penetrate it, causing an excess of water in rainy weather and a scarcity during much of the rest of the time.[11] What soil there was here was quite poor, but this was

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7 Schoepf, Travels in Confederation, II, 30-31; Head, Loudoun, 54-55; Taylor, Memoir, 17.

8 Nicholas Cresswell, The Journal of Nicholas Cresswell (New York, 1924), 48; Head, Loudoun, 55-56.

9 Cresswell, Journal, 47.

10 Taylor, Memoir, 17-18.

11 Ibid., 9.

largely the result of poor usage. In fact, the productiveness of the varying soil types throughout the county depended more in the 1790s on its use and the care given it than on its inherent qualities. Most had once been fertile, but lacking lime and nitrogen, were easily depleted.

Finally there were two types of soil that appeared only in long ribbons. They bracket all others in terms of fertility. One, DeKalb Stony Loam, was a mountain soil and covered the crests and slopes of the Blue Ridge, Short Hills, and Catoctin Mountain. It was usually located on rugged surfaces and was unfit for agriculture of any type but would support timber.[12] At the other end of the spectrum were the rich alluvial soils of Loudoun's river valleys. These loams varied in content since their nature depended basically upon the soils in nearby areas. Few of Loudoun's smaller streams had beds far enough below the surface of the surrounding land to form very wide depressions but several of the larger streams had "bottoms" as they were called, or a low terrace a few feet above the mean water level. This "bottom land" was usually a brown, silty color and very fertile. As a rule the soil was loosely packed, very deep (often several feet), and well enough drained to cultivate. The Potomac River had the largest bottom and much tobacco was raised there, but most of the other bottoms that were farmed were planted with hay or corn.[13]

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[12] Martin, Gazeteer, 209-220; Taylor, Memoir, 17-18; Head, Loudoun, 64-65.

[13] Head, Loudoun, 49, 66; Schoepf, Travels in Confederation, II, 28-29.

Loudoun's mineral resources, like those of eastern Virginia in general, were limited. It had nothing that could be commercially exploited before the nineteenth century when attempts were made to develop deposits of limestone, iron, copper, and marble and even then results were at best mixed. Slate and sandstone were common but of generally low quality.[14]

Loudoun's climate is mild and practically uniform over the entire county. In the course of a year temperatures may vary from just below zero to just over a hundred degrees. The mean average temperature is between 50 and 55 degrees; the winter average is in the mid-thirties and the summer average is in the low seventies. Annual precipitation totals approximately forty inches of which about sixteen inches occurs as snow. There is slightly more rain in the spring and summer months than in the fall and winter, but it is spaced so as to rarely be insufficient or excessive. Relative humidity averages a comfortable sixty-five per cent. Together these weather conditions form a climate which gives Loudoun a growing season of around two hundred days a year.[15]

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[14] Head, Loudoun, 26-49; Taylor, Memoir, 13-14; and Frank Saunders, "The Marble Quarry," Loudoun-Fauquier Magazine, III (1931), 12-13, 59, 79.

[15] Untitled information booklet mimeographed by the Loudoun County Chamber of Commerce; J.C. Porter, Soil Survey of Loudoun County, Virginia (Washington, 1960), 105; Head, Loudoun, 25-26. For a detailed analysis of Loudoun's soils see the Porter volume cited above. Loudoun's soil has changed little over the last century. James Head based his works on nineteenth century soil surveys. These are important, as is Taylor's 1853 Memoir, because they describe Loudoun's soil before the introduction of chemical fertilizers, artificial drainage systems, and flood control devices. Still the information in them is very similar to that reported by late eighteenth century travellers and mid-twentieth century scientists.

II

Settlement

These hills and valleys of Loudoun were familiar to the Indian long before the advent of white men. Its forests of hickory, walnut, chestnut, locust, ash, pine, oak, poplar, and cedar sheltered a variety of wild animals. Foxes, raccoons, woodchucks, wolves, squirrels, bear, rabbits, beavers, otters, and wildcats were especially numerous. At places the forests opened into clearings whose clover and grasses—blue, fox-tail, spear, and crab—supported buffao, elk, and deer. Drawn mainly by these grazing animals, the Indian came to Loudoun and set fires to destroy underbrush and enlarge the clearings to increase the herds.[16] At times the fires got out of control and when the white men came to Loudoun they found little large timber except on mountain sides or in scattered areas near streams or rivers.

The Indians who set these fires were members of the nomadic Siouan tribes and with one exception made no permanent settlement in the neighborhood of Loudoun. That one exception was a group of Piscataway Indians from Maryland who came from the region drained by the creek of the same name. They were a fairly small tribe, and during the late seventeenth century came under the influence of the more powerful Iroquois. In 1697 the Iroquois convinced the Piscataway to leave their Maryland homeland and to move southward across the Potomac

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[16] Head, Loudoun, 67-69; Harrison Williams, Legends of Loudoun (Richmond, 1938), 1-2.

River to what was to become Loudoun and Fauquier counties. Unhappy in that plains region, the tribe recrossed Loudoun two years later and settled on Conoy Island in the Potomac River opposite Point of Rocks. White Virginians, already troubled by the Iroquois and Susquehanna tribes, were worried by the entry of a third tribe into the area and sent agents to invite the Piscataway chiefs to a conference at Williamsburg. These agents, Burr Harrison and Giles Vandercastel, were the first white men known to have visited the region that was to become Loudoun, and their report contains the first known written record of the region. Long contact with other Indian tribes and with the whites in Maryland had made the Piscataway chiefs experienced diplomats. Fearing the Iroquois more than they did the whites, the chiefs assiduously avoided any meeting with the Virginians and remained on Conoy Island until 1722. In that year, Governor Spotswood and the Iroquois chiefs signed a treaty which bound those Indians to stay west of the Blue Ridge. The pressure was thereby removed from the Piscataways and they returned to their Maryland homelands. Conoy, like all Potomac islands, was and still is a part of Maryland, and therefore the Indians did not actually dwell in Loudoun but ranged over it from that nearby base. Once they returned to their ancestral home in northeastern Maryland, Loudoun lay empty of human inhabitants.[17]

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[17] Williams, Legends, 20-30; Richard L. Morton, Colonial Virginia, 2 vols. (Chapel Hill, 1960), II, 477-481.

This is not to say that lands in Loudoun were free for the taking, for Loudoun was a part of the five-million-acre Northern Neck of Virginia Proprietary which Charles II had granted to seven of his loyal lieges during Cromwell's rule. By the turn of the century the tract had passed into the hands of the Fairfax family whose members would control its ungranted lands and collect quitrents down to the Revolution.[18]

On the whole the proprietors' land policy was liberal and they made large grants to Virginians with the expectation that quitrents would provide the family with a steady income. Both the Fairfaxes and these large landholders also sold smaller tracts of land to individuals, especially to immigrants from Maryland and Pennsylvania. The prices they offered were attractive and, as William Beverly explained it, "the northern men are fond of buying land [from such large landholders] because they can buy it for six or seven pounds per hundred acres cheaper than they can take up land in Pennsylvania and they

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[18] In all there were five charters and as many lawsuits during the proprietorship's first century. In terms of boundaries the critical charter was that of 27 September 1688. It was given to Thomas, Lord Culpepper, by James II and replaced all earlier grants. Lord Culpepper's daughter and heiress married Lord Fairfax and in 1722 the property descended to their son, Thomas, the sixth Lord Fairfax who later moved to Virginia and settled on the estate. The borders of the proprietorship were fixed in Britain during the 1730s. Pertinent materials are printed in Charles E. Kemper, "Documents Relating to the Boundaries of the Northern Neck," Virginia Magazine of History and Biography, XXVIII (1920), 297-318. See also J. C. Groome, "Northern Neck Lands," Bulletin of the Fauquier Historical Society, I (1921), 7-65; John Treon, Martin vs. Hunter's Lessee, (Unpub. Ph.D. diss.,University of Virginia, 1970), 1-21; and Stuart E. Brown, Jr., Virginia Baron, the Story of Thomas Sixth Lord Fairfax (Berryville, Va., 1965), 26-34.

don't care to go as far as Williamsburg" to obtain grants directly from the Governor and Council.[19]

The policy of the Fairfaxes was so liberal in fact that a large part of Loudoun, especially in the area southeast of a line drawn through Leesburg and along Beaverdam Creek, was granted in just a few short decades before any of the area was even settled. Most of the grants were for thousands of acres and gave to this part of Loudoun an appearance quite different from the northern part of the county. Few, if any, of the grantees expected to occupy the lands in the near future, if at all. Some were acquiring reserve lands to which they might transfer their plantation activities once the soil of the "homequarters" became depleted by the constant drain of tobacco cultivation.[20] Other grants were totally speculative in nature and their owners planned only to hold the land until it could be sold at a profit.

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19 Quoted in F. B. Kegley, Kegley's Virginia Frontier (Roanoke, Va., 1938), 35. Not all Pennsylvanians who moved southward settled in the Northern Neck. Western Maryland generally filled up first simply because it was closer to Pennsylvania. The price of land was not a factor because, except for the brief period 1732-1735, Maryland's proprietors were selling lands at a price comparable to those charged by the Fairfaxes. Frederick County, Maryland, located just north of Loudoun was settled about a decade earlier. Carl D. Bell, The Development of Western Maryland, 1715-1753,(Unpub. M.A. thesis, University of Maryland, 1948),27-32.

20 British colonial officials were worried about soil exhaustion and land shortage in Eastern Virginia by 1690. Journals of the Commissions for Trade and Plantations, 14 vols. (London, 1920-38), III, 137; IV, 298; Schoepf, Travels in Confederation, II, 32.

Daniel McCarty's 1709 grant for 2,993 acres near Sugarland Run in eastern Loudoun was the first of these grants in Loudoun and typical of the large ones that followed.[21] During the next two decades Richard Lee obtained about 16,000 acres between Goose Creek and the Great Falls of the Potomac.[22] Large as these holdings were, they totalled less than one third the size of the lands obtained by Robert Carter who had extensive holdings throughout the Northern Neck and almost fifty thousand acres in Loudoun alone. Carter's Goose Creek tract consisted of several parcels in the southwestern part of the county, a total of 25,909 acres between Goose Creek and its Beaverdam Branch with a tail that reached eastward along the northern bank of Goose Creek to a point about six and one half miles from its mouth. His Frying Pan tract (also composed of several smaller tracts) covered another 27,000 acres in the southeastern section of the county. Just west of Loudoun, Carter controlled the Shenandoah Valley approaches to Williams' and Ashby's Gaps.[23] In 1736, the proprietor, Lord Fairfax, visited Virginia and for legal reasons decided to reserve two "manors" for himself. The first, Leeds, lay outside Loudoun's borders, but the second, Great Falls, contained 12,588 acres along the northern bank of Difficult Creek, the stream destined to form Loudoun's first boundary with Fairfax county.[24]

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[21] Northern Neck Land Patent Book (henceforth NNLPB), III, 248.

[22] Most of this land lay along Broad Run. See Ibid., V, 176, 240-241; A, 111; B, 162; C, 1; and F, 188.

[23] Ibid., B, 61, 145; C, 36-39, 78, 174-178.

[24] It ran northwesterly along the Potomac to the Lee family lands at Great Falls. Ibid., E, 28.

These grants are only a few, albeit some of the largest, of those which set the tone of southern and eastern Loudoun down at least to the Civil War. Few of the original owners ever moved to the tracts but some of their descendants did; for example, Robert Carter's great-grandson moved to the eastern end of his Goose Greek tract and built Oatlands in 1802, and one of Richard Lee's descendants, Henry Lee, attempted to establish a city, Matildaville, on the family's Great Falls lands. Of those landholders who never chose to live upon their lands, a few established quarters under the direction of overseers and some, toward the end of the century, established small farms which they rented. Still these lands remained relatively empty until after the Revolution. One visitor, Dr. Johann David Schoepf, described the area in this way in 1783:

> Along this road [the Carolina Road north and south through Leesburg] it was a matter of no little astonishment to see so much waste or new-cleared land, having just come from the very well settled and cultivated regions of Pensylvania [sic] and Maryland. The reason does not lie in any worse quality of the land, which is scarcely inferior to that beyond the Potowmack, but in the fact that individuals own great extensive tracts of land, from which they will sell none, so as to leave their families the more. All of them are very much disposed to let land in parcels, they retaining possession and seeing their land as much as possible worked and settled by tenants; but tenants are not easily to be had, so long as it is anywhere possible to buy land. This policy, which will certainly be advantageous to the posterity of such rich and important families, has in the neighborhood of New York and elsewhere stood much in the way of cultivation and settlement.[25]

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[25] Schoepf, Travels in the Confederation, II, 31-32. Six years earlier another traveller, Elkanah Watson, called this same area "a wild and secluded region." Winslow C. Watson (ed.), Men and Times of the Revolution; or Memoirs of Elkanah Watson (New York, 1856), 34. See Nicholas Creswell, The Journal of Nicholas Creswell (New York, 1924), 47.

Land titles are one thing, settlement is another, and it is impossible to determine what group of settlers actually took up residence in Loudoun first. One clue suggests that the distinction of being first belongs to the Germans. That clue is to be found in blackheart cherry trees. Such trees are native to Germany, but not to Loudoun where the earliest groves date from 1720.[26] If the Loudoun trees were grown from seed brought by German immigrants, as seems probable, those people's arrival must have preceded all others.

In any case, settlement had definitely begun by the 1720s. During that decade the earliest German settlers came to Loudoun and took possession of, "squatted" on, land along Dutchman's Creek in the valley just east of the Short Hills. From whence these first Germans came is not certain, perhaps from the area of Shepherdstown to the northwest of Loudoun, but it is clear that most other Germans who settled in the area came down the Carolina Road from Pennsylvania. So many followed that route that by the 1750s the "German Settlement," as it was called, covered a section of about 125 square miles extending from Catoctin Mountain to the Blue Ridge and from the Potomac River southward for ten or so miles.[27]

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[26] Briscoe Goodhart, History of the Loudoun Rangers (Washington, 1896), 4.

[27] Briscoe Goodhart, "The Pennsylvania Germans in Loudoun County, Virginia," Pennsylvania German, IX (1908), 125-127; Klaus Wust, The Virginia Germans (Charlottesville, 1969), 37; Albert B. Faust, The German Element in the United States, 2 vols. (Barton, 1909), I, 167; Daniel W. Nead, The Pennsylvania-German in the Settlement of Maryland (Lancaster, Pa., 1914), 42, 45-50.

This choice of a settling place was not an accident. These Germans, like most Germans who staked out new homes in America, chose areas with clay loam soils underbedded by limestone. They likewise chose areas that contained the heaviest timber, or as in the case of Loudoun, hardwood trees because they knew that such land would produce the best crops.[28]

It is not clear whether most of the Germans came to Loudoun in family-sized groups or travelled in larger parties. What is clear is that their migration was relatively large. By 1732 enough Germans had arrived in Loudoun to organize St. James Reformed Church at Lovettsville.[29] Their acknowledged leader, a member of the Werner family, had been an elder in the German Reformed Church before coming to Loudoun in the early 1720s and acted as a schoolmaster and church lay leader until the congregation was able to secure the regular services of a minister in the 1760s. Even then the congregation was forced to share the minister with other congregations and he only came to Lovettsville once a month. This was due more to the shortage of Reformed ministers in America than to anything else. The congregation was an active one, and by the time the congregation got a minister it was no longer meeting in private homes

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[28] Loudoun was devoid of heavy timber since the Indian and white hunters had burnt the virgin forest, but her limestone valleys were covered with a dense growth of hardwood saplings and these must have appealed to the German settlers. George Mays, "The Early Pennsylvania-German Farmer," Pennsylvania German Magazine, II (1899), 185-186.

[29] The settlement at present-day Lovettsville was originally known as Thrasher's Store, but its name was changed to Newton or New Town in 1824 and to Lovettsville in 1840. For the sake of clarity this paper will use modern-day place names. The only earlier Reformed Church in Virginia was the one founded at Germanna in Orange County in 1714 and moved to Germantown in Fauquier County seven years later. J. Silor Garrison, The History of the Reformed Church in Virginia (Winston-Salem, N.C., 1948), 39.

but had a building of its own set on a three acre tract about a half of a mile east of the village.[30]

In the middle of the eighteenth century another group of Germans formed a Lutheran Church in the same area. There had probably been a scattering of Lutherans in Loudoun since at least 1733, but the first evidence of them as a distinct group dates from 1765 when they formed New Jerusalem Lutheran Church and took the Rev. Mr. Schwerdfege as their pastor.[31]

The second major cultural group to settle permanently in Loudoun came northward along the Carolina Road from the central Virginia Piedmont. They were not large tidewater planters like those who held title to most of southern and eastern Loudoun, but small planters mostly of Scotch-Irish descent. In their scramble for lands the planters from the tidewater had focused their attention on eastern Loudoun and on Goose Creek and that stream's larger tributaries. They had neglected the lands along Sycoline and Tuscarora Creek and those to the north, and it was into these lands, i.e., those bounded by the Potomac River, the Catoctin Mountains and Sycoline Creek, that the new settlers came. As a rule their plantations were more modest in size than those to the south, but in many ways they were just as profitable since they lay on better soils.

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30 In 1765 George William Fairfax leased Simon Shoemaker the land upon which the church stood. Nan Lin Kincaid, "The First Churches in Loudoun," Bulletin of the Loudoun County Historical Society (henceforth Bulletin LCHS), I, 14-15 and Garrison, Reformed Church, 380-381.

31 Schwedfege's first name is unknown. William A. Wade, Historical Sketch of New Jerusalem Lutheran Congregation (Lovettsville, Va., 1950), 3-7.

By the end of the 1720s this area of planter dominance had gained a westward panhandle that spread out along Goose Creek's North Fork toward Williams' Gap in the Blue Ridge. Men like Jacob Binks, James Rice, Francis Aubrey, and Isaac Lasswell had settled in this region permanently by 1736, and had completed "the Chappell above Goose Creek." This chapel of ease, located near Aubrey's home at Big Spring, was needed because Loudoun was then a part of Truro Parish which embraced all the area from the mouth of Occoquan north and westward to the Blue Ridge. Just when the chapel was begun is unclear, but it had a rector and was in use by 1733, making it the first of Loudoun's churches.[32]

The Quakers were the last of the three major cultural groups to enter Loudoun. The first of the Friends came to Loudoun under the leadership of Amos Janney in 1733 from Bucks County, Pennsylvania. They settled near Waterford, in the area between the German settlement and the panhandle of Virginians that spread westward through Clark's Gap. They were soon joined by many of their former Pennsylvania neighbors, by Friends from New Jersey and Calvert County, Maryland, and by immigrants from England and Wales. In 1741 the Friends erected a meeting house called Fairfax after the county of which Loudoun was then a part. The Quaker migration was so swift that Fairfax became a monthly meeting within three years, and by the time of the Revolution, the meeting was the mother of other "meetings" at

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32 At the 16 April 1733 meeting of the Truro Parish vestry, the Rev. Lawrence De Butts agreed to preach once monthly at each of the parish's three chapels. Phillip Slaughter, The History of Truro Parish in Virginia, ed., Edward L. Goodwin (Philadelphia, 1907), 5. Slaughter has largely rearranged the Truro Parish Vestry Book into narrative form and Goodwin has added some notes.

Hillsboro, Goose Creek, and South Fork. This Quaker region, sandwiched as it was between the Blue Ridge and Catoctin Mountains and between Catoctin and North Fork Creek, was small in area, less than one fifth of the county, but it contained almost three fourths of Loudoun's pre-Revolutionary settlers.[33]

Scattered amid these three main groups were members of another smaller group. These were the Scots-Irish, the first of whom came from Maryland and had, by 1725, established a community on the Virginia bank of the Potomac opposite the mouth of the Monocacy River. To the west, among the Germans, other groups of Scotch-Irishmen settled near present-day Morrisonville and Woodgrove and on the slopes of the Blue Ridge. Asa Moore, an Irishman who is reputed to have come directly from Ireland, founded Waterford in 1732, a year before the Janney party moved to the area from Pennsylvania. Three years later Round Hill, just to the south, was settled by Scotch-Irishmen from Pennsylvania. Members of this group remained scattered and it cannot be said that a "Scotch-Irish community" ever existed in Loudoun.[34]

By 1740 most of Loudoun's arable lands had been taken up and the settlement of her fertile acres was well underway.

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[33] Samuel M. Janney, History of the Religious Society of Friends from Its Rise to the Year 1828, 4 vols. (Philadelphia, 1861-1870), III, 248-249; Asa Moore Janney, "A Short History of the Religious Society of Friends in Loudoun County Virginia," typescript in the Purcellville Library, Purcellville, Virginia, 1-2; Strong, Stone House, 1-2; Joseph V. Nichols, Legends of Loudoun Valley, ed. by Fitzhugh Turner (Leesburg, Va., 1961), 61-63.

[34] Anne C. Burton, "History of Loudoun County," typescript in Purcellville Library, Purcellville, Virginia, 47.

Over the next few decades new peoples moved in and by the 1780s, if not before, made Loudoun one of Virginia's most populous counties. The basis was set in these early years, however, and only one new cultural group would make any change in her. That group was the slaves, but not many were brought in until after the French and Indian War, and they did not form a large contingent of Loudoun's population until after the Revolution.

III
Development

The decades immediately following those of initial settlement were ones of fairly rapid growth and development for Loudoun. From 1740 to the 1760s the whole Northern Piedmont region of Virginia was as part of the colony's frontier. For Loudoun being a frontier area did not mean the presence of great physical dangers; the risks in settling the region were more financial than physical. By the 1730s Indians were no longer a menace east of the Blue Ridge Mountains and wolves, the only wild animals posing a threat to men in the Northern Neck, were less a source of fear than a source of income through the bounties paid for killing them.

Even the financial risks were not particularly great for the time. Scores of families were willing to take them and settlement continued steadily in Loudoun. As each of the major cultural groups grew in numbers, it spread out until almost all of Northern Loudoun was occupied. Contact between

the groups was inevitable but unity was not. The Catoctin Mountains formed a physical barrier of sorts separating somewhat the settlers who had come from Tidewater Virginia from the Germans and Quakers, but the two latter groups met in west-central Loudoun. Direct contact did not mean intermingling though, since neither the Germans nor the Quakers had much use for the other. This pattern of separateness continued for almost two hundred years, with only a brief break during the middle of the nineteenth century when, for a short time, the Germans and the Quakers united first to oppose their slaveholding neighbors to the east and south, and then to uphold the Unicn cause during the Civil War.[35]

During this expansion in the 1730s, 1740s and early 1750s, an evolution took place in Loudoun land titles. Few of the original German and Quaker settlers held legal titles to their lands. Most of them were squatters on land owned by speculators like Francis Awbrey, Benjamin Grayson, Catesby Cocke, and John Mercer who had obtained grants for the lands from the Proprietor. In 1740, John Colvill, a merchant who had settled at "Cleesh" in Prince William County, purchased the patents held by these speculators and in a move to solidify his control sold a part of them to William Fairfax, the

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[35] This mutual dislike is clearly expressed by the Quaker Yardley Taylor in his Memoir of 1853, p. 6, and by the German Briscoe Goodhart in his history of the Loudoun Rangers (Washington, 1896), ch. 1. In the election of 1861 the Loudoun precincts of Waterford, Lovettsville, Haysville, and Neersville voted against secession and for the next fifty years cast a substantial number of Republican votes. Harrison, Old Prince William, II, 274-275; Goodhart, "The Pennsylvania Germans in Loudoun County, Virginia," Pennsylvania-German, IX (1908), 130.

Proprietor's resident agent in America, at the bargain price of two shillings per acre. Colvill undoubtedly hoped that the sale to Fairfax would make the latter his ally should he ever be called upon to defend his title to the part of the lands which he retained for himself.

In this transaction Fairfax got from Colvill title to a total of 46,466 acres lying between Catoctin Creek and the Shenandoah River, from the Potomac River south to Gregory's Gap. This was most of the northern section of the Catoctin Valley. The area was already settled (mostly by Germans), and so Fairfax divided it in two at the Short Hills, formed two manors ("Shannondale" to the west and "Piedmont" to the east), and leased the lands to the settlers already living there for the term of three lives. These lands were later inherited by his eldest son, George William Fairfax, who held them until his death shortly after the Revolution, at which time they passed to his nephew, Ferdinando, a younger son of his brother, Bryan. Ferdinando was a poor businessman and managed to lose both the "Piedmont" and "Shannondale" tracts by the time of his death in 1820.[36]

John Colvill was left, after the transfer to Fairfax, with 16,290 acres for himself. These lay just east of the Fairfax

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[36] At the same time Colvill sold Fairfax two other tracts, "Springfield" and "Towlson," both on Difficult Run, the future eastern border of Loudoun. Together these two aggregated 6,997 acres. Harrison, Old Prince William, II, 273-277. For a sketch of the life of Ferdinando Fairfax see Franklin L. Brockett, The Lodge of Washington (Alexandria, Va., 1876), 118-122.

lands (Map II). They, like the Fairfax lands, were occupied and Colvill, like Fairfax, let them to the residents on leases set to run for three lives. When Colvill died in 1755 he willed these lands and another 1500 acres on Difficult Run to his cousin's son, Charles Bennett, the Earl of Tankerville, who continued Colvill's rental policy until his death in 1810.[37]

Colvill and Fairfax both clearly considered their lands to be long-term investments. Under British law any lease for more than three years had to be written, and any lease for more than three years conferred on its holder a right of renewal, but not of sale. Tenancy on leases running for three lives was also inheritable and, therefore, a man's heir had the first claim to renew an existing lease, subject of course to any possible rent increase.[38] Neither Colvill nor Fairfax had any real chance to gain actual possession of the land, and both were probably simply investing their capital.

None of the Fairfax or Colvill heirs ever resided in Loudoun, but a large land transaction contemporaneous to theirs brought to Loudoun members of the important Mason family when the heirs of Francis Awbrey sold his lands north of Leesburg to Mrs. Ann Thomson Mason. Her husband, Colonel George Mason, who had met an early death in 1731 by drowning, died

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[37] Harrison, Old Prince William, 273; "The Earl of Tankerville's Possessions," newspaper clipping in Loudoun County notebook III, 56-57.

[38] W. J. Finlason, The History of Law of Tenures of Land in England and Ireland (London, 1870), 40-57.

intestate. Prevailing Virginia laws of inheritance were based on primogeniture and dictated that all of his lands pass to his eldest son, George Mason IV.[39] To provide for her other children, Ann Thomson Mason purchased approximately ten thousand acres from Awbrey's estate. Their second child, a girl, later married Samuel Selden and had two children. She died before her mother did and the lands marked for her inheritance went to her daughter, Mary Mason Selden. The other half of the lands eventually went to Thomson Mason, who had been only two years old at the time of his father's death. He studied law at the Middle Temple in London during the early 1750s and then practiced that profession in the town of Dumfries. Between 1758 and 1761 he represented Stafford County in the House of Burgesses. In 1760 he added to his Loudoun inheritance by purchasing an adjoining 393 acres from Aneas and Lydia Campbell, who had purchased them from Joseph Dixon, the original patentee. Ten years later in 1771, Mason erected a home on this tract and in the following year began representing Loudoun County in the Virginia Assembly (1772 to 1774 and 1777 to 1778). By 1779 he had returned to Tidewater and it was probably at that time that he transferred his Loudoun estate, "Raspberry Plain," to his son, Stevens T. Mason, a

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39 Between 1755 and 1758 the son built Gunston Hall on Dogue Neck in Fairfax County with the aid of an indentured servant brought from England by his younger brother. The name of that estate is usually appended to Mason's name to distinguish him from his relatives with the same name. Allen Johnson and Dumas Malone (eds.), Dictionary of American Biography, 23 vols. (New York, 1928-1958), XII, 361-362, (henceforth cited as DAB).

move confirmed by his will at the time of his death six years later.[40]

These land transactions involving thousands of acres overshadow a concurrent process that completed the land map of Loudoun. The Proprietor's land office, closed for seven years following the death of his agent, Robert Carter, in 1732, reopened in 1739 and there followed immediately a flood of small grants for almost all the lands in the Northern Neck that lay east of the Blue Ridge. Included among those who obtained lands at this time were the progenitors of four of the families which would be prominent in post-Revolutionary Loudoun. The Clapham family came first when Josias Clapham purchased land near Point of Rocks on the Potomac. Ten years later he died and left his estate, about four hundred acres, to his nephew (also named Josias Clapham). The younger Clapham then resided in England, but he soon moved to America and established himself as a leader in Loudoun, a position he maintained until his death in 1803. Almost due south of the Clapham holdings were those of the Powell family near Middleburg. William Powell acquired lands in the area in 1741 and his son and heir added to them by purchasing an additional five hundred acres from the speculator, Joseph Chinn. Three years after the Powells moved to Loudoun, John Hough, progenitor of one of Loudoun's leading Quaker families, established himself on lands between Goose Creek and Leesburg. In 1750

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40 DAB, XII, 376-377 and Williams, Legends of Loudoun, 75-77, 170.

William Douglass moved from Scotland to the area north of Leesburg and established "Garalland" and "Montressor" plantations on which his children continued to live following his death in 1792.[41]

Although claimed, most of Loudoun's lands still remained empty in 1750. Its population cannot be stated exactly, but the vestry book of Truro Parish provides some clues. When established in 1732, Truro included the modern counties of Fairfax and Loudoun. In 1733 it had a total of 676 tithables and by 1743 that figure had doubled to 1,372. Five years later Truro was halved and the area above Difficult Run became Cameron Parish. The new parish, whose borders were basically the same as Loudoun's County, had a total of 707 tithables; Truro was left with 1,248.[42]

From these figures we can extrapolate a rough estimate of Loudoun's population. Tithables included only white males over twenty-one and adult slaves. As a frontier region, Loudoun probably had few slaves under age sixteen, the age at which slaves were considered to be adults. At the same time the newness of Loudoun society probably meant that its white population contained fewer old people and more children than more established areas. Assuming these two variables offset each other and a population to tithable ratio of two to one is applied to the 707 tithables, a rough population estimate of

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41 Williams, Legends of Loudoun, 74-82.

42 Slaughter, Truro Parish, 10, 26.

1,400 residents is arrived at for the middle of the eighteenth century. Again assuming that the two variables cancel each other and a tithable to household ratio of 2.7 to 1 is applied to the 707 tithables, an estimate of 300 households is arrived at for the same era.[43] This gives Loudoun a population density of about two people per square mile. More meaningful is the fact that the county had only one household for every two square miles. Loudoun was, of course, very unevenly settled. Most people lived in Catoctin Valley or in the eastern end of the county. In 1743 the parish processioners did not report a single resident in the southwestern quarter of the county as delineated by the South Fork of Catoctin Creek, the Blue Ridge Mountains, Loudoun's southern border, and Goose Creek and the Catoctin Mountains.[44]

During the mid-1750s, Loudoun's slow, orderly development was speeded up by the French and Indian War to its west. During the opening months of the conflict, Loudoun was only an area to cross to get to the seat of the war, as did George Washington on his mission to protest French military activity in what is now Western Pennsylvania and his later expedition at the head of the three hundred Virginia militia who were defeated at Great Meadows in 1754.[45] During the following

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[43] Thomas Jefferson used the ratio of two people to each tithable to calculate Virginia's population in the 1780s. Thomas Jefferson, Notes On the State of Virginia, ed. William Peden (Chapel Hill, 1954), 85-87. The ratio of households to tithables is for 1760, three years after Loudoun's formation. Edmund S. Morgan, American Slavery, American Freedom (New York, 1975), 342.

[44] Slaughter, Truro Parish, 19-20.

[45] These travels can be traced most conveniently in "George Washington's Principal Routes of Travel 1732-1799, by Lawrence Morton, George Washington Atlas (Washington, 1932), Plate i.

year Loudoun's Ridge and Vestal's Gap roads were clogged as never before when Sir Peter Halkett led a regiment of General Edward Braddock's army across Loudoun to the army's rendezvous point at Fort Cumberland, from which they marched to defeat during June of 1755.

With that defeat fear swept the Virginia frontier and refugees from the Shenandoah Valley and westward fled into Loudoun.[46]

Among these refugees was a small band of Baptists who had previously (1743) moved from Maryland and settled at the junction of Mill Creek and Opequon Creek in what is now Berkeley County, West Virginia. Their minister, John Garrard, led a group of them harassed by Indians to settle on Catoctin Creek sometime in mid or late 1755. Their choice of that locale was probably influenced by the presence in the area of a small group of Baptists called the Ketoctin Congregation. It had been constituted on 8 October 1751, and had joined the Philadelphia Association exactly three years later, at which time it had eleven members, a log church, and a minister named John Thomas. The newcomers probably simply joined the existing

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46 Richard L. Morton, Colonial Virginia, 2 vols., (Chapel Hill, N.C., 1960), II, 680-681.

church and Garrard took the place of Thomas who had previously left.[47]

The Ketoctin Baptists increased rapidly in numbers, and their church led in the 1766 formation of the Ketoctin Association, the first Baptist association in Virginia. Initially, the Association contained four separate congregations, one each in Shenandoah, Berkeley, Fauquier, and Loudoun counties. In Loudoun, expansion was especially rapid and three new churches, Little River, New Valley, and Goose Creek, were founded during the next two years. Just before the Revolution (1774) another new congregation was established at Bull Run and shortly after the war three more were formed at the North Fork of Goose Creek (1782), Long Branch (1785), and at Frying Pan (1790). The Baptists had become one of Loudoun's most dynamic religious bodies.[48] Their increase came through

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47 A. D. Gillette, ed., Minutes of the Philadelphia Baptist Association, from A. D. 1707 to A. D. 1807 (Philadelphia, 1851), 3, 65. See also Morgan Edwards, "Materials Toward a History of the Baptists in the Provinces of Maryland, Virginia, North Carolina, South Carolina, and Georgia," Xerox copy of 1772 manuscript, Virginia Baptist Historical Association, Richmond, Virginia. It is not clear exactly when the first Baptists settled in Loudoun but it was certainly prior to 1743 since itinerant Baptist ministers from Pennsylvania had earlier visited the area at the solicitation of residents. Robert B. C. Howell, The Early Baptists of Virginia (Philadelphia, 1876), 59.

48 Edwards, "History of the Baptists," 34-35, 37-38; John Asplund, The Universal Register of the Baptist Denomination in North America for the Years 1791-1794 (Boston, 1794), 28.

a mixture of migration and missionary work. All of the churches were "Regular" Baptist congregations and members of the Ketoctin Association.[49] Ebenezer Baptist Church, located near Snicker's Gap, was the only "Separate" Baptist congregation in Loudoun and the only one that was not a member of the Ketoctin Association. The difference between Separate and Regular Baptists need not detain us since Ebenezer moved closer and closer to the theology of the neighboring congregations until it finally joined the Ketoctin Association in 1804.[50]

The early story of Presbyterianism is much like that of the Baptists and both groups' origins are shadowy. Evidence exists that Presbyterians were living in the area (either Loudoun or Fauquier County) as early as 1719, but there is no evidence of a formally constituted congregation until the French and Indian War. This Presbyterian Church, founded in 1760 like its Baptist counterpart, took Ketoctin as its name.

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[49] New Valley Church, for example, was established when the Elder John Thomas and several emigrants from his Great Valley Baptist Church in Bucks County, Pennsylvania, came to Loudoun in 1767. John D. Wood, "Old Baptists Still Worship Here," Loudoun Times Mirror, 29 February 1968. Roger B. Semple discusses missionary work in his History of the Rise and Progress of the Baptists in Virginia (Richmond, 1810), 290. In 1774 Philip Fithian a young tutor residing at Robert Carter's Nomini Hall recorded that "The Anabaptists in Loudoun County are growing very numerous" and noted some of their teachings. Hunter Dickinson Farish, ed., The Journal and Letters of Philip Vickers Fithian (Williamsburg, 1945), 96.

[50] Ebenezer was founded in 1769. Jean Herron Smith, Snickersville (Miamisburg, Ohio, 1970), 11.

It was located in Waterford, and was soon joined by a second Presbyterian Church, this one at Gum Spring, to give Loudoun two of the oldest Presbyterian churches in eastern Virginia.[51]

IV

Founding

By now Loudoun had a large enough population to warrant her own separate government and the way for this had been prepared earlier in the usual Virginia fashion.

During the seventeenth and eighteenth centuries, Virginia's political divisions followed her great rivers. Beginning in the east, new counties were carved out of old ones as population spread westward. For the Northern Neck this process began in 1651 when Lancaster County was taken from Northumberland, and ended a century later when Loudoun was taken from Fairfax in 1757. Before Loudoun was created, the parish of Cameron composed of the lands north of Difficult Run and Pope's Head Creek was cut off from Truro Parish in 1749.[52] This was an important step because during colonial times most of the responsibilities of local government were divided between the parish vestry and the county court.

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[51] Rev. Delemo L. Beard, The Origin and Early History of Presbyterianism in Virginia (Unpub. Ph.D. diss., University of Edinburgh, 1932), 395; William Henry Foote, Sketches of Virginia, Historical and Biographical, 2 vols. (Philadelphia, 1850), I, 102.

[52] William W. Hening, ed., The Statutes at Large, 13 vols. (Richmond, 1809-1823), II, 214, 271.

Ordinarily the establishment of a new county would have closely followed that of a new parish, but in Loudoun's case the process was delayed because many Tidewater leaders were beginning to fear a loss of power in the colonial assembly to the people of the expanding Piedmont. The people of Cameron began petitioning for county status in 1754 but were not granted it until 1757.[53]

The new county's borders were identical to those of Cameron Parish except in the southeast where a line was drawn from the head of Difficult Run, not to Pope's Head, but "to the mouth of Rocky Run," a tributary of Cub Run, which in turn is a tributary of Bull Run. This left a small part of Cameron Parish in Fairfax County, a situation that was rectified six years later when the region was detached from Cameron and returned to Truro Parish.[54] From then until 1798 all of Cameron lay within Loudoun.

The new county's name was selected according to tradition,

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53 The first petition for county status, presented to the House of Burgesses during its October 1754 session, was deferred to the next session when an act of establishment was passed by the House of Burgesses only to be killed by the Governor's Council sitting as the upper house of the legislature. Cameron's residents renewed their petition the following year only to be rebuffed for a second time. Finally in April of 1757 a bill was entered and successfully overcame the opposition of representatives from the Tidewater to become law on 8 June 1757. J. P. Kennedy and H. R. McIlwaine eds., Journals of the House of Burgesses, 1619-1776, 13 vols. (Richmond, 1905-15), 1752-1758, 212, 243, 264, 265, 272, 352, 425, 427, 432, 434, 446, 470, 492; H. R. McIlwaine, Legislative Journals of the Council of Colonial Virginia, 3 vols. (Richmond, 1918-19), III, 1,138; Hening, ed., Statutes, VII, 148.

54 Ibid., 612.

a tradition which called for naming a new Virginia county after the incumbent governor. In 1757 John Campbell, fourth Earl of Loudoun, was both Captain General and Governor in Chief of Virginia, and after Edward Braddock, Commander in Chief of British forces in America. Lord Loudoun's appointment was largely political; he was a Scottish peer and had proven himself a loyal supporter of the House of Hanover during the Jacobite Rebellion of 1745. His American tour of duty was controversial at the time, but is now mostly forgotten. Loudoun County remains as the only lasting memorial to his governorship, and it is almost certainly more than enough when it is remembered that the Earl never even visited the colony of Virginia.[55]

Loudoun began functioning as a county almost immediately after its formation by the colonial government. In fact, the Virginia Council, anticipating Loudoun's formation, had commissioned thirteen men to serve as justices of a county court on 24 May 1757, more than two weeks before the county's existence became official. The parties met first on 12 July 1757 and took their oaths of office. No substantive business was conducted at that meeting but Loudoun's first clerk and first sheriff qualified themselves by presenting their own bonds. Charles Binns was Loudoun's first clerk. He served

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[55] Campbell was commissioned commander in chief of British forces in America and Governor General of Virginia on 17 March 1756. He arrived in New York on 23 July 1756 and was replaced a year later by General Jeffrey Amherst. Stanley M. Pargellis, Lord Loudoun in North America (New Haven, 1933).

until 1796, when he was succeeded by his son, Charles Binns, Jr., who in turn served until 1837. The first sheriff was Aeneas Campbell. He had come to the area from Maryland to which he was to return before the Revolution.[56]

At the meeting of the court in the following month "George West, Gent." qualified as county surveyor and in December Francis Lightfoot Lee, son of Thomas Lee who was President of the Council of Virginia, qualified as County Lieutenant. In order to become eligible to hold the office Lee had to move to the county. A decade later he married Rebecca Tayloe of the Mount Airy family and moved from Loudoun to "Menokin" in Richmond County. During his residence in Loudoun from 1758-1768, he represented Loudoun in the House of Burgesses along with James Hamilton (who served from 1758 to 1770) another prominent landowner who was one of Loudoun's Justices of the Quorum.[57]

Before departing Loudoun, Lee left his mark in another way, namely the county seat. The whole process of selecting a county seat in Loudoun was a bit curious. Usually one was designated at the time of the county's formation, but no site was selected for Loudoun until more than a year later. The site finally chosen was a small settlement at the junction of the Carolina Road and the Ridge or Mountain Road which ran

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[56] Loudoun County Court Order Book A, 1 (henceforth "Order Book").

[57] Order Book A.

from Alexandria to Key's Gap.

The settlement's origin is unclear, but residents had referred to it rather grandiosely as George Town. For a short time during the opening phases of the French and Indian War, it was fortified and served as a staging point for British and Colonial forces, but by the time of its selection as Loudoun's county seat, the war had moved westward making the village merely a crossroads once more. Its selection as the site for the court house was an obvious one since it was at the crossroads nearest the center of the county's population, i.e., between the Germans and Quakers of the Catoctin Valley and the Goose Creek and Broad Run plantations of the Tidewater men. Southern Loudoun was still relatively unsettled and thus counted little in determining the county seat's location.

The site tentatively selected by the Council for the county seat lay on the land of Nicholas Minor. Convinced that a town would grow up around it, he capitalized on his good fortune by having a sixty-acre townsite divided into seventy lots. During the fall of 1758 the Virginia House of Burgesses officially confirmed the preliminary designation and plans for a courthouse began.[58] The plans called for a central building of 28 by 40 feet to which would be attached a sixteen foot square jury room. These were to be made of brick and nearby there was to be built a jail and stocks. The

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[58] Council Order Book V, 1429, 12, 26; Hening, ed., Statutes, VII, 234-236.

county court awarded the contract for construction of the courthouse to Sheriff Aneas Campbell and the contract for construction of the jail and stocks to Daniel French. Construction was a slow, laborious undertaking, and three years passed before completion of the project. Even then two things had been overlooked——no fence or "necessary house" had been contracted for. These finishing touches, along with general site cleanup and some dirt removal, were let by the county court to Nicholas Minor and John Moss, Jr., who completed them within a year.[59] From that time, Loudoun's first courthouse stood unchanged (except for the addition of a belfry in 1773) until it was torn down to make way for a second courthouse in 1809.[60]

The next decade and a half contain no milestones in Loudoun history but was a period of slow but steady development, reflected by the division of Cameron Parish in 1770. The area above Goose Creek then became Shelburne Parish, named in honor of the Earl of Shelburne, Britain's Secretary of State for the Southern Department, and the lower area retained the name Cameron.[61] The rationale behind parish divisions was total population and, to a lesser degree, distance to be travelled, not active church members; therefore, the establishment of Shelburne Parish speaks to Loudoun's increased population as

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[59] Order Book A, 142, 162.

[60] For a brief sketch of this and subsequent courthouses see C.O. Vandevanter, "A History of Loudoun Courthouses," The Loudoun Fauquier Magazine, III (1931), 7-8, 30.

[61] No tradition existed with regard to the naming of parishes. Cameron was derived from the proprietor's title, Lord Fairfax, Baron of Cameron. Hening, ed., Statutes, VIII, 425.

a whole, and certainly not to the number of Anglicans in the northern and western parts of the county.

V

The Revolution and After

No part of Britain's American Empire was too remote to feel the effects of the struggle of the thirteen colonies to separate themselves from the mother. Loudoun certainly was not. In fact, in some ways her citizens were among the movement's leaders. When Britain retaliated against Boston for the Tea Party by passing the Coercive Acts in 1774, the people of Loudoun responded with a mass meeting at the courthouse on June 14. There were the usual speeches, but the presentation of resolutions that followed was far from usual. These "Loudoun Resolves" as they became known, were far harsher than most. In them the Boston Port Act was condemned as "utterly repugnant to the fundamental laws of justice." The fifty odd signers pledged their "lives and fortunes [to assist] their suffering brethren of Boston," called for "no commercial intercourse with Great Britain until the act of Parliament shall be totally repealed and the right of regulating the internal policy of N. America by a British Parliament shall be absolutely and positively given up," and

formed a committee of correspondence to maintain contact with other areas.[62]

Loudoun's militia began holding regular musters and shortly thereafter the "Committee of Loudoun County" was formed to support the Patriot cause. Most of the county's leading citizens served on the committee during the ensuing war and it along with the County Court provided Loudoun with local government. Other forms of war participation are most difficult to measure. No aggregate figures exist for the numbers of men serving in military campaigns, but it is clear from court order books that Loudoun contributed a large number of men to the American armies.[63]

In 1782, after the British had been defeated at Yorktown and peace was in sight, the state legislature provided that persons who had supplied labor, provisions, or anything else of value to the public forces during the war could file a claim for reimbursement with their county court, and Loudoun's court records indicate that again her contribution was substantial.[64]

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[62] Manuscript copy in Leven Powell Papers, Swem Library, College of William and Mary, folder 6.

[63] Loudoun County's militia (1,746 in 1780 and 1781) was by far the largest in the state and the county court's recommendation of more than 130 men for commissioning as officers (between 1778 and 1782) is an indication of the number of Loudounites active in the military service. Order Book G, 517-522, abstracted in Head, Loudoun, 134-135. An indication of the number of men serving in the Continental Army can be drawn from examining public dispersements for the needy families of men listed as being away with the army. Order Book G, passim, abstracted in Head, Loudoun, 135-136.

[64] Hening, ed. Statutes, X, 468-469; Order Book G, passim, partially abstracted in Head, Loudoun, 137.

Most of the items contributed were agriculture products or goods of the nature likely to be found around a farm, but one individual, Josias Clapham, was able to provide a more sorely needed item, rifles, from a small shop he erected on his lands north of Leesburg.[65]

Even when these contributions are remembered, it is clear that the Revolution left little visible imprint on Loudoun.[66] For a time, in the years between Yorktown and the signing of the peace treaty, there was a great deal of optimism in the area. This feeling of euphoria was not limited to Loudoun or to Virginia but was America-wide, as was the depression which followed it all too closely. Still optimism ran especially high in Northern Virginia. Alexandrians in particular believed that their city, situated as it was just below the Falls of the Potomac, would become the port for an ever expanding trade both from the Northern Piedmont and the Shenandoah Valley and from the great American West. This belief was not without some foundation because during the war Alex-

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65 Journal of the Committee of Safety of Virginia, 27 March 1776, Palmer, ed., Calendar of Virginia State Papers, VIII, 139-140.

66 One of the Revolution's effects that had little impact on Loudoun at the time but is most pleasant for the historian is the number of foreign visitors it brought to her roads and villages. In 1778 the Convention Army passed through Loudoun enroute from New England to Charlottesville, Virginia, and two travel diaries, one kept by a young lieutenant and the other by the wife of the German commander, give interesting glimpses of Loudoun. Thomas Anbury, Travels Through the Interior Parts of America, 2 vols. (London, 1789); Baroness Riedesel, Letters and Memoirs Relating to the War of American Independence and the Capture of the German Troops at Saratoga (New York, 1827).

andria had grown until it was second only to Norfolk as a center of Virginia commerce. Most residents confidently expected that growth to continue and new wharfs and warehouses were built, new streets were laid out, and new "ships of all sizes were constructed, all in the belief that prosperity was there to stay."[67]

This was not to be. Prosperity and optimism were short-lived. Britain flooded the American market with manufactured goods even before the peace treaty became final. What little specie the Virginians had was drained from America to Britain to pay for them and by mid-1783 the American market was glutted. Within a year wholesale prices for American foodstuffs began to fall and continued in a downward trend until 1788 or mid-1789.[68]

Of particular interest to many farmers and planters in

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67 Schoepf, Travels in Confederation, I, 359-360; John Ferdinand D. Smyth, A Tour in the United States of America; Containing An Account of the Present Situation of that Country; the Population, Agriculture, Commerce, Customs, and Manners of the Inhabitants, 2 vols. (London, 1784), II, 201; Francois Jean Chastellux, Travels in North America in the Years 1780-82, translated by Howard C. Rice, Jr. (Chapel Hill, 1963), II, 283.

68 Curtis P. Nettels, The Emergence of a National Economy, 1775-1815 (New York, 1962), 60-64; Louis Maganzin, Economic Depression in Maryland and Virginia 1783-1787 (Unpub. Ph.D. diss., Georgetown, 1967); Alan Schaffer, Patterns of Virginia Trade, 1783-1789 (Unpub. M.A. thesis, University of Virginia, 1959). No figures are available for northern Virginia but the drop in prices can be followed for the Philadelphia market in Anne Benzanson, Robert D. Gray and Miriam Hussey, Wholesale Prices in Philadelphia, 1784-1861, 2 vols. (Philadelphia, 1937). See especially the charts for corn meal, flax, flaxseed, hams, hemp, rye, rye meal, and wheat, all products produced in Loudoun, 65, 78-79, 164-165 and 248.

Loudoun was the selling price of tobacco, since many people depended upon it as their principal source of money. Tobacco prices followed no consistent trend, but fluctuated widely. Immediately following the war, prices were driven upward by speculation, but by the middle of 1783 they had fallen sharply. In 1784 they improved somewhat, but a combination of the scarcity of specie and the Robert Morris monopoly on tobacco sales to France drove prices downward the following year. Prices remained low until 1787 when a summer drought threatened to limit the harvest raising the price. A violent rainstorm damaged the 1788 crop, and being of poor quality it brought a low price. During the following year a frost killed much of the crop, thereby shortening supply and forcing the price upward. The decade of the 90s opened with high prices (18-20 shillings per hundred weight on the Potomac) but 1791 saw a drop (to 13 and 14 shillings) and prices stayed low from 1793 to 1796. These fluctuations made future planning quite difficult and led to an air of uneasiness.[69]

In the narrow economic sense, this era of uncertainty led to two developments in Loudoun: it sped the movement to diversify agricultural output and it marked the beginning of a more

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69 Lewis C. Gray, History of Agriculture in the Southern United States to 1860, 2 vols. (Gloucester, Mass., 1958), II, 603-605; Alan Schaffer, "Virginia's Critical Period," The Old Dominion, ed. by Darrett B. Rutman (Charlottesville, Va., 1964), 152-170; F. L. Nussbaum, "American Tobacco and French Politics," Political Science Quarterly, XL (1925), 497-512; Arthur G. Peterson, "Commerce of Virginia, 1789-1791," William and Mary Quarterly, 2nd ser., X (1930), 302-309 (henceforth cited as WMQ).

far-reaching movement aimed at the restoration of the soil's fertility. Both of these movements were in their infancy as the decade closed. Neither had progressed far enough to effect Loudoun as a whole, but both were sources of optimism, an optimism fed by the establishment of a new national government and the chartering of the Potomac and Ohio Company with its plans to build a canal along Loudoun's northern border. As the 1790s opened, Loudounites were hopeful. In just sixty years they had settled a region, established local government, and survived a revolution and a depression. Their local society had reached a high level of maturity and stability. The next decade would not be one of dynamic change but one of consolidation and a kind of mellowing. Subsequent chapters in this study will deal with each of the components of Loudoun's society and seek to describe the product of that consolidation.

ROADS AND TRAVEL

"With the exception of the roads between principal cities or immediately adjacent, any thoroughfare might, without a pun, have been termed a throughfoul," wrote a British traveller in America around the turn of the century.[1] Such was certainly true of Loudoun whose roads were often impassable, especially in springtime and after rains. No other problem led to as many petitions to the state legislature as did the problem of roads.

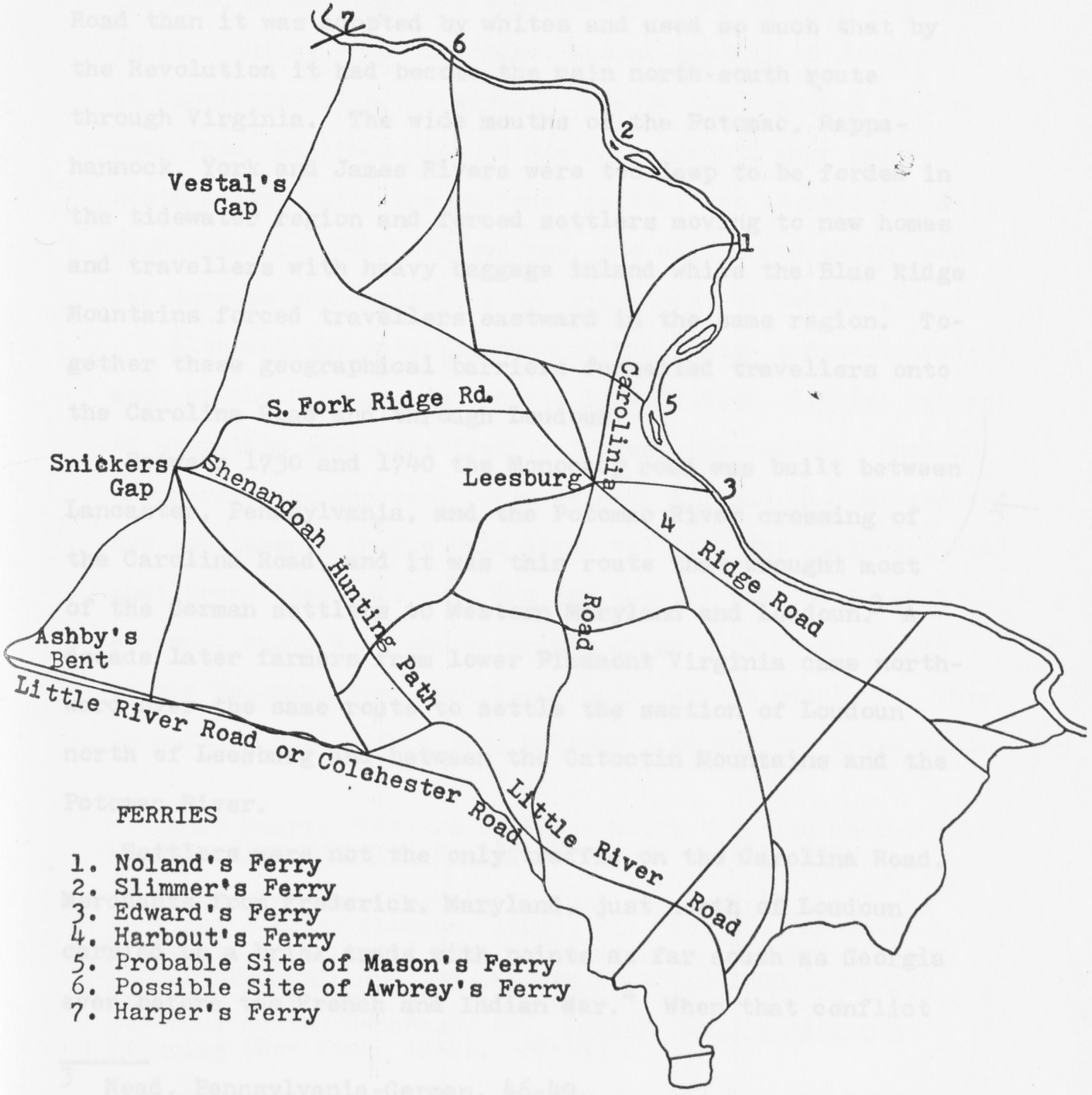
It was not that Loudoun lacked roads; it had many, including some of the oldest and most important in Virginia. Probably the oldest of all was the Carolina Road. It had been an Indian hunting path and was used first by the Susquehannock tribe and later by the Iroquois in trading with the Indians of the Carolinas. The road enters Loudoun from the north between the mouths of the Monocacy and the Little Monocacy Rivers in Maryland, turns inland to cross Limestone and Goose Creeks upstream from their mouths, and continues due southward until it leaves the county just east of the Bull Run Mountains.[2] During the 1720s the Iroquois Indians were forbidden to come east of the Blue Ridge Mountains and had to

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[1] John Bernard, Retrospectives of America, 1797-1811 (New York, 1887), 168.

[2] C. O. Vandevanter, "Historic Highways of Loudoun County," Loudoun-Fauquier Breeders' Magazine, II (1931), 20.

ROADS AND FERRIES IN LOUDOUN



FERRIES

1. Noland's Ferry
2. Slimmer's Ferry
3. Edward's Ferry
4. Harbout's Ferry
5. Probable Site of Mason's Ferry
6. Possible Site of Awbrey's Ferry
7. Harper's Ferry

abandon the Carolina Road for a new route through the Shenandoah Valley, a route later to be known as the Philadelphia Wagon Road. No sooner had the Indians abandoned the Carolina Road than it was adopted by whites and used so much that by the Revolution it had become the main north-south route through Virginia. The wide mouths of the Potomac, Rappahannock, York, and James Rivers were too deep to be forded in the tidewater region and forced settlers moving to new homes and travellers with heavy baggage inland while the Blue Ridge Mountains forced travellers eastward in the same region. Together these geographical barriers funnelled travellers onto the Carolina Road and through Loudoun.

Between 1730 and 1740 the Monocacy road was built between Lancaster, Pennsylvania, and the Potomac River crossing of the Carolina Road, and it was this route that brought most of the German settlers to Western Maryland and Loudoun.[3] A decade later farmers from lower Piedmont Virginia came northward over the same route to settle the section of Loudoun north of Leesburg and between the Catoctin Mountains and the Potomac River.

Settlers were not the only traffic on the Carolina Road. Merchants from Frederick, Maryland, just north of Loudoun carried on a brisk trade with points as far south as Georgia even before the French and Indian War.[4] When that conflict

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[3] Nead, Pennsylvania-German, 46-49.

[4] John T. Scharf, History of Western Maryland, 2 vols. (Philadelphia, 1882), I, 363.

broke out thousands of settlers from areas exposed to Indian attacks fled southward over the Carolina Road, many never to return.[5] During the Revolutionary War the British Army captured at Saratoga was transported along the Carolina Road in its journey from Cambridge, Massachusetts, to internment at Charlottesville, Virginia.[6] Use of the road was at its peak from the 1780s when it was the nation's main north-south artery until the national capital was established at Washington in 1800. Thereafter, the main north-south road ran through the capital, a few miles east of Loudoun.[7]

Although the establishment of Washington served to divert most of the north-south traffic from Loudoun, it also served to stimulate east-west traffic through the county. Loudoun lay across the shortest route between the new capital and the new settlements in the Ohio River Valley. The east-west road that benefitted most from the new capital was the Ridge Road so named because it ran along the ridge just to the south of the Potomac River from Alexandria through Leesburg. This is another road with a long history. It was the route taken

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5 James Maury, "Letters of James Maury," in Ann Maury, ed., Memoirs of a Huguenot Family (New York, 1872), 432.

6 Thomas Anburey, Travels Through the Interior Parts of America, 2 vols. (London, 1789), II, 265-319; Baroness Riedesel, Letters and Memoirs Relating to the War of American Independence and the Capture of the German Troops at Saratoga (New York, 1827); Reischel, "Travel Diary," 558-593, 608-609; Newton Mereness, ed., Travels in the American Colonies (New York, 1916), 586-613.

7 Johann Schoef, a German doctor who did for the Southern states what Peter Kalm did for the Northern colonies a few years earlier, was one of the last travellers to leave an account of the Carolina Road in Loudoun. Johann Schoef, Travels in the Confederation, II, 27-28.

by the early settlers of eastern Loudoun, and it ended at Leesburg until the French and Indian War. During the war it was extended to Clarke's Gap in the Catoctin Mountains where it forked. Its northern branch ran northwestward from Clarke's Gap through Waterford, through the Catoctin Creek break in the Short Hills, and then through Vestal's Gap in the Blue Ridge and into the Shenandoah Valley. There, about ten miles north of Winchester, it intersected the Philadelphia Wagon Road. This was the route taken by George Washington on surveying trips to the Shenandoah Valley during the 1750s and by a section of Braddock's army in 1755.[8] The southern fork ran westward from Clarke's Gap to the Blue Ridge and then southward along its base to Snickers Gap and through it to the Shenandoah Valley and Winchester.[9] Nicholas Cresswell travelled this southern fork in 1774, but he was not impressed with it.[10]

In southern Loudoun the main east-west throughfare was the Colchester Road, named for its eastern terminus at the mouth of Occoquan River on the Potomac. From there it ran north-northwestward across Fairfax county until it entered Loudoun as it crossed Difficult Creek. At that point it

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8 "Braddock's Orderly Book" quoted in Archer B. Hulbert, Braddock's Road in Archer B. Hulbert, ed., Historic Highways of America, IV (Cleveland, 1903), 77; Joseph M. Toner, ed., Journal of George Washington ... in 1754 (Albany, 1893), 180.

9 Vandevanter, "Historic Highways of Loudoun," 20-21.

10 Cresswell, Journal, 60.

veered more to the west and followed the high ground between Bull Run and the Potomac, skirted the foothills of the Bull Run Mountains, and reached the Little River at the future site of Aldie. The road forked at Little River. The right-hand fork went northwestward to Snicker's Gap where it met the road from Leesburg and continued on to Winchester. This branch was sometimes referred to as the Shenandoah Hunting Path. The left-hand fork of Colchester turned due westward and ran along the Loudoun-Fauquier border, through Ashby's Bent, and on to Winchester. In colonial times the Colchester Road carried most of the traffic between Winchester and Tidewater. The first three Church of England chapels and the first ordinary in Loudoun were situated on it. During the Revolutionary era, Alexandria began to supplant Colchester as a port and most trade was diverted eastward to Newgate along the mis-named Braddock's Road.[11] The establishment of the city of Washington sealed Colchester's fate.

In southeastern Loudoun, Frying Pan Road was opened sometime before the middle of the eighteenth century. It was built by Robert Carter to connect his copper mine with the Colchester Road. The mine was soon worked out, but the road was maintained by the Newton, Tuberville and Eskridge families who had plantations in the area. Frying Pan Road met the Colchester Road near Newgate as did the Fauquier-Alexandria

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[11] Vandevanter, "Historic Highways of Loudoun," 20-21, 39. The Colchester Road is one of only two in Loudoun which appear on Joshua Fry and Peter Jefferson's Map of Virginia (1751).

Road which was laid out between Newgate and Warrenton during the 1780s.[12] At Warrenton the road intersected with a road which came from Winchester, through Ashby's Bent to Warrenton. From Warrenton a northern branch ran to Dumfries, the county seat of Prince William County on the Potomac, and a southern branch ran to Fredericksburg, the county seat of Spotsylvania County on the Rappahannock River. This road completed the east-west road system of northern Virginia. Twenty to thirty miles to the south the Three-Notched Road ran through Central Virginia from Richmond to Staunton in the Shenandoah Valley, but this was too far away to compete with the roads of the Northern Neck.

There were many other roads in Loudoun but all were small, less important than the arteries just described, and better examined as a second group.

In Virginia the building and maintenance of highways had been entrusted to county government since the early seventeenth century.[13] In a farming community which raised few crops for market or in one with most of its plantations and settlements on navigable waterways, roads were used mostly to get to church or to the county seat. This was the basic

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12 Mitchell, "Centerville," 37-40.

13 Virginia's first road act was passed in 1631 and provided only for the establishment of roads. In 1657 a more comprehensive act created the office of surveyor of highways and provided for his appointment by the county court, which was also ordered to see that all roads were cleared at least once a year. Jurisdiction over bridges and ferries was likewise given to the county court, making it the most important agency of road administration. Hening, ed. Statutes I, 199, 436.

situation in Pre-Revolutionary Loudoun but by the 1790s conditions had changed. By then, Loudoun's population had increased, its settlement had expanded away from the rivers, and it had become a commercial farming area. Farmers had to get their grain to mills to be ground and to a tidewater town to be inspected, stored, and sold. Tobacco planters had like needs, and Loudoun's water transport system was clearly inadequate.

The main deterrent to water transport was the series of rapids in the Potomac River between Loudoun's eastern boundary and Georgetown. In that fifteen-mile stretch the river dropped seventy-six feet through a maze of protruding boulders.[14] There were other problems even above these rapids. The current was often dangerously swift, the flow of water was "much interrupted" by obstructions, and the seasons brought ice and low water.[15] There were plans to circumvent these difficulties in the post-revolutionary period, but none had reached fruition by the 1790s and road transportation dominated.

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[14] George Washington quoted in James Madison to Thomas Jefferson 20 December 1787, Hunt, ed., Madison, V, 77. Thomas Jefferson, Notes on the State of Virginia, edited by William Peden (Chapel Hill, 1954), 7.

[15] The Potomac froze over completely only during the coldest winters, as in 1776. The real danger during the winter was from what one traveller called "large floats of ice swimming down it." Auburey, Travels, II, 315; Cresswell, Journal, 136. During much of the year low water was the problem and it was calculated that even boats with less than a six inch draft could only use the Potomac above Great Falls between 33 and 45 days a year. "Report of the Maryland and Virginia Commission on the state of Navigation of the Potomac," 1822, cited in Philip Morrison Rice, Internal Improvements in Virginia 1775-1860 (Ph.D. diss., University of North Carolina, 1949).

The situation was no better for Loudoun's lesser streams. Most of them emptied into the Potomac and thus did not provide access to markets outside of Loudoun. Even their use for local traffic was limited because most were blocked by several mill dams making them of no use but to carry grain to the closest mill. Still there is evidence that there was some personal travel by water. Francis Hill, a young resident of the Hillsboro area, records visiting relatives by water, presumably Catoctin Creek.[16]

Clearly then, road transport was the rule in Loudoun during the 1790s. The common mode of travel was either by carriage or horseback. Loudoun's tax records show that there were nine four-wheeled and six two-wheeled vehicles in the county in 1790. By 1795 the number of four-wheeled carriages had risen to sixteen but the number of two-wheeled ones had fallen to four. Most travellers undoubtedly went by horseback or in a farm wagon. Few people walked for any distance. "A traveller on foot is in Virginia an uncommon spectacle," commented a visitor; "only Negroes go a-foot; gentlemen ride. But the whole country being made up of gentlemen and their negroes, and almost no other distinction obtaining, it is always something extraordinary to meet a white foot-traveler."[17] Society in Loudoun was far more complex than this but that is not to suggest that there were many pedestrians.

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[16] Francis Raylor Hill Diary, Ms. Division, Alderman Library, University of Virginia, Charlottesville, 58, 88, 90.

[17] Schoepf, Travel in Confederation, II, 45.

Almost all Loudounites were farmers of one sort or another and horses were a necessary part of any farm. Beyond this many farmers owned wagons. The exact number of farmers owning wagons can not be determined, but a rough estimate can be derived from the inventories made of the estates of deceased Loudounites. During the 1790s, 195 estates were inventoried and 93 or just under half of them included wagons. When this ratio of wagons to estates is applied to 2773, the approximate number of households in Loudoun during the period, 1323 is arrived at as a rough estimate of the number of wagons in the county and a part of the problem of road maintenance becomes clear.[18] To make matters worse Loudoun lay across the main route from Winchester and the lower Shenandoah Valley to the markets of the Potomac. This "foreign" traffic added to the heavy local use of the roads complicated the problem of maintenance.

The general road law of 1748 continued the practice of making all road construction and maintenance a county responsibility. The act was refined in 1762 and again in 1785 but little was changed.[19]

County courts were obligated to receive all petitions from citizens for the opening of new roads or the altering of old ones. Loudoun's court received 99 petitions for new roads in the 1790s. Upon receipt of such a petition, the

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[18] Personal Property Tax Records, 1795.

[19] Hening, ed. Statutes VI, 64; XII, 174-179.

court appointed an investigating committee of three commissioners, one or two of whom were usually justices of the peace. It was the duty of these commissioners, at least two of which had to be present, to "view" the proposed road, meaning to walk its route, and to report back to the court with a recommendation. Such reports were invariably positive, but Loudoun court order books contain reports from only two thirds of the commissions. The other third may have been negative and therefore not recorded (Chart I). The next step was the order that the road be laid out. Only half the roads asked for in petitions were in fact laid out. Finally a surveyor or overseer was appointed for the new road. No new roads of any great distance were laid out in Loudoun during the nineties, and so most of the acts name only one or two surveyors. It is worth noting that only one road was ever officially "discontinued." Loudoun's court order books are replete with orders for the viewing and laying out of new roads; such transactions are only surpassed in number by lawsuits (almost always cases of debt), the registration of wills and inventories, and the transfer of land.

Day to day maintenance of Loudoun's roads was handled by road surveyors, the most numerous of all governmental officials in eighteenth-century Virginia. Loudoun appears to have had between two and three hundred such officials, each with two to five miles of road under his supervision. The

CHART I

Roads in Loudoun

Year	Viewed	Report	Established
1790	8	12	6
1791	9	12	4
1792*	12	2	6
1793	12	2	2
1794	10	8	5
1795	8	3	11
1796	13	4	4
1797	15	12	6
1798	6	5	4
1799	6	5	2
Total:	99	65	50

*One road was discontinued in 1792.

Court Order Books L - T

Time of year had no effect on the number of petitions and approximately equal numbers were reserved in all seasons. Court Order Books L-T.

exact distance varied because mile posts were not used. Instead two convenient landmarks, such as George Taverner's and Goose Creek Meeting House or "Kittockton Creek below the Mill" and Lacey's were used.[20] Each of these surveyors or overseers combined the functions of inspector, engineer, and labor foreman. Each was supposed to inspect his section of road periodically to see that it was kept in repair. If he found an area needing repair, it was his duty to assemble the freemen living nearby and to supervise their work. Work crews had the right to make use of timber and stone from along the road for its repair.

Road maintenance was a community operation. Loudoun court records contain notices of only three instances when county funds were used for the upkeep or repair of roads during the decade of the nineties.[21] The labor involved was difficult, but it was not required often enough on most roads to cause it to become odious to the inhabitants. A day or two a year usually sufficed to complete the repairs required on most roads. The exception to this were the thoroughfares from the Shenandoah Valley to the port towns of Alexandria and Colchester. Because of the heavy traffic, these roads were often in a state of disrepair. The residents dwelling along them

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[20] Order Book L, 336.

[21] In 1795 Thomas Touch was paid $1.50 for timber used on a road. Later the same year Peter Dowe was likewise paid $.83 for timber so used. The following year Constant Hugh was paid $1.34 for road work. Court Order Book Q, 123, 315; R, 8.

continually sought relief from working on them. For instance, in 1789 a group of about one hundred men who lived within three miles of the Colchester Road and were therefore required by law to work on it petitioned the state Assembly for relief, stating that they worked on it an average of six days a year while other county residents usually performed road work for only a single day a year.[22]

On one occasion overseers of the Colchester Road and of the road between Snicker's Gap and Little River received so little cooperation that they were forced to go to the county court and seek special support in their efforts to get the residents of the area to work. The Court responded with an order "that all the hands in this county living within four miles each side of the turnpike road leading from Ashly's Gap [sic] to Fairfax line do work thereon under the overseers of the said road to be appointed," and a similar order for the spur to Snicker's Gap.[23] These disputes appear to have involved not only the workers and the overseers, but also disagreements between overseers as to their respective jurisdictions.

Situations like the last point up the single greatest weakness of the Virginia road system. Some roads, like that between Ashley's Gap and Fairfax, were links in systems crossing more than one county. County Courts were most responsive to local needs, and Loudoun's justices were not

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[22] Legislative Petitions, 14 November 1789.

[23] Court Order Book S, 184.

interested in providing thoroughfares for commerce between the Shenandoah Valley and eastern towns like Alexandria, Colchester, and Dumfries. Conflicts between Loudoun and her neighbors over the maintenance of such roads were as old as Loudoun itself.[24] In fact many Loudounites living along such roads actively opposed maintaining them in the hope that traffic would be curtailed because the stock driven along the roads consumed their crops and drovers often destroyed their fences.

The state became involved in road controversies only as an arbiter between counties or between the citizens of a county and the county officials who collected taxes and demanded labor. Both of these situations occurred in 1786 when a group of Loudoun and Fauquier residents from along the Ashby's Gap-to-Alexandria road petitioned the state legislature asking that their respective county courts be ordered to repair the road even though, as they acknowledged, the road had not been torn up by residents of either county but by those of Frederick, Hampshire, Shenandoah, and Rockingham Counties. The situation was made more difficult by the fact that the road ran alternately in Loudoun and Fauquier for about thirteen miles, making it all but impossible to assess blame for the lack of maintenance. To meet this situation the legislature gave the courts of both counties concurrent jurisdiction over this stretch of the road. Both could order

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[24] Williams, Legends, I, 113.

men to work on sections of the road in either county and anyone who refused to perform such work could be fined for neglect of duty in either county.[25]

This solution seems to have met the needs of the residents of southern Loudoun, and it was certainly more popular than a quite different measure the legislature took the year before to solve a similar problem in central Loudoun. There the roads between Alexandria and Vestal's and Snicker's Gaps were also in a state of disrepair and the legislature in response to complaints from residents of the Valley and of Alexandria passed a bill making the eastern end of the road a toll road and appointing commissioners to collect tolls near the eastern terminus of the road in Fairfax County.[26] This was the first American turnpike, but it was a public corporation in which all receipts were to be applied to road maintenance and not a private corporation like later turnpikes. The act also provided that the county courts of Fairfax, Loudoun, Berkeley, and Frederick Counties were to levy taxes for the necessary repairs and maintenance of the roads involved should the tolls prove to be insufficient. Such a solution may have seemed equitable to the legislators, but it did not seem so to many Loudounites and two years later a large group petitioned for relief from the £60 a year tax levy imposed on Loudoun as her share of the cost

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25 Legislative Petitions, 28 November 1786; Hening, ed. Statutes, XII, 294.

26 Ibid., XII, 75-80.

of maintaining the roads. Residents from along the road also complained that working on the road for six days a year was too long. Their basic complaint was that only Alexandria and its turnpike benefited from the law.[27] These were the arguments presented over and over again during the next decade, but the legislature always turned a deaf ear. Loudounites responded by refusing to maintain the roads. In 1789, for instance, a group of over one hundred Loudoun residents who lived within three miles of the Alexandria-to-the-Valley roads asked that the number of days that they be required to work on the roads be lowered from six to either one or two. They argued that Berkeley and Frederick residents benefited most from the roads but that they paid nothing toward their upkeep. In 1792 the petitioners changed their tack and, after the usual protest that they were maintaining roads that were used mostly by residents of the Valley, suggested that workers be hired to do the maintenance and that the cost of such work be covered by a general "tax on lands and other property." The legislature ignored their pleas, and the nearby residents renewed them the next year pointing out that the "roads leading from the back country to Alexandria and Dumfries" had been impassable during the last winter and that the work required for keeping them open was simply beyond what could be expected of those living along them. Again the legislature refused to act.[28]

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27 Ibid., XII, 524-527.

28 Legislative Petitions, 14 November 1789, 6 and 13 October, 1792, 23 October 1793.

During the time that all this was going on a group of Pennsylvania promoters organized a private company to build a turnpike between Philadelphia and Lancaster. In 1792 the Pennsylvania state legislature chartered the enterprise which soon raised $300,000 from sale of stock. By 1794 the company had constructed a gravel-covered stone roadbed between the two cities. It became an instant success.

Word of this success spread, and during the following year a group of Loudoun residents saw in such a plan the solution to their problems. One of the group's leaders was Richard Bland Lee, a former congressman, who must have seen the Lancaster Pike while attending Congress at Philadelphia. On 29 October 1795 he wrote to his father-in-law in Philadelphia requesting that a copy of the statute establishing the Pennsylvania road be sent to him. "In the convening legislature of Virginia," Lee wrote, "an attempt will be made by me to obtain a law incorporating a company of subscribers for making a turnpike road from Alexandria toward Winchester."[29] A petition was circulated in the Loudoun-Fairfax area in support of such a plan and presented to the state legislature with eighty signatures. Sixty-one other residents opposed the plan for such a company on the ground that: (1) persons who had previously worked and paid to maintain the road along the proposed route would now have to pay tolls to use it, (2) such a road would bypass and kill the new town of Centerville, (3) the present route was the best one available

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29 Lee to Zaccheus Collins, 29 October 1795, Collins Papers, Library of Congress.

and no new route would shorten the distance to Alexandria, and (4) that since the Potomac and its branches were about to be improved the road would help very few residents but would injure three quarters of them. The petition did not state how these people would be injured. The petition closed by suggesting that instead of creating a turnpike, an "association" should be formed that could adequately maintain the present road.[30]

The legislature recognized from experience the validity of the first group's argument that local soil conditions made it impossible to maintain a year around road by normal methods. It knew also that something had to be done, yet it was unwilling to appropriate state funds for road maintenance. The proposed turnpike appeared worthy of trial. "An ACT to associate subscribers for the purpose of forming an artificial road from Alexandria to Little River, and for other purposes," the first act of its kind in Virginia, was therefore passed.[31] The ten-page act was modelled after the acts that had earlier incorporated the James River and the Potomac Companies. In addition it built on the experience gained from earlier county-operated toll roads.

Actual formation of "The Fairfax and Loudoun Turnpike Company" was to be directed by a group of fourteen commissioners whose names and place of residence were given in the

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[30] Legislative Petitions, 13 November 1795.

[31] Shepherd, ed., Statutes, I, 378-388. Virginia was the fourth state to establish a turnpike company. Joseph Stancliffe Davis, Essays in the Earlier History of American Corporations, 2 vols. (New York, 1917), II, 340-341.

act's first clause. The areas represented by the commissioners show how great a region was considered to have an interest in the road. Seven trustees came from west of the Blue Ridge, including two from Frederick County, two from its county seat, Winchester, and three from other towns. These seven commissioners were evenly balanced by seven from east of the mountains. Leven Powell represented Middleburg, (located just beyond the road's western end), Thomas Lewis represented Leesburg, and Richard B. Lee and Samuel Love represented Loudoun as a whole. Surprisingly, the town of Alexandria had only two representatives and Fairfax county in general had none. The first commissioner named from Alexandria was Francis Peyton, Jr., whose father, a resident of Loudoun County and a trustee of Middleburg, represented Loudoun and Fauquier counties in the state Senate. The other Alexandria commissioner was Leven Powell, Jr., a man with equally strong ties to Loudoun: he was the namesake and third son of the Middleburg commissioner. Beyond this, the Powell and Peyton families were themselves connected: the senior Francis Peyton's sister, Eleanor, was Leven Powell's mother.[32] In short an even half of the commissioners either lived in or came from Loudoun County.

The new company was clearly meant to be a quasi-public enterprise. It was to issue twelve hundred and fifty shares

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[32] James Daniel Powell, "Lt. Col. Leven Powell," WMQ (2), XIX (1939), 131. Samuel Love resigned his position as Loudoun County's commissioner in 1797 and was replaced by Israel Lacy the following year. Court Order Book R, 229; S, 59, 95.

of stock worth two hundred dollars each under a tightly controlled procedure. First the commissioners were to advertise the stock offering in the newspapers of five area towns, including one advertisement in German, for a period of one month before the subscription was opened. The sale of stock had to be conducted in both Alexandria and Winchester (another sign of the interest expected in the Valley). On the first day of sale investors were to be limited to one share each, on the second day each investor could purchase one or two shares, and on the third, either two or three shares. If all 1250 shares were not sold within those three days, the sale could be reopened later and blocks of stock of any size would be made available on a first come first served basis. In short, the plan was to spread ownership of the new company among as many people as possible.

Each subscriber had to pay twenty dollars at the time of purchase, and the company was to begin operation as soon as half the shares were sold to at least one hundred different persons, a further precaution to prevent control of the company by a small group. Once operation was begun the company was to have all of the rights of a corporation in that it could purchase and hold title to land, sue and be sued, and remain in existence perpetually. The company was to be operated by a president, six managers, one treasurer, and any other officials considered necessary by the commissioners who were to supervise the election of these officers the

adoption of company bylaws at a stockholders' meeting to be called within twenty days of the start of company operations. In another move to limit the possibility of control of the company by a small group of men it was provided that no single person should be allowed more than ten votes in any election or proceeding regardless of the number shares of stock he held. A stock certificate was to be issued to a subscriber as soon as he had paid a total of sixty dollars for each share.

Day-to-day control of the company was vested in the president and managers who were to meet whenever and wherever they thought necessary. Five managers would constitute a quorum, and all transactions had to be registered in a book which would be open to inspection by stockholders. The managers had wide ranging powers over construction and maintenance of the turnpike including the right to hire engineers, surveyors, and workmen; the right to establish the route to be followed; the right to seize and make use of any materials belonging to anyone living near the road for use in its construction provided they were paid for at a fair rate; and the right to erect any bridge or toll house they deemed necessary. In other areas their powers were far more limited. For example, the act specified that the road was to be "laid out fifty feet wide, twenty-one feet whereof in breadth at least, shall be made an artificial road, which shall be bedded with wood, stone, gravel . . . and the said road shall be faced with gravel or stone pounded or other small hard

substance. . .," and it went on to give in detail the angle at which it was to be crowned. Specifications for sign posts and mile stones were also given. Tolls were set by the act and profits controlled. If stockholders were receiving a six per cent return on their investment there could be no increase in tolls, but if their return exceeded fifteen per cent rates had to be lowered. In an effort to help protect the road, standards were established making the weight a vehicle could carry dependent on the width of its wheels and the season of the year. The public was to be protected from poor maintenance on the company's part by a clause forbidding the collection of tolls on any section of the road judged to be "out of order, and repair" and specifying fines for company agents failing to maintain the road adequately. Lastly, it was decreed that the company could erect turnpikes for the collection of tolls every ten miles and that such collection could begin as soon as any ten mile stretch of the road was completed.[33]

The Fairfax and Loudoun Turnpike Company was never organized. It is not known whether the stock subscription was even opened. The problem of maintaining the east-west thoroughfares remained and continued to plague Loudounites and their neighbors throughout the decade. Citizens continued to request that the state legislature do something to insure usable roads while the people living along them continued to protest against working on them and against paying taxes

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[33] Shepherd, ed. Statutes, I, 378-388.

to maintain them.[34]

The problem of east-west transportation led to the formation of another quasi-public corporation during the 1790s. The city of Georgetown, Maryland's port on the Potomac River, saw its old rival Alexandria begin to tap the upland trade and wished to share in it. Georgetown's hinterland was very small since areas more than a few miles away tended to trade by road with either Philadelphia or Baltimore. The town's businessmen decided to bid for the trade of the Shenandoah Valley. Georgetown was handicapped in this by the Potomac River and in 1791 the merchants of the town moved to form a company for constructing a bridge across the Potomac.[35] The bridge was completed six years later, the

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[34] Legislative Petitions, 8 December 1797 and 8 December 1800. In January of 1802 the legislature chartered The Little River Turnpike Company in an act almost identical to that which had provided for the Fairfax and Loudoun Turnpike Company. The new company acted immediately and by 1806 had opened a paved road between Alexandria and the Little River Ford of the Colchester Road. Other roads branched off of this one. In 1808 the Fauquier and Alexandria Turnpike Company was chartered and within a decade it constructed a road from Warrenton across the southeastern corner of Loudoun to Fairfax Court House where it joined the Little River Turnpike. Shortly thereafter the Snicker's Gap Turnpike Company and the Ashby's Gap Turnpike Company were formed and improved the roads between the said gaps in the Blue Ridge and the town of Aldie at the western terminus of the Little River Turnpike. Shepherd, ed., Statutes II, 383-386, 453-455; III, 379-385; Acts of the Assembly, 1809-1810, 57; 1810-1811, 67, 78; 1811-1812, 88; Little River Turnpike Company, Acts, Letters, etc. 1801-1812, Virginia State Library.

[35] Maryland Laws, 1791, Ch. 81.

first to span the Potomac, but it did not divert very much trade to Georgetown, largely because the Sugarlands Road with which it connected on the Virginia side was in such poor repair.[36]

Loudoun did not solve the problems of her thoroughfares during the 1790s. On the local level her intracounty roads did not present as great a problem. There were literally hundreds of such roads and their administration consumed a great deal of time as is shown by the multitude of entries in the records of the county court, but few of them appear to have caused controversies. Loudounites accepted the responsibility for caring for them. Travel on these roads was arduous. They were not so much laid out as they were marked off. As late as 1782 the state legislature had to provide by law that all main roads be marked by blazes on trees.[37] Large rocks and other obstructions were generally not removed but simply gone around and in 1801 John Davis, a stranger to Loudoun, reported getting lost between Great Falls and Frying Pan. When he asked a farmer for directions Davis reported that the farmer told him that travellers

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[36] A decade later the Little River Turnpike opened and threatened to draw all traffic to Alexandria. In reaction, Georgetown merchants attempted unsuccessfully to interest Leesburg, as yet unserved by a turnpike, in a plan to turn the Sugarlands Road into a turnpike. Few Leesburg leaders were very interested because a group of her merchants were in the process of forming the "Leesburg Turnpike" which planned to connect the town with Alexandria via a spur from the Little River Turnpike to Leesburg. Acts of the Assembly, 1808-1809, 78.

[37] Hening, ed., Statutes XI, 27.

often had trouble following the road and became lost.[38] Three years later Stacey Taylor reported that the road between Snicker's Gap and Leesburg, certainly a main road, shifted from place to place. Most of the time, he reported, it ran on the north side of his house but now it was running on the south side. He asked that the county court "appoint a committee to find the most convenient way for the road running through [his] land from Snicker's Gap to Leesburg."[39] Taylor's problem was probably caused by bad weather and over usage. One traveller called the roads "very bad, cut to pieces with the wagons."[40] Petitions constantly bemoaned their conditions. A typical one stated that "the situation of the roads leading from the back country to Alexandria and Dumfries was such during the last winter and spring that no team could travel them, except a very strong one and a great part of the time impassable to the strongest when fully loaded."[41] Correcting such conditions often proved to be beyond the road surveyor. Without machinery or crushed stone he had to rely on materials at hand to repair his section of the road. The general method of road repair was to fell trees in the area, trim off their branches, cut them into poles about ten feet long, and then lay the poles in the mud.[42]

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38 Davis, Travels, 340-343.

39 Quoted in Strong, Stone Houses, 19.

40 Cresswell, Journal, 47.

41 Legislative Petitions, 23 October 1793.

42 Cresswell, Journal, 47, Court Order Book Q, 123, 315.

If one did not get lost or stuck in the mud, he might get robbed as happened twice to Bishop Reischel's party when it crossed Loudoun in 1780. The group was first robbed of a chest containing papers, clothing, food, and rum on the Maryland side of the Potomac. "Mr. Thomas Noland and his father and father-in-law have 200 negroes in the neighborhood, on both sides of the Patomoak, and this neighborhood is far-famed for robbery and theft. Travellers should take care," the Bishop warned. Continuing down the Carolina Road the group camped for the night at a spot two miles north of Leesburg where a coat, two bells, two towels, and some feed sacks were stolen from them. "We have learned by sad experience," wrote the Bishop, "that Virginia is full of thieves."[43] Writing about Virginia as a whole Thomas Jefferson stated that he had "attended the bar of the Superior Court of Virginia ten years as a student, and as a practitioner [and that] there never was during that time a trial for robbery on the high road, nor [did he] remember ever to have heard of one. . . ."[44] The Bishop's case leads one to conclude that the absence of prosecution did not mean the absence of crime.

Getting lost, slogging through mud, and chancing robbery were not the only troubles to befall eighteenth century travellers in Loudoun. Perhaps less unpleasant, but more certain, was the problem of crossing the county's many rivers

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43 Reischel, "Travel Diary," 590-591.

44 Boyd, ed., Papers of Jefferson, XI, 554.

and streams. Roads avoided as many streams as was possible by following the high ground between them, but this still left many small ones to be crossed at fords where travellers were almost certain to get wet. When streams were swollen from rains, fords often became too deep to cross. They were when George Washington travelled from Winchester to his home in Fairfax one spring. The month was March, there were rains, and when Washington got to Leesburg he found that Goose Creek was impassable at Avery Ford on the Ridge Road. He was forced to detour so far south that Ox and Braddock's Roads from Frying Pan became the shortest route home.[45]

Even in the best of weather crossing some of Loudoun's streams could be a problem. John Davis traversed Loudoun in 1801 and left a picturesque account of one such crossing:

> At length I came to a spacious stream call 'Difficult Run'; an appellation derived from the difficulty in crossing it. . .On one bank towered a majestic mountain, from the side of which rocks hanging in fragments menaced the traveller with destruction; which others had tumbled into the stream interrupted its course. . . . I was in suspense whether to ford this run, or wait for a guide on its bank, when I descried two boys on the opposite shore who obeyed my call with alacrity, leaping from rock to rock till they reached the spot where I stood. With the assistance of a pole [they] conducted me to the opposite bank. . . .[46]

One river, the Potomac, was wide and deep enough that fording it was difficult, if not impossible, in any season, and a ferry was needed. Ferries were considered public

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45 Fitzpatrick, ed., Diaries of Washington, II, 10.

46 Davis, Travels, 370.

utilities and were closely regulated. Since the mid-seventeenth century their administration had been assigned to county courts.[47] Loudoun's county court had the authority to license ferries, to determine their location, the number of boats to be used, their schedules, to receive ferrymen's bonds for performance, and to revoke licenses. Keepers of unauthorized ferries were to be fined and any licensed ferryman could be brought before a justice of the peace if he charged more than the legally established toll. The sum of the fine for overcharging was set at twice the amount he had charged. In cases where the ferry crossed a body of water forming a border between two governmental jurisdictions (as was the case with all but one of Loudoun's ferries), the court was to consult and coordinate its actions with those of its neighbor.[48]

At times this system broke down. Josias Clapham who had been living on the Potomac, north of Leesburg, since 1739 probably began keeping an unlicensed ferry at about that time. In 1748 Philip Noland, son -in-law of the great landowner Francis Awbrey, was living on a portion of his father-in-law's land along the Potomac, and he petitioned the Virginia Assembly for a license to operate a ferry. This petition was rejected as was a second one in 1756, but Noland appears to have operated a ferry anyway. Then in 1757 Clapham got a license.[49] Undeterred by Clapham's license and his lack of

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47 Hening, ed. Statutes, I, 348, 411, 436; III, 221; IV, 113.

48 Ibid., VI, 403; VIII, 55.

49 Harrison, Old Prince William, 502-503.

one, Noland continued his ferry. Over the next few years traffic shifted southward from Clapham's ferry near Point of Rocks to Noland's between the Monocacy and the Little Monocacy. In 1778 Clapham's ferry was discontinued by act of the legislature on the ground that it "hath been found inconvenient."[50] At that time Noland's ferry, now in the hands of his son, Thomas, was officially recognized and granted a license.[51] In the meantime the state legislature took action to end this sort of competition between ferries on the ground that it was harmful to the public interest, by providing that any unauthorized person found guilty of transporting a person across a stream served by a public ferry be liable for a fine of five pounds, half of which was to go to the informer and half to the keeper of the nearest ferry.[52]

The discontinuance of Clapham's ferry did not mean that Noland would have a monopoly on ferry service in northern Loudoun. There were enough persons interested in having ferry service to the west of his that sixty persons signed a petition to the state legislature seeking the establishment of one.[53] The legislature responded by licensing a ferry to operate "from the land of the earl of Tankerville . . . . (at present in the tenure of Christian Slimmer) across the Potomac River to the opposite shore in the State of Maryland."[54]

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50 Hening, ed., Statutes, IX, 586.
51 Ibid., IX, 585-586; Deed Book M, 52.
52 Hening, ed., Statutes, XI, 546.
53 Legislative Petitions, 29 October 1778.
54 Hening, ed., Statutes, IX, 585.

Neither the petition nor the act reveal whether or not a ferry had earlier operated in that location, but one may have since a legislative act of six years earlier had authorized one on the same site. The land at that time was being rented by John Farrow and Alex Reame.[55]

South of these ferries but north of Leesburg there was a third ferry. Its origins are cloudy, but in 1786 a group of Loudoun citizens reported its existence to the state legislature, stating that the ferry was being operated illegally and that the ferryboat was being kept in Maryland. The petitioner's main complaint was probably the rates being charged since they asked specifically that the ferry be licensed and its rates set by law. Virginia's legislature complied and licensed the ferry and set its rates.[56]

Five years later ninety-five Loudounites petitioned for still another ferry across the Potomac to be located at the mouth of Goose Creek. They stated that the road from there to Leesburg was in good condition and that such a route would save travellers several miles in going from Leesburg to Georgetown or Baltimore. The legislature responded favorably, as was usual, and licensed such a ferry.[57]

One other ferry crossed the Potomac from Loudoun. It was established in 1769 and was located somewhere between

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55 Ibid., VIII, 554-555.

56 Legislative Petitions, 26 October 1786; Hening, ed., Statutes, XII, 403.

57 Legislative Petitions, 19 October 1791; Hening, ed., Statutes, XIII, 283.

Noland's and Leesburg.[58] Travellers could also cross the Potomac either just to the west of Loudoun on Harper's Ferry in Berkeley County or a few miles to the east at Georgetown.

In 1786 Peter Harbout successfully petitioned the state legislature for a license to operate a ferry where the Ridge Road crossed Goose Creek.[59] This was the only ferry operating inside Loudoun itself. Nine years later Enoch Frances petitioned the state legislature for the right to erect a toll bridge on the same spot and was supported in his request by 106 persons. Again the legislature acted positively but there is no evidence that Frances ever erected the bridge. Perhaps he concluded one would not be profitable because he was limited to charging the same toll then being collected by the ferry.[60]

Loudounites' interest in ferries was not limited to sites within their county as is shown by two petitions in 1786 from residents of Loudoun, Frederick, and Berkeley counties seeking the establishment of a ferry over the Shenandoah River.[61] Why one was needed is unclear since at least three already crossed the river opposite Loudoun. It was from the keepers of those ferries, Gersham Key, Edward Snicker,

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58 Ibid., VIII, 369.

59 Legislative Petitions, 30 November 1786; Hening, ed., Statutes, XII, 404.

60 Legislative Petitions, 13 November 1795; Shepherd, ed., Statutes, I, 430-431.

61 Legislative Petitions, 24 November 1786.

and John Ashby, that the gaps in the Blue Ridge got their names. In addition, a traveller could almost certainly cross the Shenandoah at its mouth where Harper kept a ferry for crossing the Potomac.

Crossing the Potomac or Shenandoah River by ferry could be harrowing. "There is not one [ferry] in six where the boats are good and well manned," wrote one traveller, "and it is necessary to employ great circumspection in order to guard against accidents, which are all too common. As I passed along I heard of numerous recent incidents of horses being drowned, killed, and having their legs broken, by getting in and out of boats."[62] Once in the boats the horses had to be steadied. Some ferrymen put straw in the bottom of their boats to give the horses better footing.[63] Ferry crossings were especially dangerous in the winter. The Potomac River did not usually freeze over, but one traveller reported that in crossing it at Noland's Ferry they were in "imminent danger, as the current was very rapid, large floats of ice swimming down it, though the river is only half a mile wide, the scow that I crossed over in had several narrow escapes; at one time it was fastened in the ice, but by great exertions of the men in breaking it we made good our landing on the opposite shore, near a mile lower than the ferry."[64]

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[62] Weld, Travels, I, 170.

[63] Francis Asbury quoted in J. Manning Potts, "Francis Asbury 'The Prophet of the Long Road," WMQ (2), XXII (1942),43.

[64] Anburey, Travels, II, 315.

Bridges had the advantages of providing speedier crossings and all-weather usability, but they were expensive. This probably explains why there were only two bridges in Loudoun in 1790. Both served travellers on the Ridge Road between Leesburg and Alexandria; one crossed Broad Run and the second spanned Difficult Creek on the Loudoun-Fairfax border. A third public bridge was planned as the decade closed but was not completed until the early part of the nineteenth century.[65]

The Broad Run bridge was wholly a Loudoun enterprise. It had been built with local funds and was maintained by appropriations from the county budget. Every two years it needed repairs of some sort, and a three man commission was usually appointed to let a contract for the work. James Coleman and William Gunnell were almost always on the commission. In 1790 the court instructed them to "employ some person to remove the rubbage etc. from about Broad Run bridge."[66] The "rubbage" referred to was probably the branches and trash that had floated down Broad Run and became entangled on the pilings of the bridge. Two years later the bridge was in need of repairs and a committee of four was

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[65] In September of 1799 four commissioners were authorized to let a contract for building "a bridge over broad run on the road leading [from Leesburg] to the Gumspring. They were to advertise the contract at Gumspring and in the Leesburg True American for two weeks, let the contract, and then to report back to the County Court. Order Book T, 96.

[66] Order Book L, 342.

appointed to let a contract for the work. They must have informed the court that the bridge was beyond repair because two months later the court named another committee and authorized this one "to agree with workmen to build a new stone or wood bridge over broad run." It is doubtful that a new bridge was built since an entry concerning the bridge dated four months later provided for a payment of 936 pounds of tobacco for "repairing broad run bridge." This was a sizeable sum and could have been for a complete rebuilding.[67] Records for 1794, 1796, 1798 and 1799 indicate that the bridge was repaired regularly.[68] By the last year it must have been beyond repair since Loudoun's justices included $1,000 for a new bridge on the site in the county levy of that year. This, combined with the $150 appropriated for a bridge further upstream on Broad Run accounted for just over one third of the county's $2,914.18 expenditures for the year.[69]

Loudoun's other bridge, that over Difficult Creek, was not so easily handled. It did not require any more work than did the bridge over Broad Run, but Difficult Creek formed the boundary between Loudoun and Fairfax counties, making the bridge the joint responsibility of the two counties. This meant that each county court had to appoint commissioners to meet with those of its neighbor to settle on what work

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67 Ibid., O, 280, 296; P, 6.

68 Ibid., P, 352; Q, 68, 315, 487; S, 118, 184; T, 19.

69 Ibid., T, 96-97, 132.

was to be done and then to let a contract and see that it was done.

The Difficult Creek bridge was in bad condition in February 1790, and the County Court of Loudoun initiated steps to meet the problem by appointing three commissioners to bring the matter to the attention of the Faifax court. These men, James Coleman, William Gunnell, and William Stanhope, were clearly the experts in matters concerning bridges in Loudoun; at least one and usually two served on every bridge committee appointed during the decade.[70] Governmental processes were slow then as now and six months passed before the commissioners from the two counties met, viewed the bridge, decided that it was beyond repair, and recommended to their respective counties that it be rebuilt. In August the Loudoun Court approved their recommendation and named the same three men plus a fourth, John Gunnell, to a new commission which was to meet with Fairfax's commissioners and let a contract for the building of a new bridge over the stream. The work was rapidly completed and in February of 1791

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[70] Fourteen commissioners were named to conduct business concerning bridges during the 1790s. William Gunnell served on nine of these, James Coleman on seven, and William Stanhope on five. One of these three served on every commission before 1798. In addition, John Gunnell and Richard Coleman, relatives of two of the aforesaid served on three commissions each and John Coleman, another relative, Thomas Ludwell Lee, and James Jennings served on two each. Nine other men served on one commission each. Only one commission did not include a Gunnell or a Coleman.

William Gunnell and William Stanhope were appointed to meet with Fairfax commissioners to inspect the bridge and "receive" it if it were found acceptable. Each of these entries implies the building of a new bridge, but the order for payment, dated 11 July 1791, uses the term "repair," making it unclear whether or not a completely new bridge was erected. Difficult Creek Bridge next appears in the records of Loudoun in 1796 when Gunnell and Coleman were appointed to meet with Fairfax commissioners "to let the repairing or building [of] a new bridge." The fact that a new bridge was again contemplated strengthens the possibility that the old bridge was repaired and not replaced in 1791.[71]

Closely akin to this bridge was the court's handling of its single causeway. The Leesburg to Newgate road ran through an area which flooded quite regularly. In 1790 the county court hired Thomas Fouch to build a causeway to raise the road above the surrounding contryside. He completed his work in the spring of 1792 and the court diverted the old road to run along it in April.[72]

Loudoun's poor roads must have tried the patience of the many travellers who used them. The lack of ferries and bridges over most of its streams meant that the average traveller often had to take great precaution not to get wet and probably could not avoid doing so during much of the year

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71 Order Book L, 342; M, 242; N, 69, 244; Q, 487.

72 Order Book O, 257.

when crossing some of Loudoun's larger streams, like the lower ends of Broad Run and Goose Creek and lesser streams such as Little River and Beaverdam Creek. The least a traveller who had endured Loudoun's roads might expect would be a good meal and a warm bed at night, but again it appears that he was likely to be disappointed. This is not to say that Loudoun lacked ordinaries, but that their quality was mixed at best.

The number of ordinaries in Loudoun during this era is hard to determine. Virginia law required that they be licensed yearly by the county court and that a license fee be paid to the state each year when personal property and land taxes were collected. Over the decade fifty-four persons held ordinary licenses for five or more years, one held a license for four years and six held licenses for one year apiece.[73] Loudoun's personal property tax records list all persons who paid their taxes and include the names of at least nineteen individuals who paid their state tax for operating an ordinary, but who were never licensed by Loudoun's County Court to do so. By the same token there were twenty-nine ordinary keepers licensed by the County Court who did

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73 Personal Property Tax Books, 1790-1799. The 1792 codification of laws contained one dealing specifically with ordinaries and their operation. Shepherd, ed., Statutes, I, 142-145. The tax on ordinary licenses was forty shillings until 1795, $6.67 in 1796 (the dollar equivalent of forty shillings), ten dollars in 1797, and $12.50 in 1798 and 1799. This rise toward the end of the period reflected the rise in all taxes. Hening, ed., Statutes, XIII, 111, 241, 336; Shepherd, ed., Statutes, I, 224, 287, 358; II, 15, 73, 145, 200.

not pay a state tax for keeping an ordinary during this period. Almost all of these individuals appear in the tax lists and paid their tithes and taxes on horses or slaves.[74] The discrepancies between these two sets of records may be in part explained by the fact that it cost nothing to be licensed by a county court to operate an ordinary but that the state tax for doing so was quite high. Since funds collected went to the state government with little chance of their expenditure directly benefiting the citizens of Loudoun, the county's tax commissioners may have made no effort to collect them. There is not a single record of any ordinary keeper being taken to court for nonpayment of this tax during the 1790s.

The number of ordinary licenses granted did rise as the decade progressed, but this does not necessarily mean that the number of ordinaries increased. It could simply reflect an increased effort on the part of county officials to enforce the law.

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[74] Six of Loudoun's ordinary keepers were women. One, Agnes Meek, was licensed to keep an ordinary for a year beginning 12 February 1798 but does not appear to have paid a state tax. The other four women were all licensed and all appear in the personal property tax records for at least one year, but not necessarily for the year(s) in which they were licensed. For example, Elizabeth Roper was licensed to keep an ordinary for a year beginning in August of 1789 and paid an ordinary license tax to the state in 1794 and 1795. Christopher Roper, probably her husband, paid a state tax in 1796 and 1800 but was not licensed by the county court to keep an ordinary during the 1790s.

Ordinaries Licensed by the Loudoun County Court

1789:*	4	1793:	4	1797:	23
1790:	2	1794:	3	1798:	9
1791:	4	1795:	17	1799:	13
1792:	1	1796:	9		

*Ordinaries licensed in 1789 for one year were in operation in 1790.

Similar increases in numbers appear in the state personal property tax records. The number increases from four in 1790 to thirteen in 1795 and eighteen in 1800. In each case the greatest number of tax paying ordinaries was found in the central tax district of Loudoun. Tax commissioners changed in Loudoun's other two districts but Charles Bennett, a member of the County Court, always served the central district. Thus the change in numbers of tax-paying ordinaries can not be attributed to any change in the people administrating the collection system.

Over the decade twenty-nine of Loudoun's forty-two tax-paying ordinaries were situated in Bennett's district, six were located in eastern Loudoun, and seven in the western regions of the county.[75] This geographic distribution of Loudoun's ordinaries is not surprising. The Carolina Road, Loudoun's only major north-south road lay completely within Bennett's district as did Leesburg, the county's largest village. The main east-west roads in Loudoun each crossed

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[75] Loudoun's second or eastern district was cut in half in 1799 when a section was reunited with Fairfax County. Personal Property Tax Books 1790, 1794, 1795, 1796, 1797, 1800.

all three districts.

Taken together these records indicate that Loudoun almost certainly had fewer than twenty-five ordinaries at any one time during the 1790s and appears usually to have had only half that number, especially during the earlier part of the decade. Even if evenly spaced—they were not—around the county, this is not a very large number of ordinaries for a county as large and populous as Loudoun. In the next decade a traveller through Virginia said that one could "scarcely pass ten or twelve miles without seeing a tavern."[76] Such certainly would not have been the case in Loudoun, except perhaps on the main roads, but there must have been enough taverns or more would have been opened. The ordinaries of Leesburg and Waterford will be examined in the discussion of those towns. Little besides their location is known about Loudoun's other ordinaries during the era. Along the Carolina Road travellers could stop at the ordinary Thomas Noland kept at his ferry on the Potomac, at one in Leesburg, or one at the junction of the Carolina and Colchester Roads. The latter was kept for three decades by William West and his son Charles. William West was first licensed to keep the

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[76] Priscilla Wakefield, Excursions in North America (London, 1810), 39. Her description of Virginia is remarkably like that of the Marquis de Chastellux who visited the state during the early 1780s. Francois Jean Chastellux, Travels in North America in the Years 1780-81-82 (London, 1782).

inn by the Fairfax County Court in 1754. When Loudoun became a separate county he applied to the Loudoun county court and received a license. He kept the ordinary until his death at some time during the 1760s when he was succeeded by his son Charles who was first licensed by the Loudoun Court in 1765. He operated the ordinary until his death shortly before 1790.[77] By the time his will was registered in January of 1787, his ordinary was being operated by Joseph Lacey.[78] Lacey was never licensed to operate an ordinary during the 1790s but clearly he did so. In 1799 an act of the legislature stipulated that commissions from four counties were to meet at Lacey's Ordinary to settle on a permanent site for a district court.[79] Washington mentions one other ordinary, Bacon's Fort, as being somewhere in the neighborhood during the 1780s, but no Bacon appears in Loudoun records of the nineties in conjunction with an ordinary and if it was still operating it probably had another keeper.[80]

There does not appear to have been any more ordinaries on the Ridge Road west of Leesburg. Nicholas Cresswell says that there was only one to the east between Alexandria and Fairfax. He called it "Mosses" and said that it was located

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77 George Washington stopped at West's several times in his travels between the Shenandoah and his home in Fairfax, for example, see Fitzpatrick, ed., Diaries of Washington, I, 12, 336; II, 9; III, 362.

78 Will Book C, 242.

79 Shepherd, Statutes, II, 242.

80 Fitzpatrick, ed., Diaries of Washington, III, 362.

near the midpoint in the journey. This was probably the inn kept by Elizabeth Moss during the 1790s and on which she paid her state tax in 1800. By the close of the 1790s there was at least one more in the area: Wylies at the bridge over Difficult Run.[81]

In Leesburg travellers could lodge at Roper's tavern (Washington stayed there in 1784), Daniel Losh's or John Scatterday's.[82] West of there in Waterford the traveller could find an ordinary for at least a part of the decade. There may have been one or two other ordinaries in Loudoun during the 1790s, but none can be pinpointed along these roads. There clearly were taverns at the height point of each of the three main gaps in the Blue Ridge. None were licensed in Loudoun though and little is known about them.[83]

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81 Cresswell, Journal, 47-48; Personal Property Book 1800a; Fitzpatrick, ed., Writings of Washington, XXXVII, 422.

82 Fitzpatrick, ed., Diaries of Washington, II, 279. Elizabeth Roper held a license in 1789 and paid the state tax in 1794 and 1795. Christopher Roper was not licensed but paid the tax in 1796 and 1797. Losh was Loudoun's most law abiding ordinary keeper. He obtained a license in 1789 and every year between 1792 and 1797. The last license expired on 12 December of 1798 and he obtained another the following March. He paid his state tax in every year examined. Order Book L, 287; O, 187; P, 184; Q, 68, 257; R, 8, 265; S, 358; Personal Property Tax Books 1790, 1794-1797, 1800.

83 Washington records having visited "Old Caudley's" at the height of Snicker's Gap. Fitzpatrick, ed., Diaries of Washington, I, 12, 400, 404; II, 66, 144. John Ashby's ordinary was just west of the gap which bears his name and thus licensed by Frederick County. Cresswell, Journal, 51; Strong, Stonehouses, 33.

Travellers on the Colchester Road were served by Thornton's tavern near Newgate, by Lacey's at the intersection with the Carolina Road, and possibly another one at either Aldie or Middleburg.[84]

The exact nature of these and Loudoun's other ordinaries remains a mystery. By law they were supposed to be closely regulated, but in Loudoun at least the regulations do not appear to have been any more closely followed than the ones regarding licensing and tax payments.[85] The act is still of interest if only because it sets the standard that ordinary keepers were supposed to meet. The act provided that any person wishing to keep an ordinary should petition the court of the county in which it was to be located to obtain a license. The justices of the court were then to consider the convenience of the proposed location and the qualifications of the petitioner. If they granted the petitioner a license it was to run for only one year, but could be renewed indefinitely. Loudoun's court records do not include a single instance of a petitioner being denied an ordinary license during the 1790s. Before the license was issued the prospective licensee was supposed to post a bond (usually one hundred and fifty dollars) to insure that "he doth constantly find and provide in his said ordinary, good, wholesome and cleanly lodging and diet

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84 Personal Property Tax Records.

85 Hening, ed., Statutes, XII, 173-174; Shepherd, ed., Statutes, I, 142-145.

for travellers, and stableage, fodder, and provender, or pasturage and provender, as the season shall require, for their horses." The bond did not take the form of a cash deposit but of a promise by a friend or friends of the petitioner's that they would pay that amount if the petitioner failed to live up to the terms of his license and was unable to pay that sum if so fined.

In Loudoun the average ordinary keeper had one such "security."[86] Only two securities had the same last name as the ordinary keeper they aided and in both of these cases the licensees were women. Fifty-four different men entered a bond as security for the seventy licenses granted. Four men, Charles Binns, Matthew Harrison, Jr., James Coleman, and James Leith, acted as security for two persons each. Charles Binns, Jr., entered bond for four different men; twice for one of these and three times for another. William H. Harding entered bond for five ordinary keepers once and one ordinary keeper twice. Together Harding and Charles Binns, Jr., stood as security fourteen times, or for one fifth of those people securing licenses to run an ordinary. Binns served as securitor for Daniel Losh twice and George Moul three times. Harding served each of those keepers once. The only other ordinary keeper to have the same securitor for more than one year was Francis Triplett who was served twice by Harding.

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[86] Five of the seventy licensees had two securitors. The provision for bond was not included in the 1785 act but was added to the act of 1793. Hening, Statutes, XII, 173-174; Shepherd, Statutes, I, 142-145.

Other than this there is no pattern. No ordinary keeper stood as security for another with the exception of Anthony Thornton who in July 1797 stood as securitor for William Eskridge who reciprocated by standing as securitor for Thornton.[87]

An ordinary keeper could be fined if he allowed gambling on his property, served spirits on the sabbath, sold liquor on credit, or charged more than the legally established rates for food, drink, stabling, pasturage, or lodging. By law the county court was required to establish rates for ordinaries at least twice a year and ordinary-keepers had to post them within their establishments within one month of their issuance. Loudoun's justices established rates only twice during the decade, once in 1795 and once in 1798 (see accompanying list). The keepers of ordinaries in Loudoun appear to have followed these rates faithfully. There were a few cases of ordinary keepers being charged with "retailing spiritous liquors contrary to law" but the court order book entries give no specific information concerning the offense.

There is no surviving description of any operating ordinary in Loudoun during the 1790s but a description of a typical ordinary can be pieced together from the accounts of travellers who passed through Virginia during the era. "They are all built of wood," one traveller wrote, "and resemble one another, having a porch on front the length of the house,

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87 Order Book R, 154.

LOUDOUN COUNTY ORDINARY RATES

Breakfast	£0-1-3
Pot Dinner with cyder or small beer	2-0
Supper	1-3
1 gill rum made into punch	1-6
1 gill rum made into toddy and so in proportion	1-0
Good rum per gill so in proportion	0-6
Continent rum per gill	0-3
Good Peach Brandy per gill and so in proportion	0-6
Cyder per quart	0-4½
Strong beer per bottle	1-0
Porter per bottle	3-0
Good Madeira wine per bottle	6-0
Cherry per bottle	5-0
Clarett per bottle	4-0
Port per bottle	4-6
Fyall & other low wines per bottle	3-0
Stablidge and hay for 24 hours	1-6
Corn or oats per Gallon	0-8
Lodging in clean sheets	0-9
Pasturage 24 hours	0-6
Good whisky per gill	0-3
Apple brandy per gill	0-4

Ordinary Rates set by the Loudoun County Court 10 March 1795. Order Book Q, 100. Rates were changed slightly three years later. Order Book R, 345.

almost covered with handbills."[88] Another traveller echoed this description of ordinaries saying that signs were not necessary because ordinaries "are easily identified by the great number of miscellaneous papers and advertisements with which the walls and doors of these public houses are plastered," and he advised that "generally, the more of such bills are to be seen on a house, the better it will be found to be."[89]

Once inside the traveller would find only a single public room. There the ordinary keeper's wife served a single meal for her family and any customer. The fare was usually simple and rough but filling. Breakfast consisted of tea or coffee, small slices of ham (most likely cured on the place), and perhaps an egg or two. Dinner might mean wildfowl or a chicken roasted, perhaps some salt beef or more ham, and hoe-cake, a type of corn bread. Water and rum were the most common drinks, but in Loudoun locally distilled peach brandy was almost certainly available. Meals were served on a schedule, not on order, and a guest arriving after lunch had to wait until dinner for service.

Ordinaries were neighborhood gathering places where information about stray or stolen animals, views on politics, gossip and general news of the day were exchanged and travellers were pumped for information of the outside world. Times might be passed simply in conversation over a bowl of toddy

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88 Wakefield, Excursions, 39.

89 Schoepf, Travels in Confederation, II, 44.

or perhaps in games; laws concerning gambling were so detailed that they suggest that it was common. One Loudoun tavern owner had a billard table and one traveller speaks of a cock fight. When it came time to retire, accommodations varied.[90] One traveller says that "there are always several beds in one room, and strangers are sometimes obliged to sleep together [on] sheets [that] are mostly brown and seldom changed till they are dirty whether few or many persons have slept on them." Another traveller described his resting place as "a bed stuffed with shavings, on a frame that rocked like a cradle and in a room so well ventilated that a traveller had some difficulty in keeping his umbrella erect, if endeavoring under this convenience, to find shelter from the rain while in bed."[91] Hyperbole to be sure, but still another traveller reported that "a pallet brought in and laid out on the floor for each guest suffices for these country folk."[92] Such accommodations would tempt few travellers to linger long and most must have arisen early to continue their travels.

Two travellers recorded almost opposite experiences in Loudoun ordinaries during this era. John Davis' lodging at

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90 Bernard, Retrospections of America, 153.

91 Wakefield, Excursions, 39-40; Bernard, Retrospections of America, 153; Cresswell, Journal, 188; Schoepf, Travels in Confederation, II, 45-46.

92 Ibid., 40.

Anthony Thornton's ordinary was most pleasant judging from his description:[93]

> prosecuted my walk to Newgate; where in the piazza of Mr. Thornton's tavern I found a party of gentlemen from the neighbouring plantations carousing over a bowl of toddy and smoking cigars. No people could exceed these men in politeness. On my ascending the steps to the piazza every countenance seemed to say, This man has a double claim on our attention, for he is a stranger in the place. In a moment there was room made for me to sit down; a new bowl was called for and everyone who addressed me did it with a smile of conciliation. But no man asked me where I had come from or whither I was going. A gentleman is in every country the same, and if good breeding consists in sentiment, it was to be found in the circle I had got into.[94]

Elkanah Watson, travelling the road between Leesburg and Fredericksburg, found less desirable people in the ordinary where he stopped: "A wretched ordinary, filled with a throng of suspicious characters, afforded us the only refuge; but as the moon was just rising, we chose to press forward through the woods rather than to encounter its hospitalities."[95]

This suggests an alternative: travellers did not have to patronize ordinaries; they could always sleep in the woods. Many undoubtedly chose to do so. "The tavern, or ordinaries as they are called in Virginia, are intended only for the reception of gentlemen," wrote Schoepf, teamsters "always

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93 Thornton was licensed to keep an ordinary on 10 July 1797. Davis places it at Newgate but it must have been west of there because Newgate was just east of Loudoun's pre-1798 border and a part of Fairfax county. Order Book R, 154.

94 Davis, Travels, 388.

95 Watson, Men and Times of the Revolution, 34.

take with them provisions and horse-fodder and lie in the bush."[96]

Travel, in short, was an arduous undertaking in Loudoun as it was in most of eighteenth-century America. Loudoun's roads, ferries, and ordinaries left much to be desired but were probably no poorer than those elsewhere. The difficulty of travel was a major contributor to the insularity of Loudoun and explains much about the nature of her society during the 1790s.

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96 Schoepf, Travels in Confederation, II, 45.

TOWNS

Loudoun was a rural, agricultural area but her farms and plantations were not entirely self-sufficient and by the 1790s there had developed within her borders almost a dozen towns or villages. These towns or "central places," varied in size from tiny Frying Pan with its Baptist church and four log huts to Leesburg, "a pretty little town" of around sixty houses.[1] They were scattered about the county at intervals of five to fifteen miles, and no uniform geographical or physical features determined their exact location. What pattern there was is suggested by Walter Christaller's studies of Bavaria.

Writing in 1933, Christaller postulated that each central place has its own complementary region, i.e., a region with which it interacted and for which it served as a central place.[2] The size of a central place's complementary region is difficult to determine but distance, especially "economic distance" measured in time and cost, plays a vital role.

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1 John Davis, Travels of Four Years and a Half in the United States of America (London, 1803), 355; "Travel Diary of Bishop Reischel," in Newton D. Mereness, ed., Travels in the American Colonies (New York, 1916), 609; Jedidish Morse, The American Gazeteer (Boston, 1797), puts the number of homes in Leesburg at sixty. A decade later a visitor counted "around 150 houses." Edward S. Jones, ed., "Memoranda Made by Thomas R. Joynes on a Journey to the States of Ohio and Kentucky, 1810," WMQ, 1st ser., X (1902), 231.

2 The Analysis in this paragraph is based on principles presented by Walter Christaller. C.W. Baskin, A Critique and Translation of W. Christaller's Die Zentral Orts in Suddeuschland 1933 (Unpub. Ph.D. diss., University of Virginia, 1957).

Eighteenth-century transportation was very arduous and time-consuming and people simply would not go a long distance to visit a store, to attend church or to conduct legal business. Another decisive factor in the development of central places is the net income of the inhabitants; if the people have no money they do not need stores. This functional relationship between the size of a central place, its complementary region, and the expendable income of its inhabitants leads one to expect the central places of eastern and southern Loudoun to be farther apart than those of western Loudoun: land units tended to be larger in the planter-dominated east and south and its inhabitants tended to produce more items for market and thus to have more cash with which to purchase the products of craftsmen the imported wares offered for sale by merchants. This was indeed the case. Central places in Western Loudoun were all within six miles of each other while those in the rest of the county were ten to fifteen miles apart (see figure 3a).

Leesburg, located at the intersection of two of Virginia's most important roads and the county seat of Loudoun, was the county's largest and most important town. It was the home of four congregations, more than any other town, and this religious activity combined with political affairs brought people to Leesburg and helped make it the largest economic center in the county. In the Catoctin Valley west of Leesburg, the county's second largest town, Waterford, served as

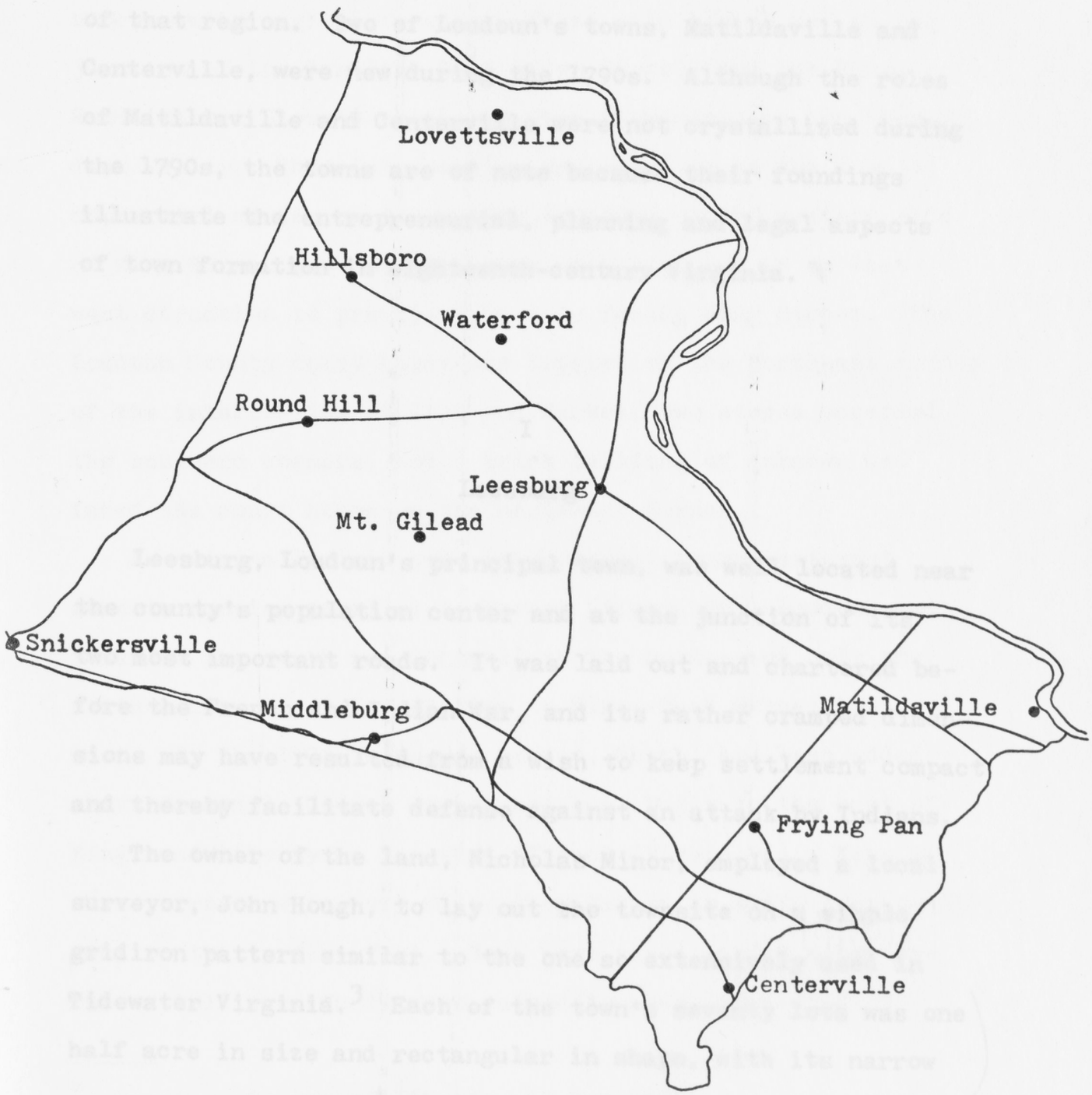


Figure 3a: Loudoun Towns in the 1790s

both a social and an economic center for the small farmers of that region. Middleburg, near the county's southern border, filled a similar role for the large plantation owners of that region. Two of Loudoun's towns, Matildaville and Centerville, were new during the 1790s. Although the roles of Matildaville and Centerville were not crystallized during the 1790s, the towns are of note because their foundings illustrate the entrepreneurial, planning and legal aspects of town formation in eighteenth-century Virginia.

I

Leesburg

Leesburg, Loudoun's principal town, was well located near the county's population center and at the junction of its two most important roads. It was laid out and chartered before the French and Indian War, and its rather cramped dimensions may have resulted from a wish to keep settlement compact and thereby facilitate defense against an attack by Indians.

The owner of the land, Nicholas Minor, employed a local surveyor, John Hough, to lay out the townsite on a simple gridiron pattern similar to the one so extensively used in Tidewater Virginia.[3] Each of the town's seventy lots was one half acre in size and rectangular in shape, with its narrow

[3] John W. Reps, Tidewater Towns: City Planning in Colonial Virginia and Maryland (Charlottesville, Va., 1972), 225.

end facing on one of the town's four east-west streets. There were fifteen blocks in all, three with only two lots apiece, eight with four lots each, and four—the town's main blocks—with eight lots each. These main blocks met at the junction of the Carolina Road (King Street) and the Ridge Road (Market Street) which ran from Alexandria to the Shenandoah Valley. This intersection was meant to be the town's commercial center, and the lots fronting on the western side of King Street just above Market were laid out in an east-west direction to provide more lots facing King Street. The Loudoun County court house was located on the northeast corner of the intersection of King and Market, two stores occupied the southern corners, and a brick building of unknown use faced the court house on the northwest corner.

As originally laid out, Leesburg had three east-west streets running parallel to Market (figure 3b)—Loudoun and Royal to the south and Cornwall to the north—and only one north-south street in addition to King—Back Street to the west. By the 1790s a fourth street, North, had been added above Cornwall, Church Street had been built to the east of King, and Liberty to the west of Back (figure 3c). None of these streets were very wide; they varied in width from twenty-five to thirty-five feet. None were paved, until after the War of 1812 when funds were raised by means of a lottery.[4]

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[4] Leesburg Genius of Liberty, 12 May 1818.

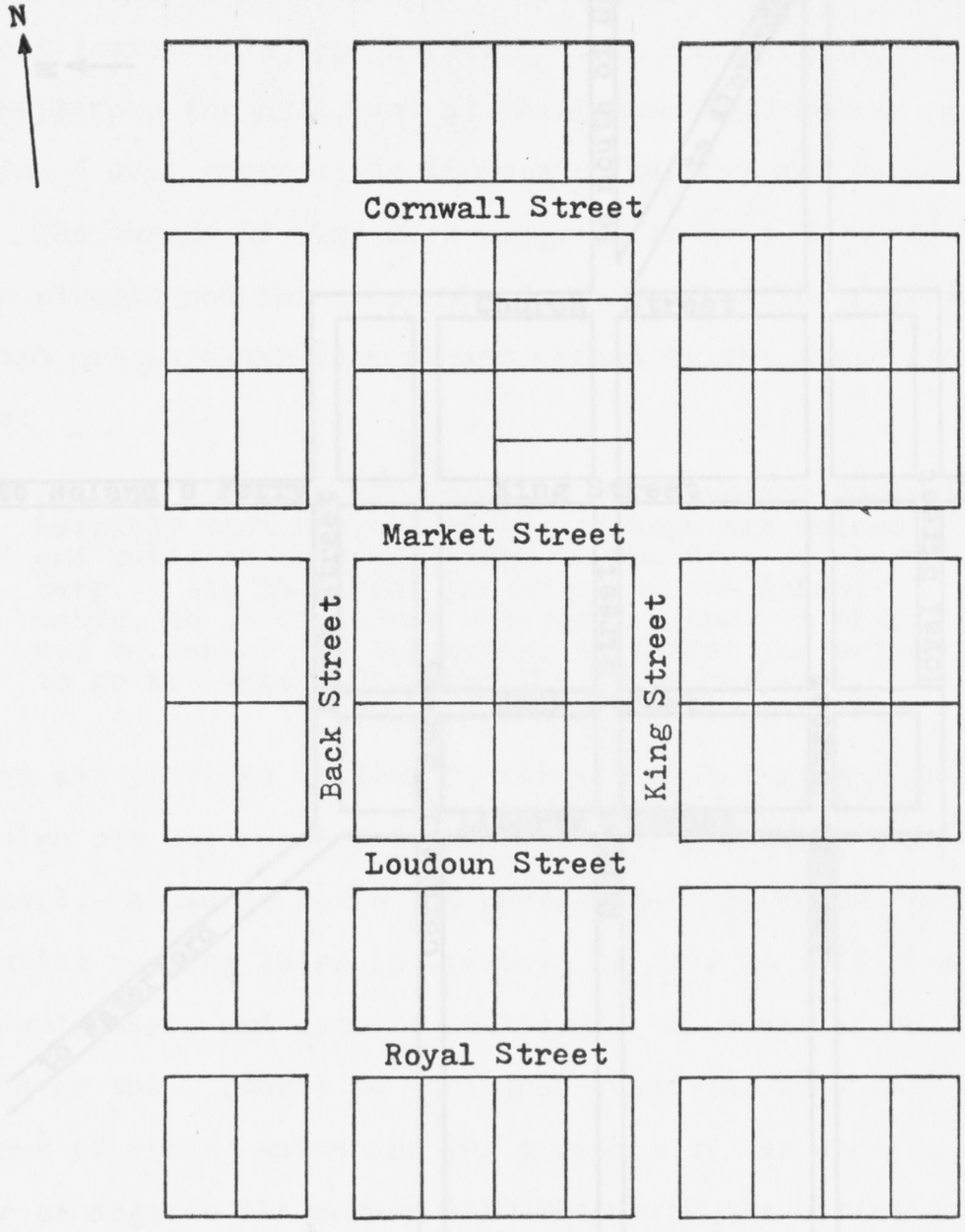


Figure 3b: Leesburg as originally laid out

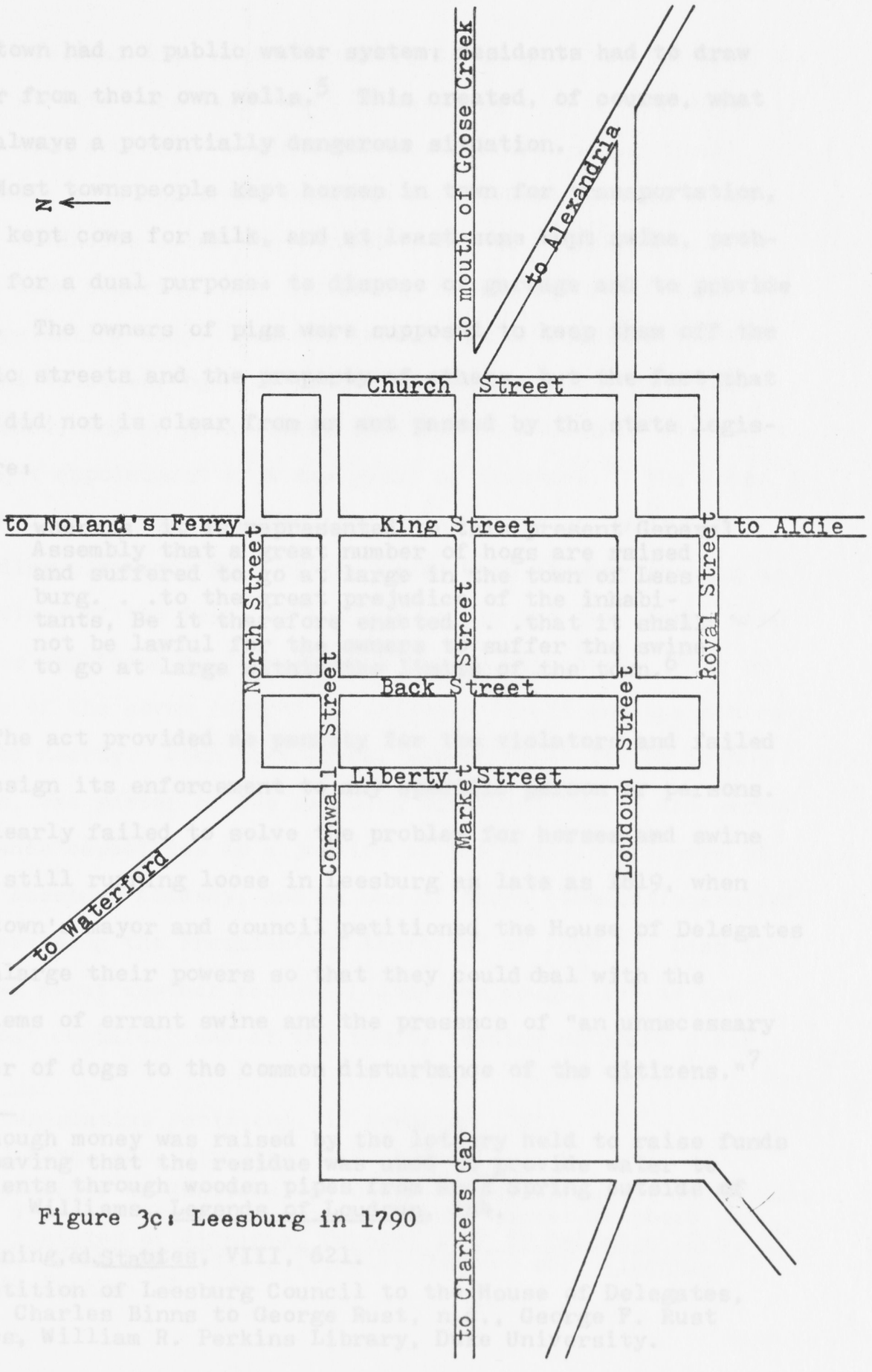


Figure 3c: Leesburg in 1790

The town had no public water system; residents had to draw water from their own wells.[5] This created, of course, what was always a potentially dangerous situation.

Most townspeople kept horses in town for transportation, many kept cows for milk, and at least some kept swine, probably for a dual purpose: to dispose of garbage and to provide meat. The owners of pigs were supposed to keep them off the public streets and the property of others, but the fact that many did not is clear from an act passed by the state legislature:

> whereas it is represented to this present General Assembly that a great number of hogs are raised and suffered to go at large in the town of Leesburg. . .to the great prejudice of the inhabitants, Be it therefore enacted. . .that it shall not be lawful for the owners to suffer the swine to go at large within the limits of the town.[6]

The act provided no penalty for the violators and failed to assign its enforcement to any specific person or persons. It clearly failed to solve the problem for horses and swine were still running loose in Leesburg as late as 1819, when the town's mayor and council petitioned the House of Delegates to enlarge their powers so that they could deal with the problems of errant swine and the presence of "an unnecessary number of dogs to the common disturbance of the citizens."[7]

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5 Enough money was raised by the lottery held to raise funds for paving that the residue was used to provide water to residents through wooden pipes from Rock Spring outside of town. Williams, Legends of Loudoun, 184.

6 Hening, ed., Statutes, VIII, 621.

7 Petition of Leesburg Council to the House of Delegates, 1820, Charles Binns to George Rust, n.d., George F. Rust Papers, William R. Perkins Library, Duke University.

Problems like animals running loose and the laying of new streets were dealt with by Leesburg's governing body, the town council. Legislative acts incorporating towns usually also appointed trustees and authorized them to fill any vacancies occurring through death or resignation. Thus the town council, like the county court, became a self-perpetuating body. The act incorporating Leesburg listed eight trustees, but for some unknown reason the body languished, and on 12 November 1787 fifteen Leesburg residents sought appointment of a new group of trustees.[8] The House of Delegates responded by appointing seven of Loudoun's leading citizens; four of the seven were already serving as Justices of the Peace of Loudoun County and two others were later appointed to join them on the county court.[9] Four or more of the seven resided in Leesburg itself and the others lived nearby. John Littlejohn, one of those living in the town, was pastor of the Leesburg Methodist Church and served in such capacities as a justice of the peace, a trustee of the Leesburg Academy, and as one of three "Commissioners for Supervising the Presidential Election" of 1800.[10] Less is known about another resident, Jonathan Hough, but he was almost certainly one of the town's leading citizens since

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8 Legislative Petitions, 12 November 1787.

9 Hening, ed., Statutes, XII, 600.

10 Register of Justices and Other County Officers, 1778-1811, 42, Virginia State Library, Richmond; Samuel Shepherd, ed., The Statutes of Virginia, October 1792 to December 1806, 3 vols. (Richmond, 1835), II, 214; Palmer, ed., Virginia State Papers, IX, 124.

he had George Washington as a houseguest in 1788.[11] A third trustee who lived in town, Patrick Cavan, was also its largest landowner, offering for sale "around twenty lots,... some with improvements—the greater part without" in 1799.[12] The fourth resident trustee, Samuel Murray, owned two lots in the town and became a Loudoun justice of the peace in 1795. The other three trustees probably lived outside Leesburg. James McIlhaney of "Ithaca" in the Catoctin Valley had been a captain in the Ninth Virginia Regiment during the Revolution, was appointed a justice of the peace in 1785, and would later serve as a trustee of the Leesburg Academy and as sheriff of Loudoun. His thirteen thousand acres made him one of the county's largest landowners.[13] Little is known about the other two trustees. One of them, Joshua Daniel, appears to have been a man of moderate means. He owned only 280 acres of land, but had been a justice of the peace since 1785. The other, Israel Thompson, owned more land——1167 acres——but appears never to have held any other public office.[14]

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[11] John C. Fitzpatrick, ed., The Diaries of George Washington, 1748-1799, 4 vols. (Boston, 1925), III, 361.

[12] True American, 17 January 1799. Evidently Cavan was at least partly successful since he is listed as the owner of only ten lots in the land tax records of 1800. Loudoun Land Tax Books, 1800, Virginia State Library, Richmond.

[13] War 9, Calendar of Public Officers 1st December 1786, 101, Virginia State Library, Richmond; Shepherd, ed., Statutes, II, 214; Register of Justices and Other County Officers, 1783-1811, Virginia State Library, Richmond, 97; Hugh Milton McIlhaney, Some Virginia Families (Staunton, Va., 1903), 137-167.

[14] Register of Justices, 1783-1811, 96; Land Tax Records, 1790.

In November of 1795 forty-seven "freeholders and inhabitants" of Leesburg expressed their displeasure with this form of town government and asked the state legislature to change its form.[15] The General Assembly responded by establishing a new system under which each of Leesburg's seven trustees would be elected annually by "the freeholders, house-keepers, and free male persons above the age of twenty-one."[16] The trustees in turn were to elect a president who would serve a one-year term. They were also to meet monthly and when sitting as a body "have power to form and establish such laws and by-laws as they may think expedient and proper for the good government of the said town." All such ordinances were to be entered in a book that would be open for public inspection. Specifically, the trustees were charged with maintaining streets and pathways, removing "nuisances" from the town, setting boundary disputes, and opening "the streets and alleys of the said town, agreeably to the original plan." To finance these operations the trustees were allowed to levy a tax, not to exceed twenty-five cents on each tithable and seventy-five cents on each hundred pounds of taxable property. Yearly financial statements were to be submitted, but unfortunately neither these nor the required ordinance book has survived.

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[15] Loudoun Petitions (VSL), Box I. Notice of their intention to submit the petition was placed in the Alexandria paper in May and June. Columbian Mirror, 7, 23 May; 11, 26 June.

[16] Shepherd, ed., Statutes, I, 423-424.

The town these trustees administered probably varied little from most inland towns of the early republic. Few visitors have left any description of the town these trustees administered and the accounts of those that did varied. Nicholas Cresswell, a young English gentleman who wintered there during the Revolution considered it "very indifferently built," but George Washington viewed it more favorably, calling it "a small village [whose climate was] healthy."[17] Leesburg was certainly little, and if Cresswell meant mixed or without any regularity when he said indifferent it was that, too. There were log, frame, brick, and stone houses. The court house near the center of town was probably the largest building. It was built of brick and consisted of a main building measuring 28x40 feet and a wing measuring sixteen feet square. Next to it stood the county jail and further along Market Street stood the Leesburg Academy, another imposing brick edifice and certainly one of the things Leesburg residents took pride in. The only church edifice in Leesburg in 1795 belonged to the Methodists. Located at the corner of Cornwall and Liberty Streets, it was the home of the oldest Methodist congregation in America.[18] The church that stood there during the 1790s replaced an earlier

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[17] Cresswell, Journal, 48; Washington to Alexander Hamilton, 10 April 1799; Fitzpatrick, ed., Writings of Washington, XXXVII, 181.

[18] William W. Sweet, Virginia Methodism (Richmond, 1955), 46; Marvin Lee Steadman, "The First Methodist Deed in America," World Parish, VII, 19-32.

structure (built around 1766-1770) and was new, having been built between 1785 and 1790. It was two stories tall, constructed of stone, and had a gallery around three sides. Next door stood a brick building which was given to the congregation by Samuel Murray, one of the town's trustees. Leesburg did not get a second church building until the Presbyterians erected one just west of town between 1802 and 1804.

Most of Leesburg's commercial establishments occupied brick buildings, the exceptions being McCabe's ordinary which was built of stone and stood on Loudoun Street just east of King and a craftsman's shop which had been constructed of logs by Stephen Donaldson, a silversmith, about 1765.[19] All of the eighteenth century houses still standing today are of either brick or stone, but during the 1790s there undoubtedly were other frame and log structures as well.

Leesburg functioned mainly as a public administrative center and most entrepeneurial enterprises catered to the people who congregated there on court days. Occasional travellers passed through town almost every day, but Leesburg really came to life only for the three to four days a month when the county court was in session. It was these periodic assemblages of people who drew to Leesburg a small group of craftsmen and merchants. Just how many merchants the town

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[19] Melvin Steadman, A Walking Tour of Leesburg, Virginia (Leesburg, Va., 1968), n.p.

had is not clear. Samuel Murray, the trustee, was a merchant as were John S. Smith and John Mathias, but little is known about any of these.[20] William Taylor had a large store on the corner of Loudoun and King Streets from which he sold a general line of merchandise and advertised that the "highest price will be given for flaxseed" showing that he, like most eighteenth-century merchants, bought as well as sold goods on the local market. Another merchant, Thomas Matthews, did the same from his store on the corner of Back and Loudoun Streets. His inventory of goods included yard goods, turpentine, coffee, tea, chocolate, salt, and "Queen's Ware" china: in short, "a neat assortment of Dry Goods and Groceries" all for sale "at the most reduced prices for ready money." Matthews, unwilling to lose a customer simply because he lacked cash, added that "tobacco, wheat, rye, corn, flaxseed, beeswax, etc., will be received in payment." Matthews was not the town's only grocer and had competition from at least one man, John Shaw, who advertised assorted wines, spirits, teas, coffee, chocolate, soap, rice, candles, spices, gunpowder, bar lead, Spanish "seegars," and "a general assortment of medicines and drugs."[21] William and Jane Neilson were also shopkeepers during at least the beginning of the period. In 1791 they sold their store on the southwest corner

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[20] John Mathias & Co. and John Smith and Co. announced they were going out of business in 1790 and 1791 respectively. The John Smith & Co. notice was signed by both Smith and Samuel Murray, and so perhaps the two were partners. Columbian Mirror, 24 June 1790; 10, 17 November 1791.

[21] True American, 17 January 1799, 30 December 1800.

of King and Market Streets to Patrick Cavan who may have taken over its operation himself.[22]

Travellers needed lodging as did those citizens who lived a distance from town but wanted to attend each day of the county court's session. They might have put up at McCabe's Ordinary on Loudoun Street or at Daniel Losh's on King Street across from the court house. Near the end of the period, John Scatterday kept what must have been one of the town's largest ordinaries. He called it "The Sign of the Horse" and proudly announced that he was equipped to provide hay, oats, and stabling for twenty to twenty-five horses and "good liquor" for customers.[23] Loudoun had several other ordinaries in that part of the county but only one of these, Roper's, can be established as definitely having been located in Leesburg. Named the "Eagle," it was kept by Elizabeth Roper until her death in 1796 when her children began operating it. By 1798 her son, Christopher, was its sole proprietor. It must have been an unusually popular gathering place because it contained the county's only billiard table. The annual tax on such a table was five times the annual tax charged for a license to keep an ordinary (e.g., fifty dollars in 1796) and a billiard table therefore must have been considered quite an attraction.

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[22] There is a record of at least one other store, "Mr. Denney's [on] Loudoun Street," but nothing is known about it. See Henry Trucks' advertisement in True American, 30 December 1800.

[23] Ibid.

Whatever edge it gave Mr. Roper was erased in 1798 if he respected a law passed by the state legislature adding billiard tables to the group of gaming tables which were liable for public seizure and destruction and which provided that anyone who kept such a table be guilty of an offense punishable by a fine of one hundred and fifty dollars.[24]

Even less is known of Leesburg artisans and craftsmen than about the early merchants of the town. The town must have had an assortment of blacksmiths, coopers, wheelwrights, and so forth, but records of only four artisans survive and these are sparse. Someone operated a distillery on Market Street opposite the court house and next door there was a tannery. John Knox was a "wheel and chair" maker (a chair being a kind of two-wheeled buggy); Henry Trucks was a tailor who advertised that he made both men and women's clothing and would "take any kind of country produce" in return; and there was the printer who published the True American.[25]

Just who that printer was is uncertain. Only two issues of the True American survive. The first, dated 17 January 1799, lists Matthias Bartgis and W. (probably Wyllys) Silliman as publishers. Bartgis was probably the financial backer. He lived north of the Potomac River from Loudoun, in Frederick-

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24 Columbian Mirror, 26 January 1796; Shepherd, ed., Statutes, II, 15, 75; Loudoun County Personal Property Tax Records, Book 1796a, Virginia State Library, Richmond.

25 Steadman, Walking Tour, n.p.; True American, 17 January 1799 and 30 December 1800.

town, Maryland, where he published a succession of newspapers during the decades between 1785 and 1813. Bartgis was publishing papers in three towns in addition to Leesburg and Fredericktown; York, Pennsylvania (1787-1788), Winchester, Virginia (1787-1791); Staunton, Virginia (1790).[26] Bartgis was the financial backer in each case and had a partner who edited and printed each of these papers. Wyllys Silliman probably did the printing and ran the True American's office.[27] By late in the year of 1800 the True American was owned and being published by Patrick McIntire. Just how long he published it is a mystery. Only one of his issues is extant. McIntire remained in the printing business and in 1808 began publishing the Leesburg Washingtonian which continued publication after McIntire's death in 1821.[28]

The True American probably first appeared in November of 1798 and like most papers of its day presented its readers with a mixture of advertisements, foreign and domestic news reprinted from other papers, laws passed by Congress and the state legislature, and a cultural piece or two, like the poem entitled "The Beggar Maid" which appeared in the 1800 issue in a column headed "The Seat of the Muses."[29] One

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[26] Clarence Brigham, History and Bibliography of American Newspapers, 1690-1820, 2 vols. (Worcester, Mass., 1947) does not list this earliest issue of the True American but lists the 1800 issue.

[27] Silliman published a paper in Marietta, Ohio, between 1801 and 1803. Brigham, Newspapers, 1481. True America[illegible] 17 January 1799.

[28] Brigham, Newspapers, 1118.

[29] True American, 30 December 1800.

thing lacking was local news, perhaps because the printer knew that a weekly newspaper could not keep up with word of mouth. In addition, the newspaper by Silliman and McIntire advertised that they printed "All kinds of Blanks, Advertisements, etc. at the shortest notice, on moderate terms."[30] Another of the printer's sidelines was the sale of books and pamphlets, including "a few copies of the late General Washington's Will," The Columbian Observer or Almanac, and The Key, a weekly literary magazine.[31] The printers may have printed the forms for the warrants, summons, indenture papers, etc. used by the court in Loudoun but the origin of such papers is uncertain.

II

Waterford

Through Clark's Gap and about six miles northwest of Leesburg near where the Ridge Road crossed South Fork Catoctin Creek lies Waterford, a cluster of twenty-five or so buildings. Milltown, as it was first called, is the oldest settlement in Loudoun and dates its existence from the 1730s when Asa Janney, a Quaker from Bucks County, Pennsylvania,

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30 Ibid.

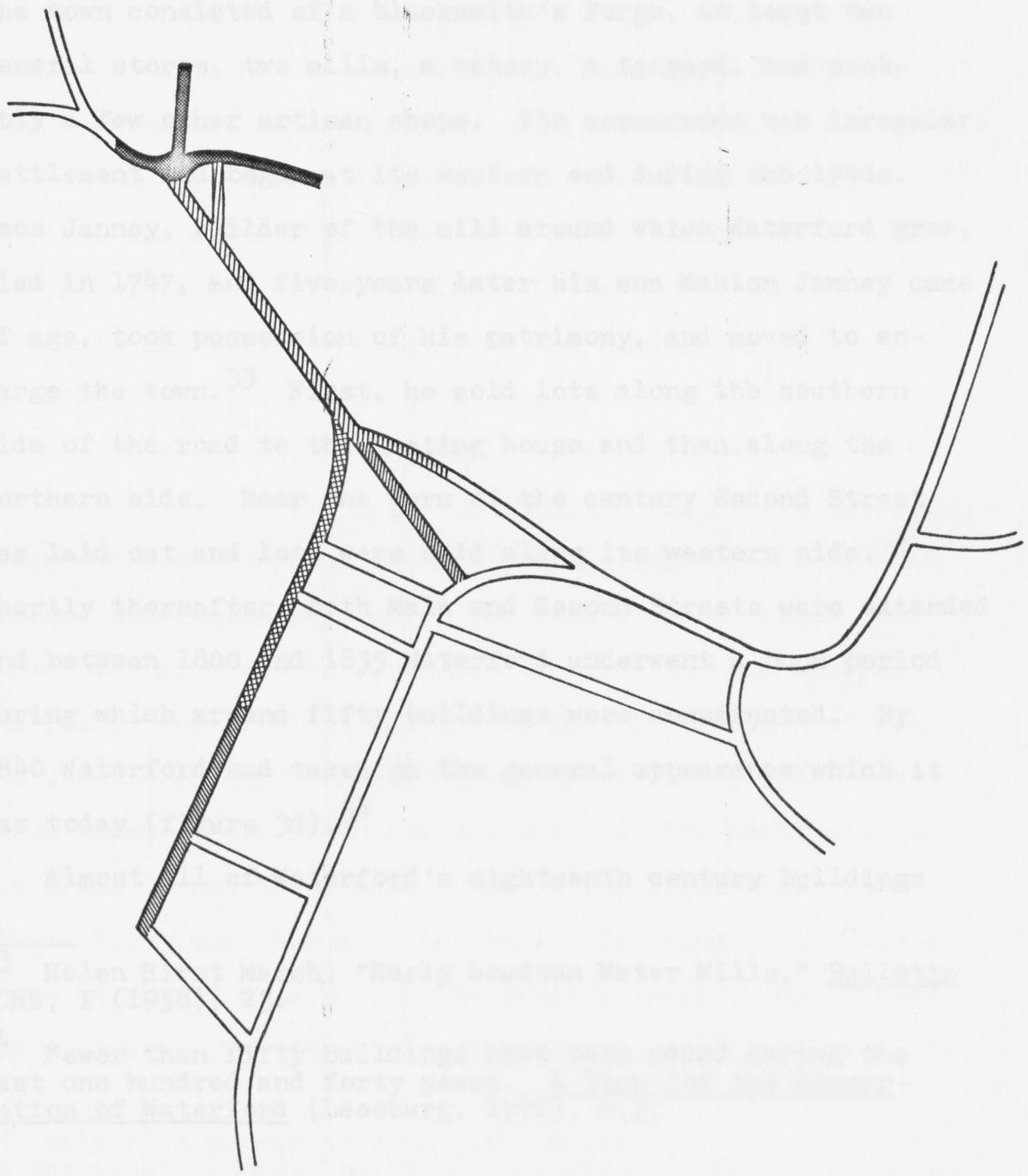
31 John D. Cary published The Key, a weekly magazine, in Fredericktown, Maryland, between January and July of 1798. It was the earliest periodical issued in Maryland and ran for twenty-seven numbers before being discontinued. Frank L. Mott, A History of American Magazines, 5 vols. (New York, 1930-1968), I, 790; Library of Congress Catalogue of Printed Cards (Washington), LXXX, 202.

settled in the area and convinced several friends and relatives to do likewise. By 1741 Janney had built Loudoun's first grist mill, a blacksmith's shop, a tanyard, and a miller's cottage. By that time there were enough Quakers in the area to form a "preparative meeting," and the Fairfax Monthly Meeting was established. In 1761 the congregation erected a stone meetinghouse just east of the village. Quaker settlers continued to arrive so fast that within a decade the meetinghouse had to be enlarged. It continued to be linked with Monocacy Meeting on the north side of the Potomac until 1776 when Fairfax Monthly Meeting finally had enough members to become an independent congregation.[32]

Not all of the area residents were Quakers, for there was a settlement of Germans just north of Waterford. Both of the German churches were in Lovettsville but Waterford was their market center. There were also a number of Presbyterians in the area. From the founding of their "Kittockton" congregation in the late 1760s until they built a new church in Waterford in 1814, the Presbyterians' church was located about a mile and a half east of Waterford on the road to Leesburg.

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32. Janney, "Friends in Loudoun," 2; G. MacLaren Brydon, Virginia's Mother Church and the Political Conditions Under Which It Grew, 2 vols. (Richmond, 1947-1952), II, 72; Levi K. Brown, An Account of the Meetings of the Society of Friends Within the Limits of Baltimore Yearly Meeting (Philadelphia, 1875), 28.



1740s 1750s c1800 1800-1835

Figure 3d: The Development of Waterford

During the 1790s Waterford served as a marketing and service center for the small farmers of the surrounding area. The town consisted of a blacksmith's forge, at least two general stores, two mills, a bakery, a tanyard, and probably a few other artisan shops. Its appearance was irregular. Settlement had begun at its western end during the 1740s. Amos Janney, builder of the mill around which Waterford grew, died in 1747, and five years later his son Mahlon Janney came of age, took possession of his patrimony, and moved to enlarge the town.[33] First, he sold lots along the southern side of the road to the meeting house and then along the northern side. Near the turn of the century Second Street was laid out and lots were sold along its western side. Shortly thereafter, both Main and Second Streets were extended and between 1800 and 1835 Waterford underwent a boom period during which around fifty buildings were constructed. By 1840 Waterford had taken on the general appearance which it has today (figure 3d).[34]

Almost all of Waterford's eighteenth century buildings

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[33] Helen Hirst Marsh, "Early Loudoun Water Mills," Bulletin LCHS, I (1958), 23.

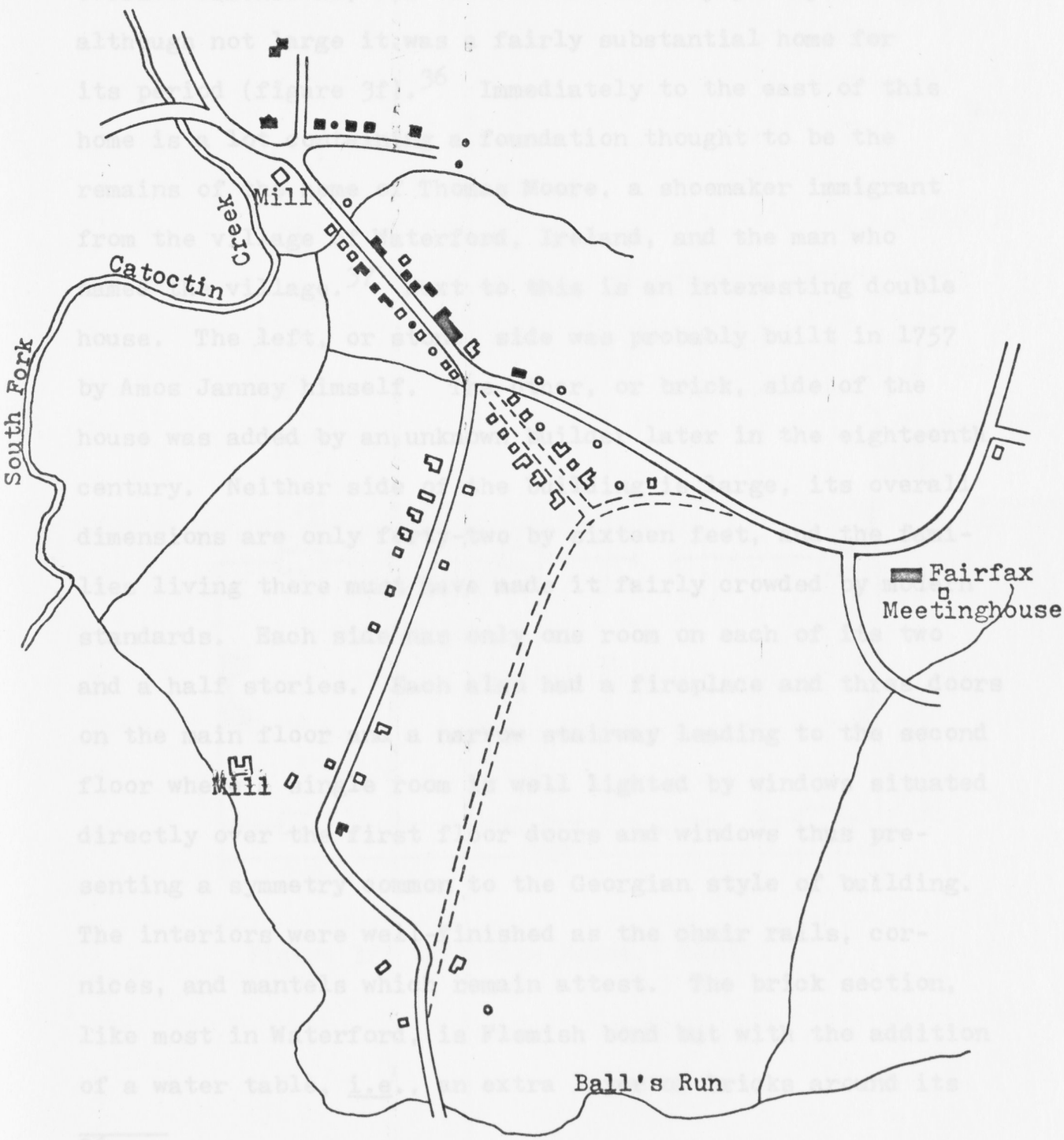
[34] Fewer than fifty buildings have been added during the last one hundred and forty years. A Plan for the Conservation of Waterford (Leesburg, 1972), n.p.

have survived (figure 3e).[35] Nine are partially-log structures and the rest are mostly brick structures with facades laid in Flemish bond and sides and rears laid in common bond. Foundations are almost all of stone since logs and soft eighteenth-century bricks could not withstand the dampness of the ground. All of the houses were built fairly close to one another but they vary in size from the simple two-room cottages of the artisans to the elaborate homes of merchants and millers which rival the plantation homes of Loudoun's most prosperous planters.

The town's earliest buildings were clustered just east of the point where the main road crossed South Fork Catoctin Creek and just north of the mill on the same creek. Ten in number, they included some of the town's finest homes. Of those remaining one is of frame construction, one of frame and brick, one of stone and brick, and the rest are of brick. The oldest, dating from the period of the 1730s and 1740s, is of frame construction and was built in two sections. In the 1790s it had three main rooms on the first floor, each with a fireplace, and an entry hall. One wing of the house was a story and a half with the upper chamber probably used for sleeping. The other wing was two and a half stories and

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35 Only five appear to have been destoryed. Fewer than ten of the town's 1800-35 buildings have been destroyed and when it is remembered that together the buildings dating from this pre-1835 era outnumber their more modern neighbors it becomes clear that Waterford presents an excellent collection of early American buildings in their natural setting. Waterford, n.p.



Eighteenth Century: Building: ■ Site: •

Circa 1800-1835: Building: ▫ Site: ◦

Figure 3e: Waterford Buildings and Sites From the Pre-1835 Era

its upper rooms were also probably used for sleeping. In overall dimensions, the whole house is only 32' by 18' and although not large it was a fairly substantial home for its period (figure 3f).[36] Immediately to the east of this home is a lot containing a foundation thought to be the remains of the home of Thomas Moore, a shoemaker immigrant from the village of Waterford, Ireland, and the man who named the village.[37] Next to this is an interesting double house. The left, or stone, side was probably built in 1757 by Amos Janney himself. The other, or brick, side of the house was added by an unknown builder later in the eighteenth century. Neither side of the building is large, its overall dimensions are only forty-two by sixteen feet, and the families living there must have made it fairly crowded by modern standards. Each side has only one room on each of its two and a half stories. Each also had a fireplace and three doors on the main floor and a narrow stairway leading to the second floor where a single room is well lighted by windows situated directly over the first floor doors and windows thus presenting a symmetry common to the Georgian style of building. The interiors were well-finished as the chair rails, cornices, and mantels which remain attest. The brick section, like most in Waterford, is Flemish bond but with the addition of a water table, i.e., an extra layer of bricks around its

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36 "Hillside House," HABSI. The author has personally inspected all of the buildings described in this chapter.

37 Exhibit of the Work of the Artists and Craftsmen of Loudoun County, Virginia in the town of Waterford October 1,2,3, 1948 (n.p., n.d.), n.p.

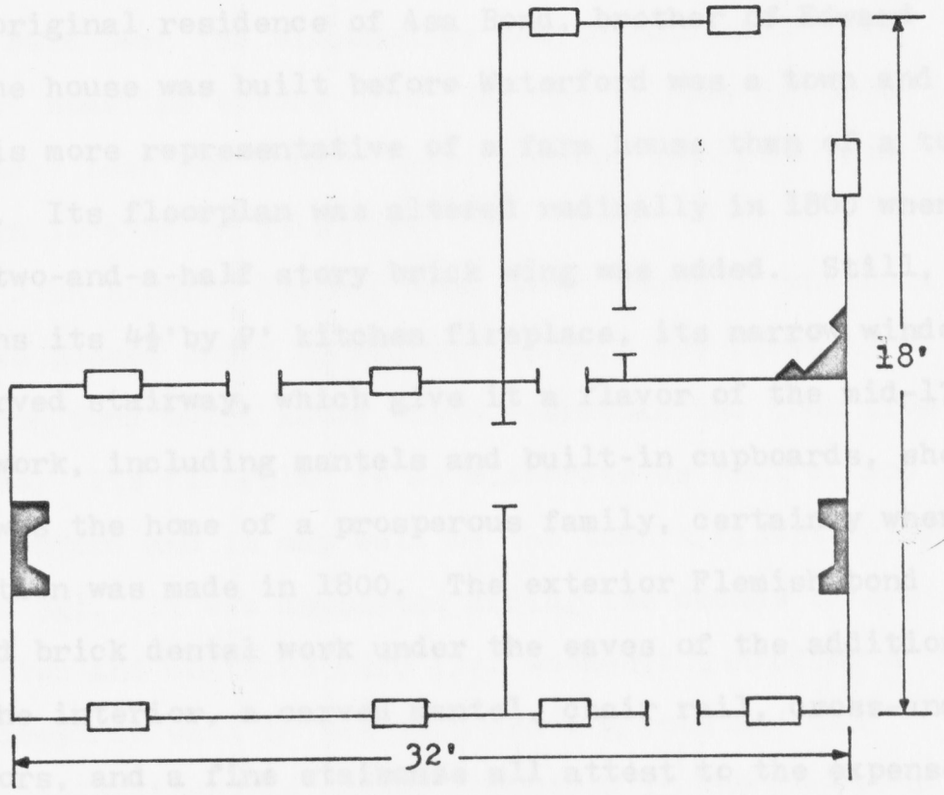


Figure 3f: "Hillside House," HABSI.

base. The doors are of the cross-and-bible style.[38]

Janney sold his house to Edward Bond sometime before the French and Indian War. Within a few years several other members of the Bond family came to dwell on the street, and it became known as Bond Street. Next to this double house stands a frame and brick structure dating from the 1740s. It is the second oldest structure remaining in Waterford and was the original residence of Asa Bond, brother of Edward Bond. The house was built before Waterford was a town and as such is more representative of a farm house than of a town dwelling. Its floorplan was altered radically in 1800 when a large two-and-a-half story brick wing was added. Still, it retains its 4½'by 7' kitchen fireplace, its narrow windows, and a curved stairway, which give it a flavor of the mid-1700s. Its woodwork, including mantels and built-in cupboards, show that it was the home of a prosperous family, certainly when the addition was made in 1800. The exterior Flemish bond brick and brick dental work under the eaves of the addition and in the interior, a carved mantel, chair rail, cross-and-bible doors, and a fine staircase all attest to the expense and workmanship which went into this home.[39] Last in the line of eighteenth century houses along Bond Street is a small three-room cottage, also built by Asa Bond in about

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38 "Asa Bond House," HABSI; Exhibits...Waterford, n.p.

39 "Bond House," HABSI.

1780, probably for one of his children. It is a simple brick building with a single fireplace and two rooms on the first floor and one large room on the second. Only 15' by 22' its fine Flemish bond brickwork, segmented brick lintels, and high stone foundation make it an exceptionally well-built home.[40] Just beyond this house there are indications that two buildings once faced one another across Bond Street. They could have been the blacksmithy and the miller's house Janney built sometime before 1741, but one of them is more likely to have been Asa Bond's early tanyard which is known to have been located in this area.[41]

Across John Brown's Roadway from these homes of the Bond clan are two houses built by William Hough. The first is a large Flemish bond brick house which overlooks the town from a small rise. Its floorplan is as elaborate as that of any home in Waterford and it may well be the town's finest building (figure 3g). It was completed during the decade before the Revolution and contains very fine woodwork including a panelled fireplace wall in the main drawing room and two handsome mantels above the corner fireplace in the rooms to the left of the center entry hall. The house, two-and-a-half stories high, has two staircases, one in the central hall—a fine Georgian stairway leads to the bedchambers on the second floor—and a smaller stairway in the kitchen which

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40 "The House at the End of Bond Street," HABSI.

41 Exhibits...Waterford, n.p.

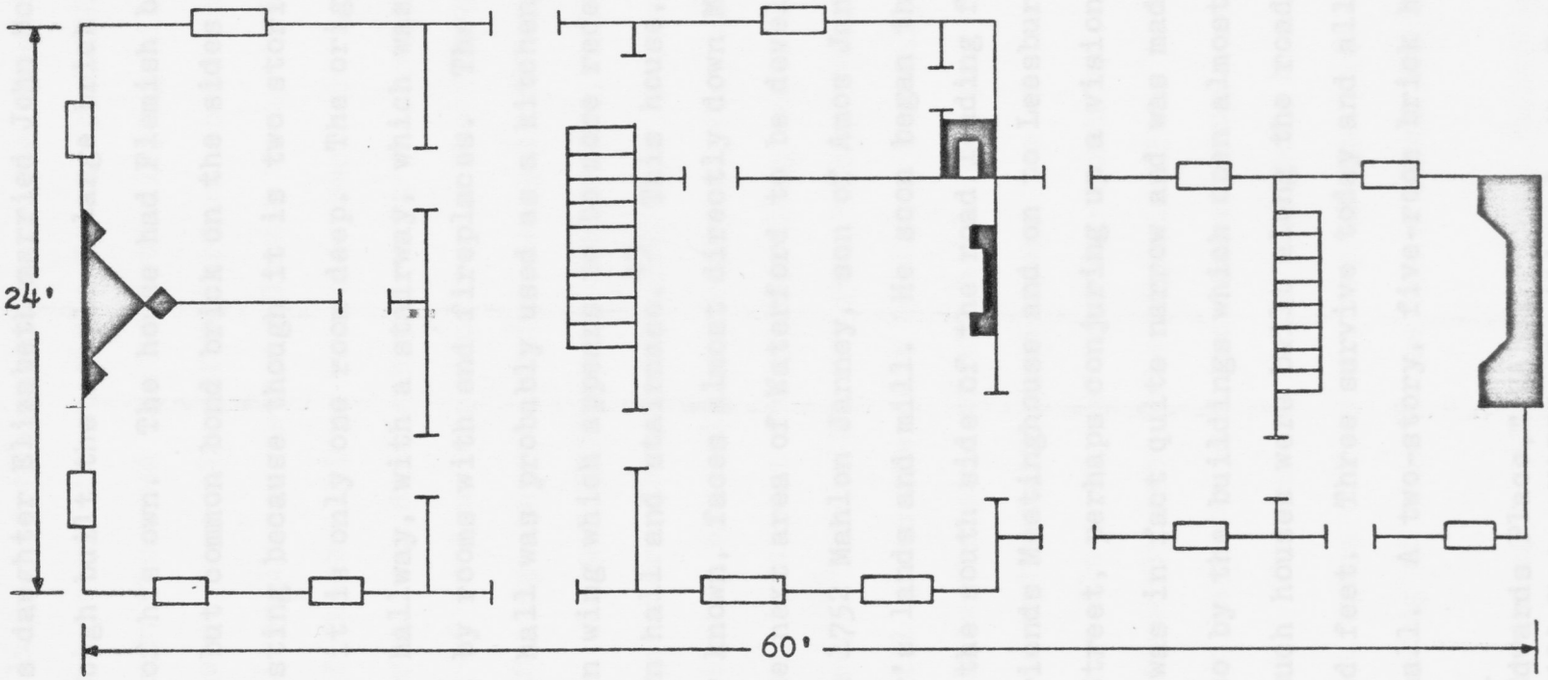


Figure 3g: The William Hough House, "Edwards Place," HABSI

leads to servants' quarters on the second floor.[42] William Hough's daughter Elizabeth married John Schooley and in 1790 Hough built the couple a large brick home just to the south of his own. The house had Flemish bond brick on the front, but common bond brick on the sides and back. It is interesting because though it is two stories high and rather large, it is only one room deep. The original house had a center hallway, with a stairway, which was flanked on both floors by rooms with end fireplaces. The room to the left of the hall was probably used as a kitchen until the small kitchen wing which appears to be more recent was added with its own hall and staircase.[43] This house, "Mill End" as it is now known, faces almost directly down Main Street, which was the next area of Waterford to be developed.

In 1752 Mahlon Janney, son of Amos Janney, inherited his father's lands and mill. He soon began the sale of lots along the south side of the road leading from the mill to the Friends Meetinghouse and on to Leesburg. The road, named Main Street, perhaps conjuring up a vision of a broad thoroughfare, was in fact quite narrow and was made to appear even more so by the buildings which open almost directly on it. Four such houses were built along the road's first five hundred feet. Three survive today and all are much alike and small. A two-story, five-room brick home is representa-

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42 "Edwards Place," HABSI.

43 "Mill End," HABSI; Exhibits in the Town of Waterford, (n. p., 1951), 44.

tive of them all (figure 3h). It has a side hall, a parlor, and a large kitchen-workroom on the first floor and two bedchambers on the second. It was probably occupied by a craftsman who used the hall to display his goods.[44]

The next section of Waterford to be developed was the area directly across Main Street from these three houses. Four of the buildings erected there are of special interest. The first is a double house. It was built in around 1780 and is of curious construction. The first two floors have stone facings but the third story is of brick with clapboard facing. Around 1800 these two houses, and supposedly, the next one, were joined and used as a tavern. Each side of the building has only one room but they are large since the building is almost forty feet long and a full twenty-six feet deep.[45] Main Street runs along the bottom of a hill and that hill gives the next building its uniqueness. It is built into the side of the hill and has two sections, one of three-and-a-half stories and one of two-and-a-half stories. The first floor of each section contains only one room and opens directly onto Main Street. This level was probably used for business and the second floor reserved for family quarters. The second floor overlooks Main Street on one side but opens out on the top of the hill on the other. The larger wing of this house has a stone first floor with brick-

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44 "Lee House," HABSI; Exhibits...Waterford, n. p.

45 "The Tavern," HABSI.

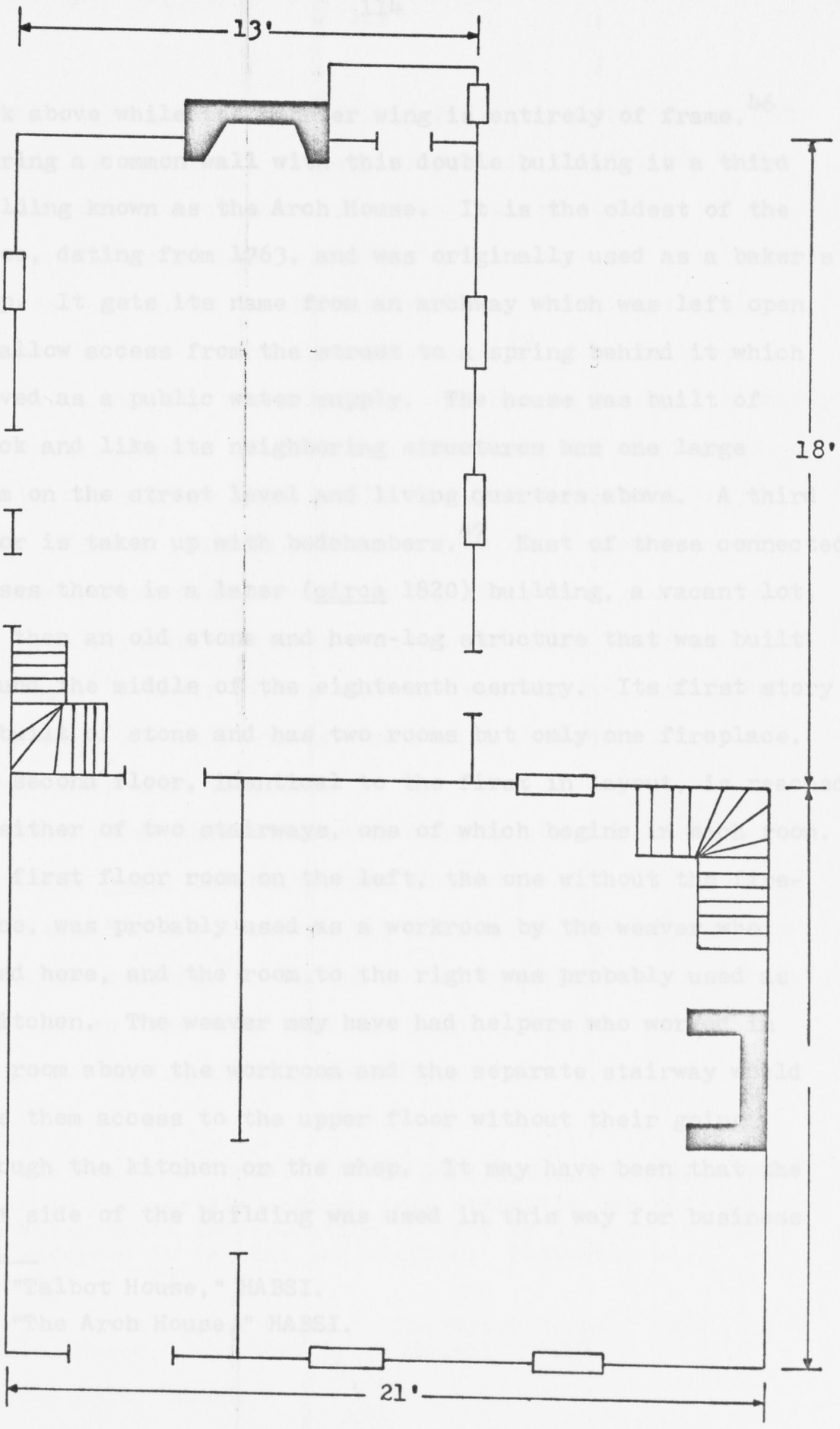


Figure 3h: Artisan's House. "Lee House," HABSI.

work above while the shorter wing is entirely of frame.[46] Sharing a common wall with this double building is a third building known as the Arch House. It is the oldest of the three, dating from 1763, and was originally used as a baker's shop. It gets its name from an archway which was left open to allow access from the street to a spring behind it which served as a public water supply. The house was built of brick and like its neighboring structures has one large room on the street level and living quarters above. A third floor is taken up with bedchambers.[47] East of these connected houses there is a later (circa 1820) building, a vacant lot, and then an old stone and hewn-log structure that was built around the middle of the eighteenth century. Its first story is built of stone and has two rooms but only one fireplace. The second floor, identical to the first in layout, is reached by either of two stairways, one of which begins in each room. The first floor room on the left, the one without the fireplace, was probably used as a workroom by the weaver who lived here, and the room to the right was probably used as a kitchen. The weaver may have had helpers who worked in the room above the workroom and the separate stairway would give them access to the upper floor without their going through the kitchen or the shop. It may have been that the left side of the building was used in this way for business

46 "Talbot House," HABSI.

47 "The Arch House," HABSI.

and the right for living.[48] This building marks the eastern terminus of eighteenth century Waterford; the Friends Meetinghouse was then as now a short way out of town.

When Waterford next expanded it was southward in about 1800 when the first two blocks of Second Street were laid out and the lots on the west side sold.[49] Several homes were built shortly thereafter on what was to become a strictly residential street. All of the homes have much in common. Each is two stories high, built of brick, and relatively small. Most of them have their narrow end (between twenty and twenty-five feet across) facing the street and run backward much further. Most have cross-and-bible doors and two stairways.[50] Their owners were not wealthy but they lived comfortably and built their homes at a time when they could expect their town to grow.

There were other eighteenth century homes in what is now Waterford, e.g., the brick home at what is now the corner of Second and Factory Streets, but during the 1790s these were out in the country.[51] It was in the buildings described and a few others like them that the people of Waterford lived and worked during those years (figure 3i).

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48 "The Weaver's House," HABSI; Exhibits...Waterford, n.p.

49 It is not certain whether this extension was made before Waterford's incorporation in 1800 or if this is the land referred to in that legislation. Shepherd, ed., Statutes, II, 271.

50 "The Little Brick House," "The Brook House," "The Phillips House," and the "Crook House," HABSI.

51 "Old Acre," HABSI.

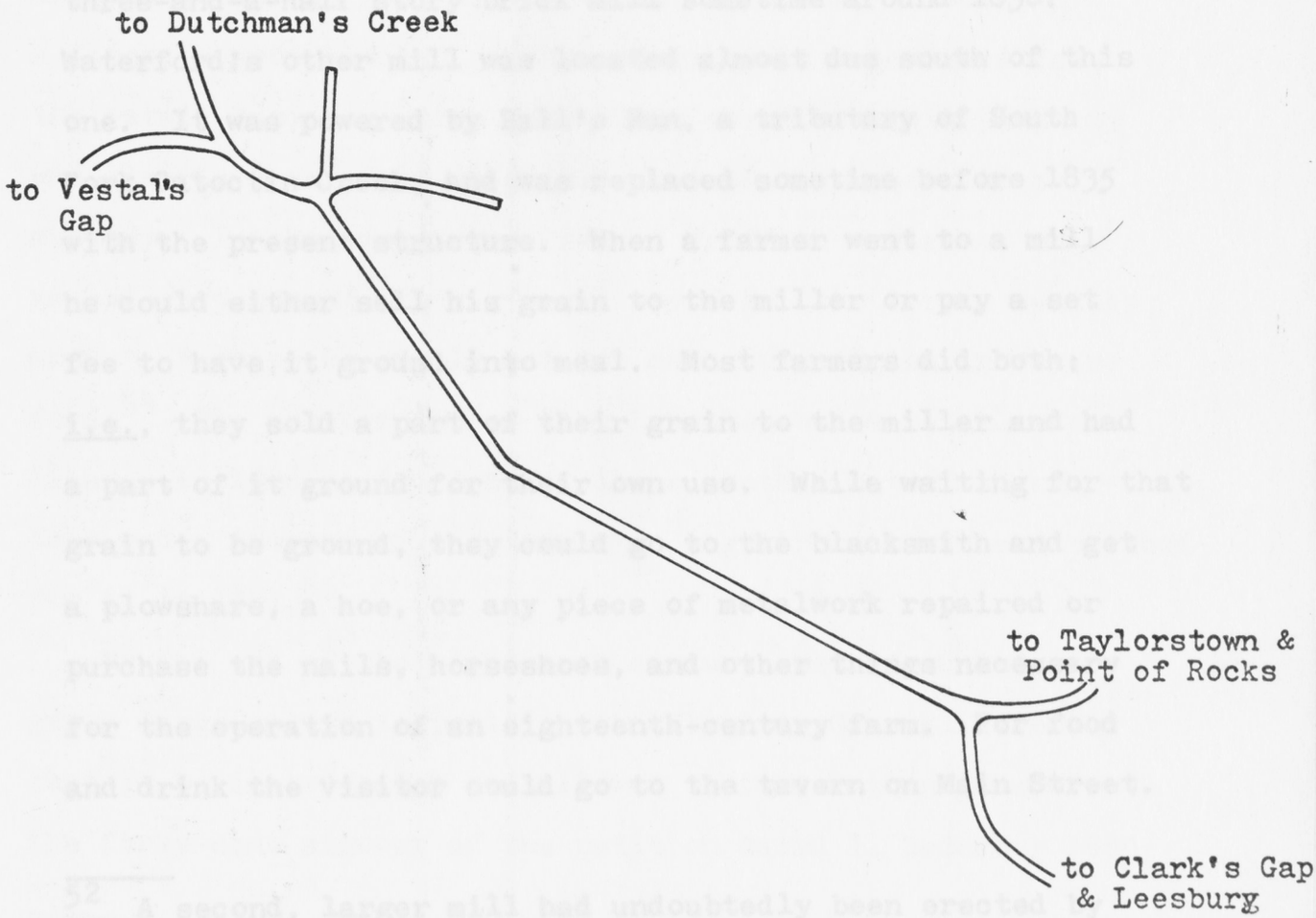


Figure 3i: Waterford in the 1790s

During the 1790s Waterford had at least two mills in operation. The oldest one around which the settlement first formed was located at the western edge of town. Originally a log structure, it had probably been replaced by the 1790s with one of brick, which was in turn replaced by the present three-and-a-half story brick mill sometime around 1830.[52] Waterford's other mill was located almost due south of this one. It was powered by Ball's Run, a tributary of South Fork Catoctin Creek, and was replaced sometime before 1835 with the present structure. When a farmer went to a mill he could either sell his grain to the miller or pay a set fee to have it ground into meal. Most farmers did both; i.e., they sold a part of their grain to the miller and had a part of it ground for their own use. While waiting for that grain to be ground, they could go to the blacksmith and get a plowshare, a hoe, or any piece of metalwork repaired or purchase the nails, horseshoes, and other things necessary for the operation of an eighteenth-century farm. For food and drink the visitor could go to the tavern on Main Street.

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[52] A second, larger mill had undoubtedly been erected by 1808 when Mahlon Janney sold it to Jonas Potts for $3,000. Such a high price indicates that the sixty-eight acre tract contained a substantial building, certainly more than a log mill. The mill changed hands several times between then and 1830 when it sold for $3,000. Only two years later it was again sold, this time for $2,150 but with only two acres of land, showing a substantial rise in value explainable only by additional construction. Deed Book 2K, 364; Y, 177, 186; Marsh, Mills, 23; "Old Mill," HABSI; Exhibits, n. p.

If he needed staples or other supplies there was at least one general store to serve him. In 1799 Richard Griffith advertised that he had "Just received from Baltimore a quantity of fresh goods which made his assortment general and complete."[53] In the same advertisement Griffith announced that he wanted to sell his "2 story log house, 3 rooms on a floor, a good kitchen, a store House well calculated for the retail business and a convenient stable." This property was clearly located in Waterford, but exactly where is a mystery. In the same advertisement Griffith explained that he had just opened a new general store in "the German settlement." Perhaps he simply had too much competition in Waterford.[54] The aforementioned John Schooley had a retail store license in 1800 as did John Williams another Waterford resident and a trustee of the town when a government was established for it in 1801.[55]

By the end of the eighteenth century, Waterford had grown large enough to petition the Virginia General Assembly that it be incorporated and allowed to form a town government. The forty-nine signers of the petition dated 11 December 1800

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53 True American, 17 January 1799.

54 It is not clear if or when Richard Griffith sold this store. He had a retail store license in 1800 but it could have been for either the Waterford or the "German Settlement" store. Griffith still resided in Waterford in late 1800 because his signature appears among those petitioning for town government. Legislative Petitions, 11 December 1800.

55 Ibid., Shepherd, ed., Statutes, II, 270.

listed themselves as "inhabitants of the village of Waterford in Loudoun County and its vicinity," but it is impossible to ascertain how many actually lived in the town itself. They asked that the new town include all "lots already laid out," that Mahlon Janney and William Hough be allowed to lay out another ten acres of adjoining land in lots, and that all householders be allowed to "enjoy the rights and privileges of Freeholders."[56] Early in January of 1801, the legislature incorporated Waterford and named James Moore, James Griffith, John Williams, and Abner Williams, "gentlemen," to serve as trustees with authority "to make such rules and orders for the regular building of houses therein, as to them shall seem best, and to settle and determine all disputes concerning the bounds of said lots." They could also fill any vacancies that might occur in their numbers, but they had no power of taxation such as those granted to the trustees of Leesburg. As a much smaller town, it was probably thought that such powers would not be needed.[57]

Waterford was, in short, not a very large place in the 1790s, but it filled a function as a milling, religious, and marketing center for the farmers of the surrounding area. That it never grew to be as large as Leesburg is explained by the absence of a major north-south road and by the fact that it was not the county seat. Still, around the turn of the century, Waterford appeared to be a growing town with a

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[56] Legislative Petitions, 11 December 1800.

[57] Shepherd, ed., Statutes, II, 270-271.

bright future. Its inhabitants had no way of knowing that the main east-west road would be turned into a turnpike and bypass the town to the south, thereby helping to turn it into the sleepy hamlet it is today.

Middleburg

Leesburg and Waterford were the largest, but not the only towns in Loudoun during the 1790s. There were several other tiny villages which served a number of people in different ways and moves were taken to develop some of them into towns.

In south-central Loudoun, Leven Powell founded Middleburg. Powell, a relative newcomer to Loudoun in the 1790s was born and reared in Prince William County. In 1763 he married Sally Harrison whose father Burr Harrison owned a large estate on the Potomac. Shortly thereafter Powell purchased five hundred acres of land in Loudoun County including the future site of Middleburg and moved there with his bride.[58] During the next few years he built the first flour mill in the area and a home called "The Shades."[59] When the Revolution broke out, Powell immediately left his mill, joined the Patriot cause, and in 1775 became a major in a battalion of Virginia Minutemen. Two years later he joined the Continental Army as Lieutenant Colonel of the Sixteenth Virginia

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[58] Deed Book C, 639-640.

[59] James Daniel Evans, "Lieutenant Colonel Leven Powell," WMQ (2), XIX (1939), 131.

Regiment with which he saw service at Long Island, Brandywine, Monmouth, and at Valley Forge before ill health forced him to return home. After the war, Powell prospered and by 1787 he had amassed a respectable estate including, in addition to his mill, a sloop, a store, eighteen hundred acres of land in five parcels, twenty-two slaves, eighteen horses, twenty-four head of cattle, and a two-wheeled chair. The chair more than anything else denotes a certain level of gentility since fewer than a dozen Loudounites possessed one.[60] It was probably during that year that Powell had a portion of his lands (those at the junction of the Alexandria to Winchester and the Leesburg to Warrenton Roads) laid off in a series of one-half acre town lots. Two streets were laid out parallel to the main road with five cross streets to connect them. Powell's choice of street names—Federal, Constitution, Washington, Madison, Hamilton, Pickering, Jay, Marshall, Pinckney, Pendleton, Liberty, and Independence—reflects his Federalist political outlook (figures 3j and 3k).[61]

In a petition dated 23 October 1787 nine purchasers of Powell's lots asked the General Assembly to establish a town.[62] It did so in an act dated 2 November which formed a town of fifty acres with Francis Peyton, William Bronough, William

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60 Loudoun County Personal Property Tax Book, 1787; Loudoun County Land Tax Book, 1787, Virginia State Library, Richmond; Forrest McDonald, We the People (Chicago, 1958), 269.

61 Plan for Middleburg, Deed Book 2T, 263; Taylor, Map (1853).

62 Legislative Petitions, 23 October 1787.

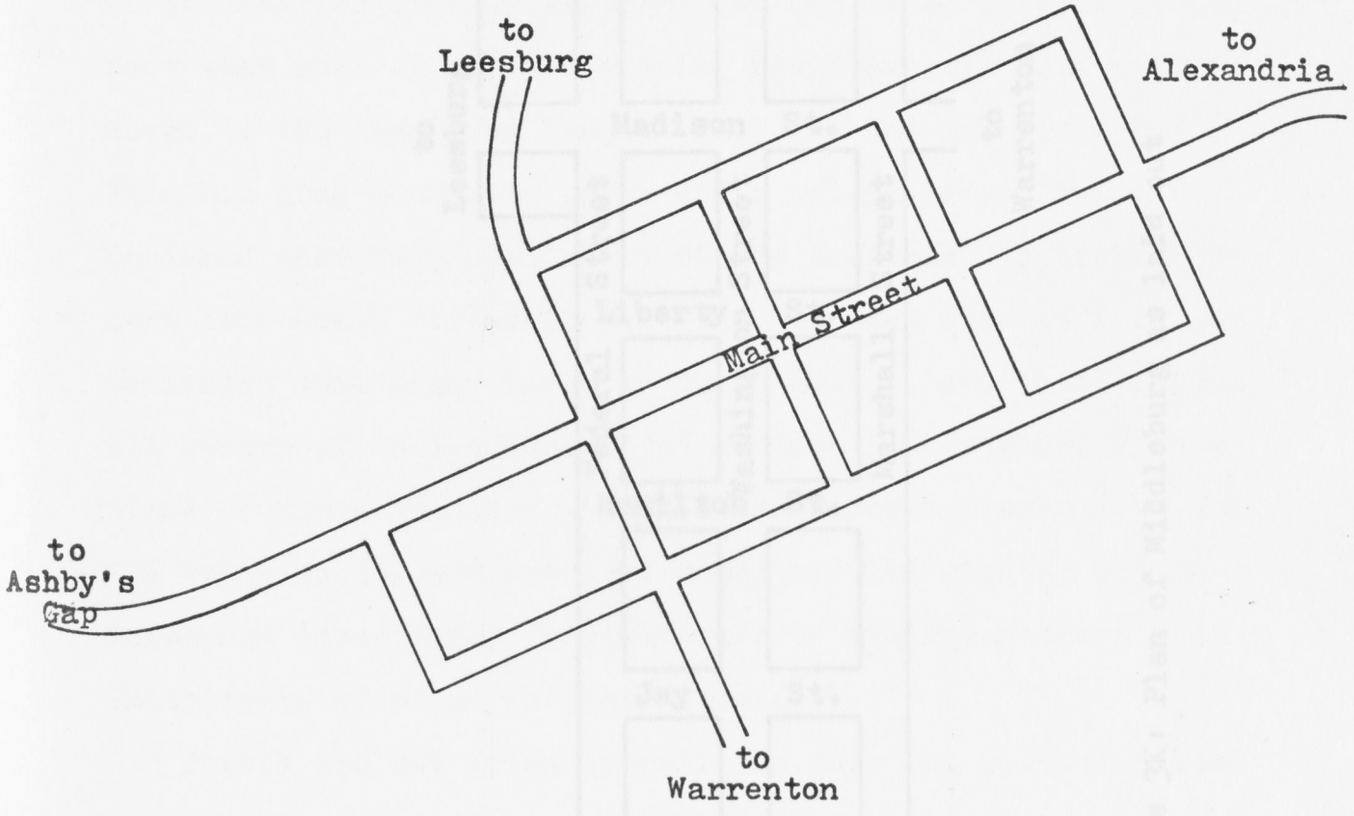


Figure 3j: Plan of Middleburg

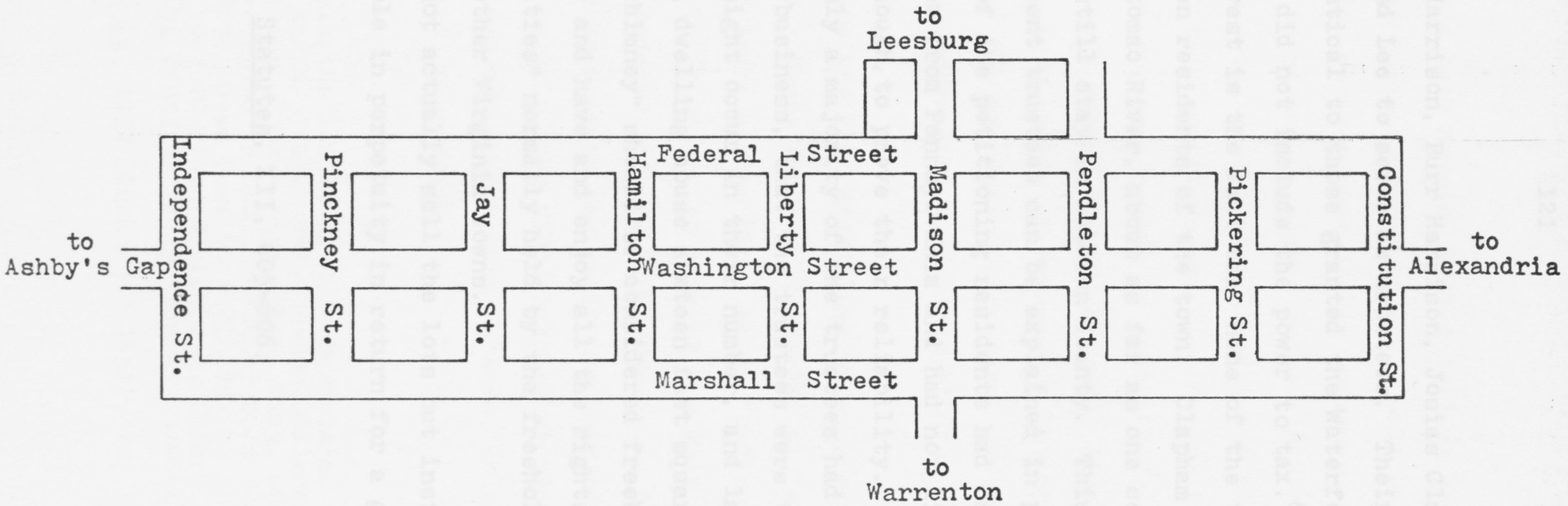


Figure 3K: Plan of Middleburg as laid out

Heale, John P. Harrison, Burr Harrison, Josias Clapham, and Richard Bland Lee to serve as trustees. Their powers were almost identical to those granted the Waterford trustees and like theirs did not include the power to tax.[63] Of particular interest is the fact that none of the trustees seem to have been residents of the town. Clapham actually lived on the Potomac River, about as far as one could go from Middleburg and still stay in Loudoun County. This selection of all non-resident trustees can be explained in part by the fact that most of the petitioning residents had only recently moved to the area from Pennsylvania and had not lived in Virginia long enough to prove their reliability. The act declared that only a majority of the trustees had to be present to conduct business, that the trustees were to fill any vacancies that might occur in their number, and lastly, that all owners of "a dwelling house sixteen feet square, with a brick or stone chimney" should be considered freeholders and "be entitled to, and have and enjoy all the rights, privileges and immunities" normally held by the freeholders and inhabitants of other Virginia towns.

Powell did not actually sell the lots but instead rented them to the people in perpetuity in return for a ground rent,

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63 Hening, ed., Statutes, XII, 605-606.

usually three and a half Spanish milled dollars per year.[64] In a time of great currency fluctuation, Powell was demanding payment in the world's most stable currency. By employing a system of permanent leases rather than outright sales he was also seeking to insure himself and his heirs of a steady income. This system worked well during the period under examination, but led in time to such a tangled mass of litigation that the Virginia General Assembly finally abolished ground rent as a system of tenure.[65] The system also contained benefits for the leaseholder since it enabled him to gain permanent possession of property without the investment of capital.

It is not clear how fast Middleburg grew or exactly what its residents did. There was a mill nearby, at least one store, and for at least a time there was an ordinary kept by John McFarland. In an effort to attract new settlers one lot was let at a reduced rate to Jacob Staley, a blacksmith. Whether this ploy to attract new residents succeeded is not clear, but it is certain that Middleburg never became more than a small trading center for area farmers, which was perhaps all that Powell ever hoped.

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64 See, for example, the leases of John McFarland, Jacob Staley, Benjamin Smith, Joseph Lee, Joseph Dillon, Jonah Hague, James Ballston, Robert Dagg, Elias Lacy, and Mesheck Lacy which were recorded in Loudoun County Deed Books between 1789 and 1803. Deed Book R, 148, 278; U, 358; V, 98, 111; W, 298; 2B, 184; 2C, 242; Penelope M. Osburn, "History of Middleburg," The Story of Middleburg (Middleburg, 1958),5.

65 Code of Virginia, 1950 (Richmond, 1950), II, 13.

IV

Matildaville

Leven Powell's townbuilding ambitions may have been limited, but those of his friend Henry Lee were not.[66] Since before the Revolutionary War there had been plans to open the Potomac River to navigation above the fall line at Georgetown, and by 1790 these plans appeared to be reaching fruition.[67] In 1784 the states of Virginia and Maryland had jointly chartered the Potomac Company and endorsed its plan to link the Potomac and Ohio Rivers thereby making the American Chesapeake rather than Spanish New Orleans the outlet for the produce of the American hinderland. Within five years the first link in the great system appeared to be almost ready for opening and it is at this point that Henry Lee entered the picture. He, like many of his contemporaries, had contracted the land speculation disease and saw at Great Falls on the Potomac the chance to establish his fortunes forever. The Potomac Company was making great progress above that point and Lee found that the land immediately adjacent to the falls was available for purchase. He immediately arranged to purchase five hundred acres from the

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66 For the best account of Lee's involvement see Thomas Boyd, Light-Horse Harry Lee (New York, 1931), 179-196.

67 A 1772 proposal for clearing the river named Leesburg, along with Georgetown and Great Falls as possible meeting places where stockholders could convene to form a company to undertake the clearing of the Potomac from Ft. Cumberland to Tidewater. Hening, ed., Statutes, VIII, 570-579.

estate of Lord Fairfax for the sum of £4,000 sterling and an annual rent of £150 sterling. His plan was to lay off a portion of the land in lots and to rent each of the lots for £600 a year. In 1788 he wrote to James Madison outlining his plan in glowing terms and offering to let him invest in the enterprise. Madison was interested but cautious and wrote to George Washington seeking his advice, since he noted "the fervor with which [Lee] pursues his objects sometimes affects the estimate he forms of them."[68] Washington's answer was a hardy endorsement of the entire project:

> For Water works of any kind these Seats must be exceedingly valuable if the navigation obtains; of which no one I believe entertains a doubt, at this time. A town must be established there (it is much wished for by Mercantile people) whether the navigation is extended from thence to tidewater, or not. In the last case, the lots will be of great value; in the first very desirable; because all Water borne produce must pass by, if it is not deposited there; which must take place if the difficulties from hence to tide Water (about nine miles) should prove insurmountable; and between you and me it is the most doubtful part of the work.[69]

Madison's limited finances prevented his entering the project

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[68] Madison to Washington, 5 November 1788; William C. Rivers and Philip R. Fendell, eds., Letters and Other Writings of James Madison, 4 vols. (Philadelphia, 1865), I, 436-437.

[69] Washington to Madison, 17 November 1788, John C. Fitzpatrick, ed., The Writings of George Washington, 39 vols. (Washington, 1931-1944), XXX, 129. For Washington's role in developing the Potomac River and the operations of the Potomac Company see John Pickell, A New Chapter in the Early Life of Washington in Connection with the Narrative History of the Potomac (New York, 1856), passim. Pickell was director of the Chesapeake and Ohio Company, one of the Potomac Company's successors, and had access to the files of both companies.

for a time, but this did not bother Lee who had many merchants and millers eager to purchase lots from him once he obtained a clear title to the land.[70] A complicating factor in this was the issue of past quitrents. Lord Fairfax, the land's previous owner, had died during the American Revolution and in 1785 the state legislature passed an act abolishing quitrents and virtually confiscated the Fairfax estate. Under the Articles of Confederation, the action was final since it had been upheld in Virginia courts. The adoption of the Constitution changed that because it allowed Bryan Fairfax, the Lord's heir, to reopen the case in federal courts in attempt to recover back quitrents. Fairfax did so and was able to block Lee from making any use of this five hundred acres until back rents were paid.

Lee considered this to be but a temporary setback and went right ahead with plans to develop his townsite.[71] By 1789 Fairfax had consented to the building of a warehouse and storehouses on the land and Lee was working to raise the £3,000 necessary to pay the back quitrents as well as additional funds for use in site improvement. In March of that year, Lee wrote to Thomas Jefferson in France, reporting his progress and requesting Jefferson's aid in raising between

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[70] Madison was not able to invest in the project until 1792 at the earliest. Madison to Lee, 30 November 1788 and 18 December 1791, Gaillard Hunt, ed., The Writings of James Madison, 9 vols. (Washington, 1908), V, 306-307; VI, 69-70.

[71] Henry Lee to Madison, 19 November 1789 quoted in Boyd, Lee, 183-184.

three and five thousand pounds sterling for the project. Lee proposed to form a company with eight shares: two for himself, two for Madison, one for sale in America, and three for Jefferson to sell in Europe.[72] Lee reported that the upper end of the Potomac was already cleared and in use by traders, that more boats were being built, and that a road was under construction which would link Matildaville and Alexandria.[73] Jefferson had already had the project presented to him in glowing terms by Washington and for a time appears to have planned to join the enterprise at least in a limited way.[74] Jefferson did not wish to purchase a full share for himself, but late in April he suggested to Gouverneur Morris, a fellow American then residing in Paris, that he (Jefferson), Morris, and William Short, Jefferson's secretary, and perhaps Daniel Parker, buy jointly one of the shares. Morris rejected the proposal but agreed to present the proposition to Parker and to Laurent and Richard LeCoutelux, two of his business associates in France. When Morris did so,

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[72] Madison was most enthusiastic about the project by this time as is shown by the glowing terms he used to describe it in his "Remarks on the Situation of Great Falls of Potomac, January 1789," Hunt, ed., Madison, V, 321-324.

[73] Henry Lee to Thomas Jefferson, 6 March 1789, Julian P. Boyd, ed., The Papers of Thomas Jefferson (Princeton, 1950-), XIV, 619-621.

[74] Washington to Jefferson, 13 February 1789, Ibid., 546-549.

Parker and at least Laurent LeCoutelux turned down the plan.[75] Jefferson next presented the plan to Jacob Van Staphorst, a Dutch banker who also rejected it.[76] Jefferson remained interested and in October when about to leave Europe for America, he pressed Parker to do all he could for the project in his absence. During this same period, Madison was attempting to interest New York investors in the project but was no more successful than Jefferson.[77] In September of 1790 Jefferson and Madison visited Matildaville, but neither of them recorded his impressions of the town, nor does either make further mention of the project in his papers.[78] How much money, if any, either invested is unknown.

In the meantime, Lee was busy promoting his project closer to home, in Richmond, where the Virginia legislature was in session. During September and October he advertised his plan to seek the establishment of a town and inspection warehouses for tobacco and hemp at Great Falls. In October a group of sixty-five interested persons petitioned the Assembly

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75 Gouverneur Morris, A Diary of the French Revolution, ed., by Beatrix Cary Davenport, 2 vols. (Boston, 1939), I, 58-59, 71, 76.

76 Jefferson to Lee, 11 September 1789, Boyd, ed., Papers of Jefferson, XIV, 415-416.

77 Jefferson to Parker, 20 October 1789, Ibid., 526, Madison to Lee, 13 April 1790, Hunt, ed., Madison, VI, 12.

78 Jefferson paid Great Falls a second visit twelve years later but again left no comment on either the falls or the, by then, dying town of Matildaville. Thomas Jefferson's Account Book, September 1798, 21 July 1802, copy "Monticello."

to establish a town in the area, and the legislature set off forty acres of land "in the possession of Bryan Fairfax" as a town and named as trustees George Gilpin (a director of the Potomac Company and its resident supervisor of construction), Albert Russell, William Gunnell, Josias Clapham, Richard Bland Lee, Leven Powell, and Samuel Love who were to hold an auction in which all of the town's lots were to be immediately sold. As the town's governing body, the trustees were given powers like those granted to the Middleburg and Waterford trustees plus the power to confiscate the lot of any owner who did not erect a sixteen foot square building on it within five years. Any such lots could then be sold and the proceeds from such a sale were to be applied "for the benefit of the inhabitants of the said town." Such an auction of lots was not scheduled until 26 September 1793, but the inclusion of the provision in itself demonstrates the great interest in the new town.[79]

In the same legislative session Lee, a delegate from Westmoreland County, moved to promote his town in another way when he introduced a resolution calling on the state to take all possible steps to encourage woolen manufacturing.[80] One of the prime prerequisites for such enterprises was water

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79 Columbian Mirror 23 September - 21 October 1790, 1 August, 19 September 1793; Legislative Petitions, 28 October 1790; Hening, ed., Statutes, XII, 171-172.

80 Journal of the House of Delegates of the Commonwealth of Virginia...1790 (Richmond, 1828), 6; Boyd, ed., Papers of Jefferson, XVIII, 121-124.

power and Lee could not have been unaware of the effect that such a policy would have on the value of his land at Great Falls since it contained several prime millsites. The House of Delegates passed the resolution, but the Virginia Senate did not.

Between 1791 and 1795 Lee was Governor of Virginia and does not appear to have devoted time to the town, but upon leaving office, he again turned to his Great Falls project and attempted to revive it by getting the state legislature to incorporate a company to build a turnpike between Matildaville and Alexandria. By this time, Lee had given up hope of Matildaville becoming a seaport and replacing Alexandria. Instead he now hoped to cash in on the improvements being made in the Potomac above the falls by making Matildaville the unloading place for boats on the upper river from whence their goods would be carted in wagons over the new toll road to Alexandria where they could be loaded on ships for transshipment to other points in the Atlantic community. Lee undoubtedly hoped that such a road would not only rejuvenate his faltering town, but that it was also to turn a profit of its own.

The Virginia General Assembly complied with the wishes of its former Governor in November of 1795 and passed an act incorporating the Matildaville Company with a capitalization of $80,000.[81] Lee may have clung to his hopes of wealth a

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81 Columbian Mirror, 1, 29 August 1795; Shepherd, ed., Statutes, I, 387-388.

bit longer, but he must have given up when new company directors, including himself, were unable to sell the projected four hundred shares of stock. In fact, it seems never to have sold even the two hundred required to begin operations. Lee's other plans did no better and his finances so declined that in 1809 he was forced to declare bankruptcy and enter debtors' prison.

Matildaville, the town he founded and named for his wife, did no better. During the summer of 1790 the United States Congress voted to move the nation's capital from New York City back to Philadelphia where it was to remain for ten years until a new capital city could be built along the banks of the Potomac. Lee and his backers certainly must have hoped that Great Falls would be selected as the site and such a possibility may have spurred them to seek the town's incorporation by the Virginia General Assembly. But in the middle of January, only a month and a half after the incorporation of Matildaville, it was announced that the new capital would be located fifteen to twenty miles downstream at a point near Georgetown. This was a crippling blow from which Matildaville never recovered. The town's death was not immediate; some people still appeared to have faith in its future. In 1797 William W. Williams and Company opened warehouses and advertised that they would receive, store, and transship to Alexandria or Georgetown any goods instructed to them. During the same year, John Potts operated a stable and forge which

burnt under mysterious circumstances. Francis Lightfoot Lee had enough faith in the town's future to purchase thirty-six of the town's lots, but he may have done so more to aid his kinsmen than to make a profitable investment.[82] In 1801 a visitor described the town as "a few scattered buildings which form a kind of hamlet called Charlottesville. The first settler in this savage wilderness was the Lady of General Lee from whose christian name the place takes it appellation." The town's name may have made no impression on the traveller, but one of its innkeepers did. He described her as "Widow Myers [a] buxom widow [who] was by persuasion a Methodist and possessed of considerable property."[83]

Between 1790 and 1830 the Potomac Company and its successors in the effort to open the Potomac to navigation had shops, a forge, and other construction facilities plus its superintendent's residence and a laborers' barracks in Matildaville, but there was little else. The new Federal City eclipsed Matildaville as a place of commerce and Matildaville's location, halfway between Leesburg and Washington, kept it from developing as even a small service center like Middleburg and Waterford.[84] Still, Matildaville is important to this study of Loudoun in the 1790s because it shows the

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82 Columbian Mirror, 7, 9 March 1797; Henry Lee to the Trustees of Matildaville, n.d., Lee Papers of Stratford Hall, microfilm copy, Alderman Library, University of Virginia.

83 Davis, Travels, 371.

84 Archer B. Hulbert, "The Potomac Company," The Great American Canals (Cleveland, 1904), 33-64; Harrison, Old Prince William, 537-560.

optimism of her people, because it provides an example of the methods used to form towns, and because it demonstrates that town developing was a risky business in which even well-planned towns with what seemed to be excellent locations could fail.

V

Centerville

Another town that was chartered in Loudoun during the 1790s had a history similar to that of Matildaville in that it too was developed with the hope of profiting from an internal improvements project and it too was basically a failure.

The idea of a town in southern Loudoun was not new to the 1790s. It, along with the nearby areas of Prince William and Fairfax counties, had appeared capable of supporting a town for some time. A natural site was the point where one of the region's main roads crossed Rocky Run. Early land owners in the area had attempted in the 1740s to form a town which they called Newgate. The soil in the area proved not to be very fertile, the area did not prosper, and neither did Newgate. In 1790 it consisted of only a grist mill, a church, and one store, and it was no larger than at least ten similar settlements in Loudoun. When in that same year a group of merchants in Alexandria proposed the construction

of a turnpike from that city to the Rappahannock River, there was renewed interest in Newgate. Acting on the assumption that the new road would follow the line of the existing road through Newgate, two groups of landowners tried to establish towns in the area but the General Assembly rejected their petitions for acts of incorporation.[85] During the next two years the two groups worked out a joint plan, and in October 1792 petitioned for the incorporation of a single town, Centerville, to be so called because its location was "nearly central to Dumfries, Colchester, Alexandria, City of Washington, Georgetown, Falls of Potomac, Leesburg, Middleburg, and Fauquier Court House, being about twenty-five miles from each and where the roads to the said places meet and intersect." Their petition was unique among Loudoun town petitions in that it proposed the precise route which the town's main street should take (drawn so that the lands of all five of those who owned land in the proposed town would front upon it) and in its suggestion of a list of fourteen persons to serve as trustees.[86] Each of the landowners signed the petition and the legislature approved it by passing an act establishing the town of Centerville on the seventy acres proposed in the petition. The language of the act was in part copied directly from the petition and provided that the

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[85] One group advertised their intention to petition for town status in the Columbian Mirror, 15, 20 July 1790.

[86] Both the petition seeking incorporation and the legislative act of incorporation spell the town's name Centerville, but it was also commonly spelled Centreville in the period before the Civil War. Legislative Petitions, 3 October 1792.

main street should be the same as was asked for. It also complied with the petitioners' suggestions covering trustees, even listing them in the same order in which their names appeared in the petition with only two alterations; Leven Powell, who was not among those recommended in the petition, headed the list and his name was followed by that of Joseph Lane who had appeared ninth on the list in the petition. This gave the new town a total of fifteen trustees, over twice the number named for Leesburg, Middleburg or Matildaville and almost four times the number appointed for Waterford. The rest of the act was almost identical to the one incorporating Matildaville.[87]

Centerville's trustees proceeded to lay out a town of thirty-two square lots on a gridiron pattern (figure 31). There were to be three streets running east and west; the central street was named Main and the other two Adams and Jefferson in honor of the nation's Vice President and Secretary of State. These streets were crossed at right angles by nine side streets, each of which was named for a family prominent in the area. Each of the thirty-two blocks were then quartered and each resulting lot was given a number.

Centerville, like Matildaville, never developed because the internal improvement on which its economy was to be based was never completed. The proposed Alexandria to

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[87] The first three towns had seven trustees apiece and Waterford had four. Hening, ed., Statutes, XIII, 580-581.

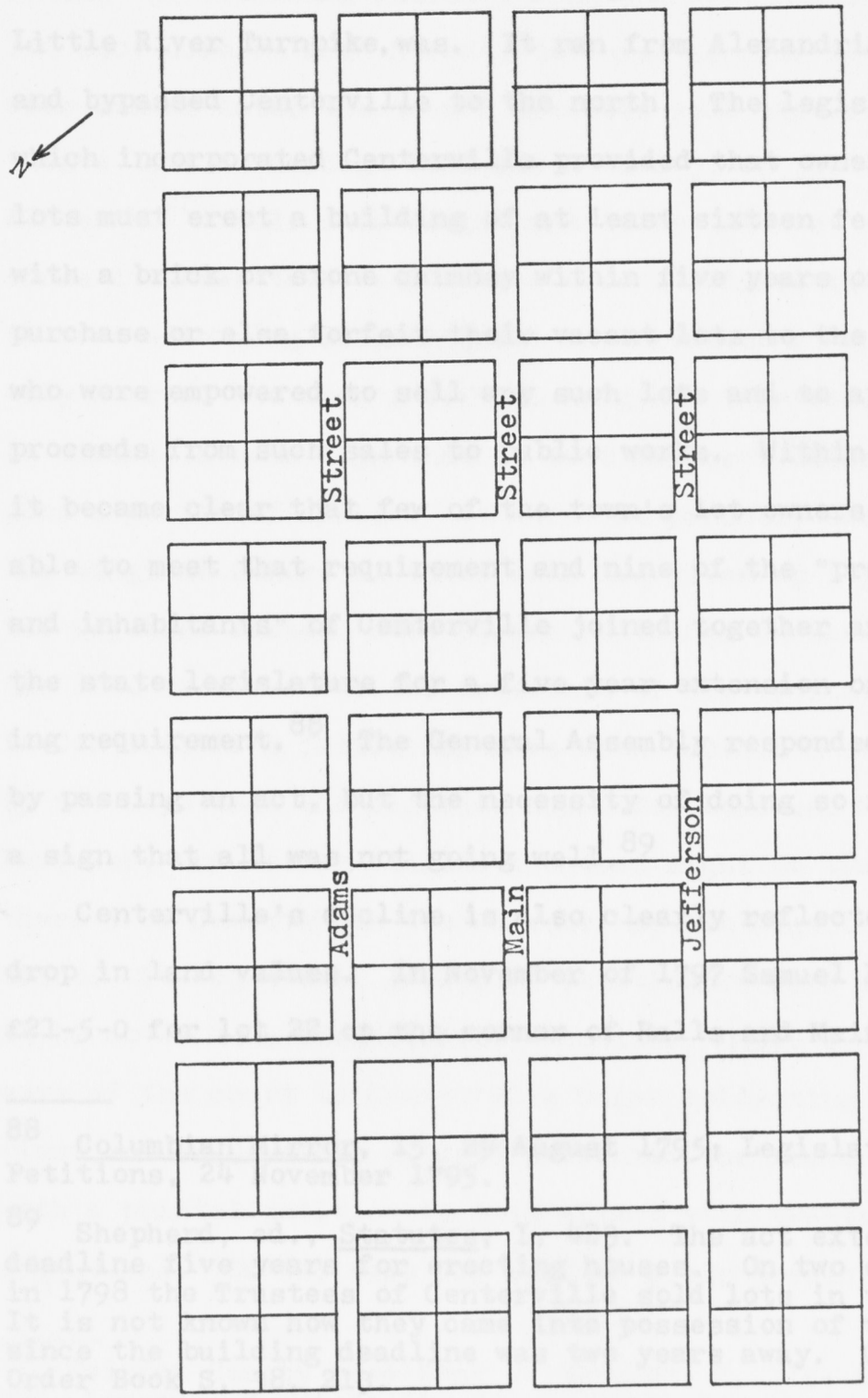


Figure 31: Plan of Centerville

Rappahannock turnpike was never begun but another one, the Little River Turnpike, was. It ran from Alexandria to Aldie and bypassed Centerville to the north. The legislative act which incorporated Centerville provided that owners of town lots must erect a building of at least sixteen feet square with a brick or stone chimney within five years of their purchase or else forfeit their vacant lots to the town trustees who were empowered to sell any such lots and to apply the proceeds from such sales to public works. Within three years, it became clear that few of the town's lot owners would be able to meet that requirement and nine of the "proprietors and inhabitants" of Centerville joined together and petitioned the state legislature for a five year extension on the building requirement.[88] The General Assembly responded favorably by passing an act, but the necessity of doing so is clearly a sign that all was not going well.[89]

Centerville's decline is also clearly reflected by the drop in land values. In November of 1797 Samuel Love paid £21-5-0 for lot 22 on the corner of Ralls and Main Street.

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88 Columbian Mirror, 15, 29 August 1795; Legislative Petitions, 24 November 1795.

89 Shepherd, ed., Statutes, I, 423. The act extended the deadline five years for erecting houses. On two occasions in 1798 the Trustees of Centerville sold lots in the town. It is not known how they came into possession of those lots since the building deadline was two years away. Court Order Book S, 38, 213.

During the following February John and Newton Keene sold lot 120, also on Main Street, to three men for £24-1-0. Four months later the town's trustees sold sixteen of the town's lots to Hardage Lane for £446-8-3, or just under £28 each.[90] This sale is of particular interest not only because it shows that land values were still relatively stable or even advancing slightly, but also because it shows that only four of the town's fifteen original trustees were still in office, a sure sign that at best Centerville had undergone a period of change. At worst it probably shows that the original owners of those lots had given up hope of erecting the required sixteen foot square buildings on them and allowed the lots to revert to the ownership of the trustees. Faith in Centerville's future may have been sustained for a time by the hope that the district court for Loudoun, Fairfax, Fauquier, and Prince William counties might be transferred there from Dumfries on the extreme eastern edge of the district. At least four groups of petitioners were asking that it be moved to a more central location. Those favoring a move of the court to Centerville began collecting signatures first and in December of 1797 presented the state legislature with a printed petition to this effect with twenty-nine signatures. On the same day another group presented eleven

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90 Fairfax County Deed Book Y, 393-398; Z, 115; B2, 385, 985; Lawrence M. Mitchell, "Centreville Community 1720-1860," Historical Society of Fairfax County, Virginia Yearbook, IV, (1955), 24-44.

printed petitions with 375 signatures which stated that, "being informed that...some of our fellow citizens have determined to petition for a removal...of the district courts to Centerville in Loudoun County...we therefore beg leave to recommend that a place may be fixed for the future holding of the said courts, in the upper part of Prince William county and near the Red-House...which we conceive to be the present central ground of the district." A third group of thirteen petitioners asked that the court be moved, but their petition said that either Centerville or Red-House would be satisfactory. The state legislature refused to act on any of the petitions and left the court in Dumfries.

Two years later a new group entered the fray when it presented thirteen printed petitions signed by about five hundred persons requesting that the court be moved, but these petitions declared that "the opinion of the people in the district at large, is not generally in favor of either Centerville or the Red-House, but of the most central situation of the district." Three days later eight printed (identical to those of two years earlier) and two script petitions with about five hundred signatures (at least 185 were Loudoun residents) renewed the claims of Centerville.[91] The Virginia General Assembly responded to the conflicting requests

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[91] Legislative Petitions, 8 December 1797; 16, 19 December 1799.

by appointing seven commissioners to study the situation and to settle on a new site for the court. Precisely what happened next is not clear, but in January of 1803 the legislature repealed the act providing for the commissioners and itself declared that following the May 1803 session of the district court it was to move to Haymarket, the town recently founded on the site of Red House.[92] In any case, Centerville was not chosen and a rapid decline in land values began shortly thereafter. In 1804 Adam Mitchell sold lot 3 on Main Street to David Harrington for only $40 (roughly £12) or half the price that such a lot had brought only a few years earlier. Values seem to have leveled off for a time. In 1806 a lot near the center of town was sold for $50.50 (roughly £15-1-0), but by 1834 the market value of Centerville lots had again been cut in half—by this time one was sold for only $20 (roughly £6).[93] These land values are an accurate measure of Centerville's decline after the tunrpike passed her by and she was unable to develop an alternate basis for her economy.

Two more towns were planned in Loudoun during the 1790s. In 1795 Thomas Ludwell Lee advertised his intention "to petition the next General Assembly, to pass an act, for laying off a town on my land, near the mouth of Goose Creek,"

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92 Shepherd, ed., Statutes, II, 179-180; 242-243, 432-433.

93 Fairfax County Deed Book E2, 241, 519; 62, 283; Mitchell, "Centreville," 42-43.

but no petition was filed and the plan must have died. A last town, Springfield, was chartered in Loudoun as the decade closed. In December of 1799 thirty-four persons petitioned the state legislature for the establishment of a town, the legislature complied, but there is no evidence that the twenty-five acres involved ever subdivided or that any town ever functioned.[94]

In Loudoun in the 1790s Leesburg and Waterford were fairly large towns and Matildaville, Middleburg, and Centerville appeared to have good futures. Only Springfield failed completely. These towns fulfilled their purpose as milling, marketing, religious, and social gathering places. In doing so they were augmented by several even smaller places. In the northern part of the county, Lovettsville had two churches and a store, and the future site of Hillsboro had a mill; in the west Snickersville had an ordinary and Goose Creek a mill and a church; and in the east Mount Gilead had a store, and Frying Pan a church and a few houses.[95] Loudoun needed no more, she was an agricultural area, and these towns, tiny as they were, were certainly adequate.

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[94] Columbian Mirror, 1, 29 August 1795; Legislative Petition, 5 December 1799; Shepherd, ed., Statutes, II, 223-224.

[95] In 1802 landowners in Hillsboro petitioned for and received town status. Legislative Petitions, 9 December 1802; Shepherd, ed., Statutes, II, 459-460.

THE COUNTY COURT AND CIVIL JUSTICE

On the second Monday of each month many Loudounites arose especially early and saddled or harnessed their horses for the trip to Leesburg. At eight o'clock on that day and the days following, the number depended on the press of business, the town was alive with people as the justices of the Loudoun County court met to conduct the business of the government. The Court was the most important institution in Loudoun during the 1790s. It had jurisdiction over a broad range of executive and legislative, as well as judicial activities. As a legislative body the justices laid the annual levy of taxes, passed rules and regulations for the everyday ordering of society, and appropriated funds from the public treasury. Acting in an executive capacity, the justices oversaw the expenditure of those funds, enforced the laws, administered public welfare, and licensed public institutions like taverns and retail stores. Beyond this, the justices formed the court of first instance for all civil and criminal cases. In the gray area between executive and judicial functions, the court received and recorded all types of legal documents and administered estates.[1] A single body of such pervasive

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[1] The most complete study of the functions of Virginia's county court system is Albert O. Porter's, County Government in Virginia: A Legislative History 1607-1904 (New York, 1947), but must be used with caution. Charles S. Sydnor, Gentlemen Freeholders (Chapel Hill, 1952), 78-93, gives the most accurate description of the day-to-day activities of the courts. George M. Curtis, The Virginia Courts During the Revolution (Unpub. Ph.D. diss., University of Wisconsin, 1970).

authority is difficult to imagine today, but during the 1790s it was accepted almost without question. A product of over a hundred and fifty years of development, the county court provided continuity and was a major element of stability in Loudoun County in the 1790s.

I

Composition

Continuity and stability were likewise important characteristics of the composition of the court. It was largely the justices of the peace who made the court what it was. By law the minimum number was eight, but in the 1790s the number actually serving the various Virginia counties ranged from eight to forty depending on the size of the county.[2] Loudoun, as befitted the fourth most populous county in the state, had as many as forty justices at one time during this decade. The court was a self-perpetuating body. Justices were appointed to their positions by the governor, but the governor had to make his selection from a list of three names which would be submitted to him by the remaining members of the county court in which the vacancy occurred. In practice he appointed the man whose name headed the list. Thus the

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[2] Jefferson, Notes on Virginia, 130; Sydnor, Gentlemen Freeholders, 79; Hening, ed., Statutes, II, 21; V, 489.

court was a self-perpetuating body. Its members served for life unless they ceased to own land in the county, accepted an office under the federal government, or resigned. Under the law the governor could remove a justice, but in fact there is not a single case of a governor having done so in the eighteenth century.[3]

Upon appointment as a justice a man was supposed to appear at a session of his county court and qualify by taking an oath of fidelity to the state and swearing his intention to fulfill the office of justice to the best of his ability.[4] Not all persons appointed and commissioned justices of Loudoun chose to qualify. Shortly after the Revolution new commissions were issued to all justices of the peace in the state. Twenty-eight were issued for Loudoun. Eight of the individuals so commissioned never qualified although one, George Summers, had sat with the court in the past. At least one of the eight attended court and formally refused to qualify. Another was appointed and commissioned in 1785 and did not qualify until May of 1801. Five men were appointed to the Loudoun court in 1787 and two more in 1789; all of these men qualified by 1790. When six new justices were appointed in June of 1792, William Ellzey, Jr., lost no time qualifying and sat with the court the following month. Three others

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[3] Porter, County Government, 167.

[4] Hening, ed., Statutes, XIII, 449-450.

qualified later that year, one the following year, one the year after, and the last waited until 1796. In the meantime, ten more appointments were made in 1795. Four of these qualified the following year, one in 1798, one in 1799, three in 1800, and one in 1801.[5] Everyone appointed during the 1790s had qualified by 1801, though some waited as long as six years after their appointment to do so.

The reluctance of an individual to serve on the court is understandable. If he were an attorney he would find himself barred under penalty of a thirty dollar fine from practicing law before the Loudoun County court on which he served.[6] Secondly, the office of justice of the peace brought neither salary nor fees, but could consume a great deal of time. In 1789 forty-four Loudounites petitioned the state assembly asking that this be changed:

> Two reasons induce your petitioners to wish the magistrates paid for their services, [they wrote]. First, there will then be propriety in compelling them to do their duty. Secondly, we can see no good reason for even expecting men to devote their time & spend their money in the service of the public without compensation to either.[7]

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[5] "War 9 Calendar of Public Officers 1st December 1786," Virginia State Library, 101-102; Summers sat with the court at least once in 1768 and once in 1771. Edward Ingle, ed., "Justices of the Peace of Colonial Virginia 1757-1775," Bulletin of the Virginia State Library, XIV (1921), 43-149 reprints four manuscripts lists of Loudoun justices from the library's archives. "Register of Justices and Other County Officers, 1778-1811," 42; "1777-1823," 51; "1788-1811," 96-97; "1777-1832," 60; "1786-1845," 124; Virginia State Library. All of these manuscript lists vary slightly in content but conflict only once.

[6] Shepherd, ed., Statutes, I, 15.

[7] Legislative Petitions, 16 November 1789.

This section concerning pay for the justices was subsidiary to a larger section dealing with the problems involved in debt suits and the question of compensation for justices does not appear to have been discussed by the General Assembly at any time during the 1790s.

Some of Loudoun's justices may have served because they enjoyed the power which the office conferred on them, but this was probably not a very important consideration since few justices attended meetings very regularly. Most men who sought the position probably did so either to make good contacts or for the prestige that it brought. More justices probably did not seek the job, but accepted it because they considered it their civic duty to do so.

The men who served on Loudoun's court certainly did form an economic elite within the county. Thirty-five of the forty men who served as justices during the 1790s owned land in their own names and three others were relatives of other justices, and probably had use of land. Richard Coleman, for example, paid personal property taxes on seven slaves and eight horses, but none on any land. This does not mean that he was not an active planter. His father, James Coleman, paid land taxes on five tracts of land with a total of over fourteen hundred acres. It is safe to assume that Richard was farming at least one of these tracts, but that title had not yet been transferred to him. John Gunnell with six slaves and seven horses was in a similar situation.

His father, William Gunnell, had over twelve hundred acres in three tracts and probably let his son farm one. A third justice, Theodorick Lee, did not pay taxes on any real estate or personal property, but he managed the ample estate of his brother, Richard Bland Lee, who was away attending Congress during much of the first half of the decade. The other two landless justices owned slaves and horses.

Landownership itself is not significant in an agricultural society like Loudoun, but the size of the justices' landholdings is. One of the forty, Patrick Cavan, owned six lots in Leesburg and the others held a total of over 24,000 acres among them. James McIlheney was the largest land owner with 3,700 acres. Jonathan Davis' 471 acres was the median and the mean was over 1,200 acres. This mean and median were both more than twice those for Loudoun as a whole. The high economic status of the justices becomes even clearer when personal property holding is examined. Thirty-four of the forty justices owned slaves while less than one fourth of the county taxpayers did. Together they owned 313 slaves or almost one fourth of all the slaves in the county. The mean holding among justices was just over nine slaves compared with just over three for the county as a whole. The median for the justices was between seven and eight while it was two for the county as a whole. Beyond this the justices owned one third of all the passenger vehicles in the county. Benjamin Grayson was the smallest landowner, but

he was retired from active business. Even so, he owned thirteen slaves. The five landless justices each owned either six or seven slaves, and the six who owned no slaves each owned at least one hundred acres of land. Pierce Bayly owned 950 acres of land but did not own any slaves.[8] The only justice without substantial property was Theodorick Lee whose situation has been outlined.

It is more difficult to determine the precise social and professional status of the individual justices. Their economic standing would give them some social standing to be sure. Several justices held other positions of respect: three were trustees of the town of Middleburg when it was established in south-central Loudoun in 1787, four were trustees of Matildaville when it was formed in northeastern Loudoun three years later, six were trustees of Centerville when it was established in southeastern Loudoun two years later, and seven more were trustees of the Leesburg Academy when it was chartered by the state legislature in 1799. At least four of the justices had attended college. Joseph Lane and Theodorick Lee had attended Princeton, Richard Bland Lee had attended William and Mary, and there are indications that Wilson Cary Seldon had attended medical school. Another justice was an ordained Methodist minister, but he had not attended college.

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8 Personal Property and Land Tax Books, 1795

Thirteen of the seventeen justices whose religion can be determined were Episcopalians. Ten were vestrymen of Shelburne Parish in western Loudoun. Cameron Parish in the eastern part of the county does not appear to have been functioning at this time. There is no vestry book for Cameron and its pulpit was listed by church officials as empty since the Revolution. The three Lees were among Episcopalians but they lived in Cameron. At least three of the other justices were Methodists, including John Littlejohn who served the Leesburg Methodist Church as its minister. One justice, Stacey Taylor, was a Quaker. It is impossible to establish the religious affiliation of any other justices, but it is worth noting that none of their names appear on the communicant lists of the New Jerusalem Lutheran Church, the membership lists of the German Reformed Church at Lovettsville, or in records of the Ketocton Baptist Church. All of these churches were located in northern and western Loudoun.[9]

This is not to imply that the residences of Loudoun's justices were not fairly evenly distributed over the county. For tax purposes the county was divided into three battalions. Twelve of the justices lived in the Second Battalion in

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[9] Records of Ketoctin Church, 1789-1805, Virginia Baptist Historical Society, University of Richmond; Records of the New Jerusalem Church, Virginia State Library; "German Reformed Church, Loudoun County Records, 1789-1859," trans. by George M. Smith, ms. Virginia State Library; Shelburne Parish Vestry Book, Photostat, Virginia State Library.

in eastern Loudoun, twelve in the Third Battalion in the southern and western parts of the county, and sixteen in the First Battalion in northern and central Loudoun. The First Battalion had both the largest population and the largest number of justices residing in it. These justices conducted most of the county's business because Leesburg, the county seat and meeting place of the county court, was located in the First Battalion.

The familial relationships of some of the members of the court can be unravelled. Two father-son combinations on the court were the Powells and the Gunnells. Justice Benjamin Grayson was married to the daughter of Justice William Bronaugh, and Justice John Orr was married to Grayson's daughter. The daughter of another justice, John Orr, was married to a son of Justice Leven Powell. Two brothers, Richard Bland Lee and Theodorick Lee sat on the court, as did their cousin Thomas Ludwell Lee. Beyond this nothing can be established. Perhaps of equal importance is the fact that four of the justices had fathers who had sat on the Loudoun County Court before them.[10]

In short, the members of the court tended to be wealthy, to dominate other positions of leadership in the county, and to be interrelated. There were, for example, no wealthy county residents who were not members of the court. The

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[10] The fathers of other justices may have served on the courts of other counties.

justices also tended to be slaveholders even though a large proportion of the county's population was composed of Germans and Quakers who opposed slavery.

II

Court Sessions

The number of days which these men met to transact Loudoun's business varied through the year (see chart 4a). The length of sessions varied from a single day to seven, averaging just over three. Loudoun was an agricultural society and the shortest court sessions took place in the months of May when summer crops were planted; in July when winter wheat was harvested and hay cut for the first time; in October when corn was harvested and tobacco cut and hung to dry; and in the winter months of December, January, and February when wet roads made travel difficult.[11] The longest session, usually about five days, took place in the "quarterly courts" when justices gathered to hear criminal prosecutions

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[11] During this period, Stevens T. Mason, an active attorney in the Loudoun area, wrote to a member of the Fairfax County Court asking that the cases he was involved in before that court be postponed a month. "I know not what may be the practice in Fairfax, but in Loudoun, we are busy with the harvest and it is a rule never to urge any trial in July, indeed we always continued petitions of a disputable nature in the absence of either of the attornies." S. T. Mason to Charles Simms, 18 July 1788, Peter Force Manuscripts, Library of Congress.

	1790	1791	1792	1793	1794	1795	1796	1797	1798	1799	Mean Average
January	2	2	1	2	1	2	2	2	2	3	1.9
February	3	3	2	1	1	2	2	2	3	3	2.2
March	5	6	5	5	5	3	3	6	6	6	5.0
April	4	3	3	4	4	2	1	2	4	3	3.0
May	1	2	1	2	1	1	1	2	2	2	1.4
June	7	5	3	6	5	6	5	5	6	3	5.1
July	1	2	1	1	1	2	2	2	2	2	1.6
August	6	6	5	6	5	5	5	5	6	6	5.5
September	3	2	3	3	3	3	3	3	4	4	3.1
October	1	1	2	1	1	2	2	3	2	2	1.7
November	6	5	4	5	2	5	6	5	6	6	5.0
December	2	2	2	2	2	2	3	3	3	3	2.4
Special Sessions	4	4	0	3	1	1	3	1	2	2	2.1
Total	45	43	32	41	32	36	38	41	48	45	41.0

4a. Length of Court Sessions.

and to try civil suits. By law these sessions were held in March, June, August, and November.[12] Quarter sessions usually lasted five days, twice as long as the average regular session. The length of sessions did not change appreciably over the decade of the 1790s.

Although Loudoun had forty justices, there were never over eight present for a session of the court. Three quarters of the time only the necessary four attended, and only five were present another one fifth of the time. Thus, there were either four or five justices present over ninety per cent of the time. As a matter of fact, the court met eleven times when only three justices were present and twice when only two justices attended. The court order book entries for those dates do not indicate the absence of a quorum and business appears to have been conducted as usual. Throughout the decade the number present did not vary greatly from season to season or year to year (see charts 4b and 4c). The 1790s attendance level of four or five justices compares unfavorably with that of the colonial era when almost half of the court's justices attended most of its sessions. This decline in attendance reflects the decline of the whole county court system in Virginia.

What varied widely is the number of days which each justice attended court. Twenty-seven of the county's forty justices were eligible to sit throughout the entire decade. Patrick Cavan attended the greatest number of sessions, 166

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[12] Most counties held their second quarterly session in May rather than in June but Loudoun was one of the counties for which special dates were established in 1792. The law of 1787 did not provide for such exceptions but Loudoun held its quarter session in June anyway. Hening, ed., Statutes, XII, 468; XIII, 452.

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Mean
1790	47	454	85664	4544	4	5564445	5	445444	444	4	444444	45	4.5
1791	44	444	444444	444	44	45544	44	445544	54	4	44444	44	4.1
1792	5	44	53444	444	4	443	4	43354	444	44	4444	44	4.0
1793	54	4	44444	5364	44	454444	4	444444	544	4	4454	44	4.2
1794	4	4	45444	4444	4	44455	4	44444	445	4	44	44	4.1
1795	54	22	444	44	4	566444	65	45454	444	45	34845	44	4.3
1796	4	44	55	444	4	44444	44	44544	445	53	455444	444	4.2
1797	45	54	644554	45	44	54354	45	44545	434	444	54445	544	4.3
1798	44	444	444444	4444	44	544444	44	554444	4444	45	444444	444	4.1
1799	444	444	36444	455	44	444	44	445444	4444	45	444444	444	4.4
Mean	4.4	3.9	4.2	4.2	4.0	4.3	4.3	4.2	4.1	4.8	4.2	4.0	4.2

4b. Court Attendance: Each number represents a single day. Thus four justices were present on the third day of the March 1797 session and five were present on the fourth day.

Number of Justices Present	Number of Such Days	Percentage of Sessions
2	2	.5%
3	11	2.8%
4	298	74.6%
5	75	18.8%
6	9	2.5%
7	1	.3%
8	3	.8%

4c. Justice Attendance

or just over 41 per cent. Next came Leven Powell who attended an even one third of the decade's sessions. John Littlejohn was the third most frequent attender with a record only slightly poorer than Powell's. Seven other justices were appointed to the court in June of 1792 and were eligible to attend a total of 298 sessions. Of these men, Stacy Taylor attended the greatest number, 55 or just over eighteen per cent. The final group of justices were appointed in November of 1796 and could have attended 183 sessions. Of these men Joseph Smith had the best attendance record with 104 days attendance (56.8 per cent). Samuel Murray attended 85 sessions, or 46.9 per cent of the time. At the other end of the spectrum there were fourteen individuals who attended fewer than twenty sessions, i.e., less than five per cent of the time. Another twelve justices attended between five and ten per cent of the sessions.

At least one of the three most faithful attenders, Cavan, Powell, and Littlejohn, were present at four out of five sessions during the decade.[13] It was these men and the county clerk, Charles Binns, who must have provided the court with whatever continuity it had. The record indicates that they also did a great deal of the administrative work. If to their names is added that of James Coleman who was a poor attender

[13] At least one of the three attended 309 of the court's 380 regular sessions. This included at least one day of all but nine of the 120 monthly sessions. Eight of the nine missed sessions only lasted a single day. The other, June of 1791, lasted five days. All nine of these sessions took place in the first half of the decade. They were May 1790, June and November 1791, July 1792, February, July, and October 1793, and January and October 1794. Again there is no apparent pattern.

(around five per cent of the session), but who served on almost every committee charged with building or repairing bridges, the list would include the names of at least one member of almost every committee charged with an administrative task during the decade.

The ten men who attended at least one fifth of the court's sessions for which they were eligible share certain characteristics. Five lived in the first battalion which included Leesburg where the court met. At least three, Cavan, Littlejohn and Murray, and probably a fourth, Smith, lived in Leesburg itself. Three, Bayly, Ellzey, and Stanhope, lived in eastern Loudoun, and two, Powell and Taylor, lived in southern Loudoun. Taylor lived just south of Catoctin Mountain and had about a five mile trip to the county seat. Powell lived south of there at Middleburg. He probably had the longest journey of the ten to the court's meeting, but he was largely retired by the early 1790s and presumably had more time to devote to public service than did his colleagues. Powell's attendance record is especially noteworthy in light of the fact that he represented the area in Congress during the last year of the decade and was unable to attend sessions. Powell was not the only leading justice who was more or less retired from economic life. William Stanhope in eastern Loudoun was also retired.

On the face of it these leaders would appear, if anything, to be a bit poorer than their fellow justices, but this is

partly accounted for by the fact that two were not very active economically and three lived in Leesburg where the real value of their assets was not likely to be adequately reflected in the tax records of the time. For example, it is difficult to assess the value of Patrick Cavan's six lots or his store. These considerations aside, the ten most faithful attenders had about as much land as the average justice, but not as many slaves. Three did not hold any slaves and the largest slaveowner, William Stanhope, only owned eight. The mean was 2.5 as compared with 9.2 for the court as a whole (see chart 4d).

III

Civil Jurisdiction

Meeting as Loudoun's county court these justices devoted the greatest part of their time to their judicial functions. In this capacity their jurisdiction extended to all criminal cases except those punishable by loss of life or outlawry, and to all civil cases except those involving less than five dollars or two hundred pounds of tobacco which could be settled by a single justice. Cases involving over twenty-eight dollars or 800 pounds of tobacco fell within the court's jurisdiction, but had to be tried at its quarterly sessions in March, June, August, and November. The more

	ATTENDANCE		PROPERTY	
	Sessions Attended	Percentage of Eligible	Slaves	Land
Cavan	166	41%	1	6 lots
L. Powell	133	33%	2	1253 acres
Littlejohn	131	33%	3	184 acres
Smith	104	57%	0	100 acres
Bennett	103	26%	2	200 acres
Stanhope	90	22%	8	none
Bayly	89	22%	0	951 acres
Murray	85	57%	4	201 acres
Gunnell	70	17%	17	1253 acres
Taylor	55	18%	0	232 acres
Respess	53	13%	11	none
Ball	52	13%	0	109 acres
Ellzey	51	17%	5	142 acres
Coleman	49	16%	9	1462 acres
Mean		38.5%	2.5	445 acres

4d: Attendance and property holdings of justices attending at least ten per cent of the sessions for which they were eligible.

important criminal cases were settled by the district court at Dumfries with the Loudoun county court serving as a grand jury to determine whether there was enough evidence to warrant the trial of the accused by the higher tribunal.[14]

The vast majority of court cases involved debts. Loudoun's justices heard several other types of civil suits, but the court order books do not give details. They simply record the type of case—most are only recorded as suits "in case," a catch-all category—and the verdict handed down. Suits in chancery involved questions of equity rather than common or statute law and are similarly recorded. The records for civil suits involving debts are more complete. In the case of small debts, those under five dollars or 200 pounds of tobacco, the creditor could go to a single justice with his complaint and the justice would issue a "warrant for debt" against the debtor.[15] The warrant was served by the sheriff or one of his constables and contained in it the names of the plaintiff (the creditor) and the defendant (the debtor), the amount of money due, the reason it was due, the date on which the justice would hear the case, and the place where the case would be heard. If the defendant failed to appear before the justice

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[14] Hening, ed., Statutes, XIII, 449-467. Entitled "An act reducing into one, the several acts concerning the County and other inferior courts of this Commonwealth," this act was largely a restatement of the act of 1764.

[15] Virginia debt laws were gathered in a general code published just after the period ended. Virginia General Assembly, A Collection of all Such Acts of the General Assembly of Virginia of a Public and Permanent Nature (Richmond, 1803), chapters XXIX, LXVII, CLI.

at the appointed time, judgment would automatically be rendered in favor of the plaintiff and the defendant would be charged court costs. If the defendant appeared, the justice would listen to the testimony of each individual and to any witnesses who were called by either party. He would then render judgment. If the justice decided against the debtor, he would order the defendant to pay his debt, usually plus five per cent interest from the date it was due, and to pay court costs. Court costs varied depending on the case. The largest expense was the sheriff's fees. He received 21¢ for delivering the warrant ordering the defendant's appearance and 10¢ for summoning a witness. The fee paid to witnesses was not established by law, but the court order books show that 25 pounds of cask tobacco, i.e., 25 pounds of tobacco on deposit in a state tobacco warehouse, was the usual fee. If the defendant won the case, the plaintiff paid the costs incurred by both parties. If the loser of the case was unwilling or unable to pay the debt and/or costs, the justice would issue a writ of fieri facias ordering the sheriff to seize enough of the loser's property to satisfy the judgment rendered against him by the justice. A justice's ruling in such a case was not subject to appeal. It is impossible to determine how many cases were heard by single justices or by any individual justice because these justices' courts were not courts of record meaning no records were kept or

trial documents preserved by any public official.[16]

Debt suits involving over five dollars had to be cleared by the county court and hundreds of such cases were heard in Loudoun during the 1790s. Justices could hear cases involving between five and twenty dollars at their monthly sessions, but those involving over twenty dollars or 800 pounds of tobacco had to be heard at quarter sessions. In either case the procedure was the same.

The law said that "any action of debt may be maintained upon a note or writing, by which the person signing the same, shall promise or oblige himself to pay a sum of money or quantity of tobacco to another."[17] Promissory notes of this kind were very common in Loudoun. All a plaintiff had to do in court to collect on one was to prove that the note had been lawfully made, that it had been presented for payment, and that the payment had not been forthcoming. Virginia law required that retailers settle accounts with their customers within a year of a transaction. The easiest way to do this was for a merchant periodically to settle accounts with his customers and either give or take a note for the unpaid balance.

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16 Procedure for single justice courts and sample writs are given in William Waller Hening, The New Virginia Justice, comprising the Office and Authority of a Justice of the Peace in the Commonwealth of Virginia (Richmond, 1795), 447-449. Five Loudoun justices, Patrick Cavan, William Gunnell, John Littlejohn, Samuel Love, and Stacy Taylor, were pre-publication subscribers to this handbook and others may have purchased it following its printing.

17 Hening, ed., Statutes, XII, 452.

This could be made payable at any date and had the additional advantage of bearing five per cent simple interest from the date due. Estate executors were among the more common plaintiffs in debt suits because the law required that they close the estate as rapidly as possible and that they sue out all notes due the estate if necessary.

Landlords used a similar method when rents were due from their tenants. Rather than continue to carry the rents on a rent roll after they were due, many landlords took a replevy bond from the tenant. Such a bond was collectable in the same manner as other notes, and like them, had the advantage of bearing interest which rent did not and could be made due at a future date, after harvest for instance.[18]

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[18] The process of obtaining a replevy bond was more complicated than this under the law. Technically the landlord was supposed to wait until the rent was at least a day overdue. Then he was supposed to go to the property and "make a distress," i.e., he was to seize property of the tenant that would be saleable for the amount of rent due. The way in which the landlord or his agent could proceed was regulated by law. It was unlawful for him to break any door or gate to get at the goods. He could not seize a horse if the tenant was riding it, a beast of the plow, anything that was attached to a building permanently, or a tool such as an axe or a plow if it was in use. If the landlord seized any of these items or refused to accept payment of the due rent in cash and continued to take distress, the landlord or his agent was guilty of rescous and the tenant could collect treble his damages in court. Once the landlord had made a legal distress the tenant had ten days during which he could replevy his property, i.e., regain it by giving the landlord a "replevy bond" for it. A replevy bond obligated the tenant to pay the landlord the amount of rent due with interest plus his costs at the end of three months. In practice the seizure of property was omitted in Loudoun and the landlord merely demanded his rent and took the replevy bond. In the few cases where property was seized it was done so by the sheriff, acting for

Notes, including replevy bonds, had the added advantage of being transferrable. All the creditor had to do was to inform the debtor that he was assigning the note to a third party and that person would be entitled to collect the note when it fell due. Cases involving a note that had been assigned two or three times were not uncommon. See, for example, the case of "Bennett Hough assignee of Thomas Church who was assignee of Elisha Jewell, plaintiff, versus John Veale and William Buckhanan, defendants [a case] in debt" tried on 15 March 1793.

An assignee had to be careful whose second party note he accepted. There were several cases of debtors advertising their intention to avoid paying their notes. In 1790 James Meyhew of Loudoun placed an advertisement in the Alexandria paper to caution people against accepting the bond which he had given James Prior for £35 because Prior had sold him a tract of land in Kentucky which did not exist. A few years later James Lane Triplett placed a similar notice in the same paper cautioning anyone against accepting either of two notes which he had given on the ground that he had already redeemed them from Hugh Stewart and Samuel Love. Triplett did not

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the landlord. For applicable laws and sample writs see Hening, Virginia Justice, 362-380; Collection of Acts, 36, 188. Loudoun replevy bonds from the era are bundled together, marked "Replevy Bonds 1780s & 1790s," and are presently in wooden cabinet number 90, hole 3 in the basement of the clerk's office in Leesburg. Several have folded notes inside them or on their backs stating that the creditor had attempted to collect the rent due him and that he had sought it but not been paid. These are then signed by a Justice of the Peace.

explain why the notes had not been returned to him at the time of payment. Two other people placed notices in the 30 December 1800 issue of the Leesburg True American warning people against accepting their bonds since both were determined not to pay them until the persons to whom they had been given fulfilled their obligation in return for which the notes had been given.[19]

An individual could and often did hold a note for sometime without either losing money or being forced to go to the trouble of hauling a debtor into court. Most of the debt cases heard in Loudoun involved notes overdue for between six and eighteen months, but older ones were not uncommon. In March of 1790, for example, during the decade's first court of quarter sessions, the justices heard cases involving one, two, three, and four years out of date. One case involved a fifteen year old note for £70. In that case the court ordered that the defendant, a man named Rhor, could discharge his obligation by paying Mitchell, the plaintiff, just over £11.[20] Such decisions were fairly common. They might have been rendered because the debt had been contracted during the Revolution or some other period of inflation. It appears more likely, though, that the plaintiff simply agreed to settle the account for what he could get. This is the most likely explanation for the decision in the Mitchell-Rohr case

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[19] Hening, ed., Statutes, XIII, 359; Order Book P, 83; Columbian Mirror, 19 August 1790, 19 January 1797; True American 30 December 1800.

[20] Order Book L, 358.

since a comparison of land sale records for 1775 and 1790 does not show any great fluctuation in prices. The large number of suits instituted against debtors by the mercantile firm of Leven Powell and Sons testifies to the common practice of converting ledger accounts to promissory notes.

Most of the debt cases involved relatively small sums of money. The majority involved less than ten pounds and fewer than one in ten involved forty pounds or more. The court order books do not tell why a specific debt was contracted, nor do they usually contain testimony by witnesses. Most entries simply state the names of the defendant and plaintiff, the amount of the debt, the defendant's plea, and the court's decision. In over eighty per cent of the cases, the defendant acknowledged his obligation to pay the debt and settlement was made without further discussion.

The collection of a debt was not very complicated, but it took some time. The fact that most notes were a year or more overdue before the commencement of court action indicates that most creditors must have attempted to avoid court action. Still, a creditor could begin action as soon as a note fell due. The first step was to present the debtor with the note and demand payment. The debtor then had two weeks to make payment. If he did not make payment the creditor could commence legal action by going to Loudoun's clerk and obtaining a summons ordering the defendant's appearance at the next

session of the county court if the sum involved was under twenty dollars.[21] If more money was involved, the creditor had to get a capias ad respondendum. He could take this action himself or he could hire an attorney to conduct the case for him. Most plaintiffs handled their own cases. The court records always noted whether the parties "appeared" or "came by their attorneys," but did not usually give the name of the attorney involved. Stephens T. Mason was one of the most frequently mentioned attorney, which explains the absence of such a prominent citizen from membership on the court. He was obviously conducting a law practice which he would have had to curtail by giving up cases in his home county if he accepted appointment to the court. Thomas Swann was another lawyer who received frequent mention.[22] Attorneys in debt suits received $1.25 in cases involving less than six pounds and twice that amount if over six pounds.[23]

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21 Charles Binns served as Loudoun's clerk from its formation in 1756 until 1796. He was succeeded by his son, Charles Binns, Jr., who served until 1837. F. Johnson, comp., Old Virginia Clerks (Lynchburg, 1888), 240.

22 Most of Loudoun's attorneys probably learned their profession by reading in the offices of established members of the bar. One of the most notable products of this system was William Wirt, later Attorney General of the United States, who studied law under Thomas Swann in Leesburg and was admitted to practice before the Loudoun county court on 5 August 1792. Order Book O, 310.

23 Shepherd, ed., Statutes, I, 15.

If the debt was small and a summons employed, the clerk gave the summons to the sheriff or to one of his deputies who delivered it to the defendant ordering him to appear before the county court at a specific time on a specific date.[24] If over twenty dollars was involved and a writ of capias ad respondendum was employed, it was given to the sheriff. Such a writ ordered "the sheriff to take the body of the defendant, in order that he might have it at a certain time in court to answer the demand of the plaintiff."[25] The sheriff did not actually take the man into custody, but allowed the defendant to post bail. Bail was of the common or appearance variety and took the form of a promise by a third individual, the bailee, that the defendant would appear in court at the appointed time. The bailee was liable for payment of the debt himself if the defendant failed to appear in court.[26] Since cases employing writs of capias involved over twenty dollars they were tried at courts of quarter sessions. From this point on the procedure was identical in all cases involving over five dollars—i.e., in all cases heard before the court rather than before a single justice.

If the sheriff or his deputy did not find the debtor at home on his first visit he could simply leave a copy of the summons or capias and the defendant would usually honor it. Once in a while the defendant might be at home, but refuse

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[24] If the sheriff was a party in the suit, writs were executed by the coroner. Hening, Virginia Justice, 45, 427-428.

[25] Ibid., n.p.

[26] Shepherd, ed., Statutes, I, 196.

to accept the writ. There are several writs marked "kept off by force of arms." If the server of a writ could not find a defendant or he had moved, the writ was returned to the court marked "removed from county," "no inhabitant," "gone to Kentucky," or a similar phrase. In February of 1798 when Deputy Sheriff William Newman was ordered to arrest Thomas Bookard, he returned the warrant with the note: "Not found in my baliwick, Wm. Newman for John Alexander SLC [Sheriff, Loudoun County]." A new warrant was issued a month later and this time Newman returned it with the more specific notation: "The within Thomas Bookard lives in Fauquier County, Wm. D. Ser."

If the summons was issued within a fortnight of the return date listed on it the sheriff could choose not to execute it, i.e., deliver it, and return it marked "not executed." A sheriff could not, however, refuse to execute a writ if given two weeks, on penalty of a twenty dollar fine which would be divided between the state government and the party who had obtained the unexecuted writ. If the sheriff knowingly made a false return by stating, for example, that a person had left the county when he knew that he had not, the sheriff could be fined sixty dollars, which would be divided in the same manner as the fine for failure to act.

The laws regarding the sheriff's serving of writs were not fully enforced in Loudoun. For example, in January of

1790 three suits were brought against Sheriff George Summers for nonfeasance. In each case William Ellzey, Jr., the attorney for each of the plaintiffs, charged that Summers had failed to return an execution. Summers did not appear, judgment was rendered in favor of the plaintiffs by default, and Summers was fined and charged court costs. This was all according to the law, but the court then departed from the law and only fined Summers one pound, five shillings, and five shillings in the three cases. Even the larger fine was only one sixth the amount set by law. A month later William Wilson brought three similar suits against Summers. In two of them Summers was found guilty and fined a total of 30 shillings. Summers was represented by an attorney in the third suit, and the charges were dismissed when it was discovered that no writ had been issued or given to him for execution. The plaintiff was ordered to pay Summers' costs in that suit. If the sheriff or one of his deputies made an honest error in attempting to fulfill their duty they were not penalized. In 1795, for example, the sheriff or his deputy served a warrant for debt intended for William Suthard on a man named Suddoth and the case had to be discontinued.[27]

At the close of each court session the clerk gathered together all of the papers pertaining to cases heard during that session, folded them and put them inside a blank sheet

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[27] Ibid., I, 46; Court Order Book L, 330-331, 345-346; Q, 303; Loose Papers, Clerk's Office.

of paper which was folded up until it formed a packet about two by four inches. The thicknesses of these packets vary in proportion to the number of cases heard. Each packet was tied with a string and the date of the court marked on the outside. These packets were then filed away by the clerk for future reference.[28]

An individual for whom a writ was left would not be penalized should he not appear in court to answer the charge of a plaintiff since he was not considered to have been arrested. In such a case, the plaintiff could appear before the "Rules" (the conference held before the opening of the court by the clerk, the justices and any attorneys present to determine the order of cases to come before the court) and obtain a writ of attachment against the defendant. Such a writ ordered the sheriff to seize property of the debtor

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28 These packets have been shifted several times during the past two centuries. They are now in a group of wooden cabinets in the basement of the clerk's office in Leesburg. They have been badly mixed up. There are over a hundred such cabinets and each contains the records of dozens of different sessions of the court representing years ranging from the 1750s to the Civil War. Many of the cabinets are water damaged and impossible to open without destroying them. This has forced the author to work backwards from the packets found to the court order books. To keep track of the status of such writs the clerk kept an Execution Book in which he recorded the following information in columns: the date a writ was issued, its number, the names of the parties involved, the number of writs issued, the amount of judgment, costs (for registration and serving), to whom delivered, type of writ, county of residence of the person obtaining the writ, the month returnable, by whom ordered, the sheriff's return, and the date returned. Execution books for the following dates have been located in the basement of the clerk's office in Leesburg: 2 January 1790 to 24 March 1791, 24 March 1791 to 25 February 1793, 4 January 1794 to 12 May 1796, and 12 October 1798 to 2 July 1800. It appears that two books are missing. These books did not form a part of the official records of the county, but merely served to help the clerk keep track of writs and executions.

sufficient to satisfy the debt should the creditor prevail in court. Writs of attachment were also used when a creditor feared that the debtor planned to leave the county to avoid service of a process. To obtain such a writ of attachment the creditor had to post an attachment bond to cover damages to the defendant whose property was seized should the defendant win the case in court. This bond had to be double the value of the property attached. When given a writ of attachment it was the sheriff's duty to locate the amount of the defendant's property mentioned whether in the hands of the defendant or those of a third party and to seize it. A defendant could avoid having his property seized by giving a bond to the sheriff guaranteeing his appearance at the next session of the county court. In any case, the sheriff had to return to the court one of three documents: a statement that the defendant did not have any property in the county, a description of the property seized, or a copy of the defendant's bond stating that he would appear at the next court session.[29]

In Loudoun County most defendants served with attachments posted bond for their appearance and then appeared in court. If they did not appear, they were liable for the payment of their debt, court costs, and the loss of their appearance bond. Loudoun sheriffs and their deputies usually

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[29] Samples of such attachment writs are given in Hening, Virginia Justice, 43-48. Loudoun officials followed these samples.

seized a horse of a defendant refusing to post bond. Horses were relatively valuable and among the easiest of property to transport. But there are instances of other kinds of property being seized. Once, bushels of wheat and rye were seized and in another case "a heifer, a taylor's goose & sheers, 2 flat irons, one box and furniture, one table, one barrell pork, pr. bedsteads, one reel, one spinning wheel, one axe, [and] one dutch oven" were seized to satisfy an undisclosed debt.[30] The sheriff may well have sometimes asked the defendant what he could most easily get along without until court day.

Following the sheriff's return of the summons, capias, or appearance bond to the clerk, the case would be docketed—i.e., scheduled for the next session of the court. If the case had to be heard at a quarter session, the delay could be as long as three and a half months between the commencement of proceedings and the case's appearance in court. In cases involving less than twenty dollars and triable at monthly sessions, the time was shorter but still a month or longer.

On the day of the trial the clerk called both the plaintiff and the defendant to come forward. If the plaintiff failed to appear, the case was dismissed. If the defendant failed to appear, as he did in many cases, judgment was rendered in favor of the plaintiff and the defendant was

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[30] Judgments; Order Book R, 52.

ordered to pay the debt, interest, and court costs. If both parties were present the suit was heard. In most cases the defendant acknowledged the justice of the complaint and judgment was rendered in favor of the plaintiff. At times the defendant acknowledged the justice of the plaintiff's complaint but questioned the amount owed. In some of these cases the parties agreed to refer the determination of the amount due to others for arbitration. In 1790, for instance, Thomas Bennett sued James Cleveland for payment of a debt and Cleveland filed a cross suit. When the case came to trial, Cleveland admitted owing Bennett money but contested the amount. Both parties finally agreed to refer the case to William Stanhope, Charles Eskridge, Samuel Love, and Jonathan Davies, four of Loudoun's justices, and that the decision of any two of these individuals would be accepted as the decision of the court.[31] In other cases the court simply determined the amount.

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31 Order Book L, 357. Arbiters were usually, but not always, members of the court. See, for example, the case of Benjamin Shrieve's heirs vs. John Berkley in which three justices and Charles Binns, Jr., were named arbitrators. Ibid., P, 63. Arbitrators in such cases returned a report of their determination to the court but that report was not recorded in the order books. Some of the reports have been located among loose papers in the cabinets in the basement of the clerk's office. In one case Francis Bodine charged that Moses Pitcher owed him an undisclosed amount of cash and obtained summonses from Charles Binns calling Pitcher and three witnesses before the October session of the Loudoun County court. Pitcher appeared at that time, sought and was granted a postponement of the case. When the case was heard in February both Bodine and Pitcher appeared and agreed to "submit all matters in difference between them to the final determination of Joseph Lacey & Pierce Bayly." If Lacey and Bayly could

It was fairly common, especially in the case of old debts, for the court to order that the debt be discharged by a smaller sum than that legally due.[32] Often when the court found for the plaintiff, it gave the defendant more time to discharge the debt. That is, the court would render judgment, but postpone execution until a future date. Such a decision was usually just recorded in the order book, but sometimes the record indicates that the stay of execution was agreed to by the plaintiff as in the case of Jesse Moore vs John Stanhope in which Moore agreed to a fifteen month stay of execution.[33]

The defendant in any debt case involving more than £5 had the right to a jury trial. In about one fifth of the disputed cases the defendants demanded one. The trial was then postponed to the next session of the court. When that date arrived it was not uncommon for the defendant to change his plea and acknowledge the justness of the plaintiff's complaint. In such cases the defendant had merely put off the inevitable, but he had perhaps used the extra month to raise the money to pay his debt and thereby avoid the payment of court costs. Cases that went to the jury were determined in the same way as those heard by justices.

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not agree they were to appoint an umpire to render the final decision. Four days later Lacey and Bayly returned a paper reporting that they had "examined the account of the parties and examined sundry witnesses and we award that Moses Pitcher def. to pay to Francis Bodine 30 shillings and 10½ pence and pay the costs [of these proceedings]." Miscellaneous Papers, Cabinet 90, Clerk's Office, Leesburg, Virginia.

32 Order Book L, 358; P, 52.

33 Ibid., Q, 40.

Many cases were dismissed at the request of the plaintiff, usually because the debt had been paid. Once a case was dismissed, the plaintiff could not reinstate it without the approval of the defendant. Suits were also abated (i.e., made void) when the defendant could not be found in the county or after the defendant had died and before an executor had taken over management of his estate. When a case was abated the plaintiff had to pay court costs, but he retained the right to reopen the case at a future date.[34] Other cases appear in the court record with a brief notation like "agreed" or "dismissed agreed defendant paying costs."[35]

Court costs were an important consideration. They were not recorded in the court order book, but can be found in the judgment files and varied from two to twenty-five dollars. Rates were established by law for every part of them. Attorneys' fees, as stated, were either $1.25 or $2.50 depending on whether the case involved less than £6 or over £6. Clerk Binns received $.18 for issuing most writs, $.08 for copies of writs, $.26 for issuing writs of attachment, $.08 for entering the appearance of a defendant, and $.70 for swearing in the jury and/or witnesses, filing papers, and recording the verdict in a case. The sheriff received $.30 for serving any person with an order of the court, $.21 for subpeonaing

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34 Ibid., 52-53.

35 Ibid., 44, 52, 54.

a witness, $.63 for taking a debtor's bond to a creditor, $.21 a day for every day that he kept a debtor in jail, and $1.05 for impanelling a jury when one was needed.[36] Witnesses received twenty-five pounds of tobacco for each day they had to attend court, but witnesses testified in fewer than one case in six.[37]

Once a plaintiff had obtained judgment against a debtor he could simply wait and try to collect, but few did this, probably because they had gone to court only after their repeated requests for payment had been rejected. He had three other legal remedies. He could obtain a writ of elegit against the debtor ordering the sheriff or his agent to seize the debtor's real estate within the county, to convene a jury of twelve men, and to have that jury procession the debtor's land, subdivide it and give to the plaintiff a portion equal in value to the debt owed to him. This was resorted to only on rare occasions. It cost a great deal in legal fees, and many of the debtors probably did not have any land to seize. The creditor could also obtain a writ of capias ad satisfaciendum directing the sheriff to take the body of the debtor into custody and to hold it until the judgment was satisfied or

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36 Hening, ed., Statutes, XIII, 388-389, 394-396.

37 Witnesses forced to come to Leesburg from other counties received greater compensation. Compare the cases of Tyler vs. Flood, etc., Brauner vs. Cavan and Berry vs. Kennan, Court Order Book P, 58-60. Payment was expressed in dollars and cents after 1795. The rate was 53¢ per day for Loudoun residents. Ibid., Q, 292, 296, 300.

security was posted. This could result in imprisonment for debt, but seldom did, since the plaintiff had to pay for the support of the debtor as long as he was in custody. What usually happened was the debtor got a friend or relative to post a bond in which the friend promised to settle his debt for him if he did not within a certain time period. The overwhelming majority of creditors faced with debtors who refused to satisfy the court's judgment, over 90 per cent, chose the third alternative, to obtain a writ of fieri facias which ordered the sheriff or his agent to seize enough of the personal property of the debtor to satisfy the debt, to sell that property at auction and to pay the creditor from the proceeds of that sale. Many of these writs were issued and returned "not executed," presumably because the defendant had no property or had paid the debt.

Virginia law forbade the seizure of certain kinds of property including draft animals and slaves in cases involving less than ten and one half pounds. The sheriff had to be careful not to seize any property that was mortgaged because the mortgagee would then have the right to recover from the sheriff the value of the goods seized. To protect himself against such a possibility, the sheriff regularly demanded that the plaintiff instruct him on what to seize and post a bond to indemnify the sheriff should the seized property turn out to be mortgaged and the sheriff become a party to a suit.

Once the sheriff located property belonging to the defendant, he seized it and advertised it for sale by posting notices of an auction at the courthouse and usually at an inn or tavern near the defendant's residence. Large sales were sometimes advertised in the newspaper. In 1791, for example, the Alexandria paper carried an announcement of a sale of "three slaves, a still, beds, horses, mares, cows, and yearlings" at John Harl's former home near Great Falls to satisfy a debt Harl owed to William Gunnell. Five years later another sale was advertised at which "two horses, one cow & calf, two bedsteads and one negro woman, the property of John Harl" would be sold to satisfy another debt due to William Gunnell. A year earlier Leven Powell had advertised that he would sell two Leesburg lots belonging to Patrick Cavan, one of Loudoun's justices, to satisfy a debt Cavan owed to a group of merchants. Even members of Loudoun's court were not immune from having part of their property sold to pay their debts. There is no pattern for sale days but Saturdays and court days appear to have been preferred. The sheriff conducted the sales, but Isaac Hutchinson of Centerville offered his assistance as a "licensed auctioneer."[38]

A defendant wishing to have use of his property until the day of the sale could execute a delivery bond. By its terms he and two "securities" promised to deliver the listed

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[38] Columbian Mirror, 27 January 1791, 28 October 1794, 1 August and 8 December 1795, 24 December 1796.

items to the sheriff at the time and place of the sale. If they failed to do so, and many did, the sheriff gave the delivery bond to the plaintiff who could take it to the next court session, have judgment rendered in his favor and obtain another writ of fieri facias, this time with a provision that no delivery bond could be given by the defendant. When the auction was held it had to be open to the public, but attendance was probably not very great since it was common practice to accept only cash in return for the items offered. During the 1780s there were many such sales in Virginia and items often went for very low prices. To prevent this, the legislature passed a law in 1787 forbidding the sale of any item for less than three quarters of its true value. If no bid of that amount was received the debtor was allowed to enter into a bond with securities for payment of the debt, costs, and interest to the creditor within twelve months. In this case he would have his goods returned to him. If the debtor was unable to post bond and get securities, the goods could be sold to the highest bidder in return for a bond redeemable in twelve months. Each county was supposed to appoint a nine man commission to determine the fair market value in all such cases, but there is no record of such a commission being appointed in Loudoun.[39] Such sales were not a part of the county's official records, and so it is

[39] Hening, ed., Statutes, XII, 457-462. Suits for rent were exempted from the provision that three quarters of an item's fair market value had to be received before it could be sold.

impossible to determine how many were held.[40]

The jumbled state of Loudoun judgments also make any statistical study of the debt process difficult if not impossible. The writer was forced to rely on the court order books and those judgments which could be located. His examination indicates that the process of collecting a debt could be expensive and time consuming. The enormous number of suits to collect debts shows just how much Loudoun society depended on the extension of credit to operate. Plaintiffs appear to have fully recovered their money and expenses less than one half of the time, but legal proceedings were the last resort of the creditor. The poor recovery rate makes it clear that no economy could operate if all or even a high proportion of loans had to be adjudicated.

This poor recovery rate is not simply to be explained by the financial standing of the individuals involved in debt suits. All levels of society were involved including members of the county court. In 1793, for example, Robert Welford sued tavern keeper Anthony Thornton and Justice of the Peace Samuel Love for £24 and won. Supporting documents for this case have not been found and Love may have been serving as Thornton's security in a bond, but the fact remains that a justice was called before his own court and lost a debt case.

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[40] Sheriff's sales are occasionally mentioned in conjunction with other entries. See, for example, Order Book L, 325; R, 51-52.

When a justice was involved in a case, he stepped down from the bench and was declared absent from the court. The case was then heard following which the justice retook his seat and was again noted in the court order book as being present. The proceedings of the court for 12 November 1795 illustrate this. Leven Powell was marked absent, his case against Zachariah Helen was heard, and he was again marked present.[41]

Most people undoubtedly tried to pay their debts. Many cases show that partial repayment had been made by the debtor before the commencement of court action. A good example of this is the case of John Janney, assignee of Joseph Janney who was the assignee of Samuel Murray vs John Parrot heard in court in March of 1793. Parrot admitted that he owed Janney £18-10-8, but the court ordered that Parrot be released of any further obligation upon payment of £9-5-4, one half of the principle due, plus interest from 7 June 1785, the date payment had been due. The court also ordered Parrot to pay court costs, but it gave him credit for £6-2-8½ for a cask of tobacco he had delivered to the holder of his note on 4 September 1787, credit for £1-2-6 state loan office certificate delivered 12 October 1789, and credit for six and a quarter shillings worth of flaxseed delivered in November 1789. This meant that Parrot had to pay £1-13-10½ or about five dollars plus court costs to wipe out his debt. The

41 Ibid., P, 42; Q, 300.

court also ordered that execution be stayed until December of 1793. Assuming the debt was paid at that time, it would have passed through three people's hands and been almost ten years overdue before it was paid. Immediately following its hearing of this case the court impanelled a grand jury to hear presentments of criminal accusations. John Parrot was a member of that jury. Clearly a failure to pay one's debts or the loss of a debt suit did not so damage a man's reputation as to disqualify him from judicial service in eighteenth-century Loudoun.[42]

This whole debt recovery process seems better suited to protect the debtor than to satisfy the creditor. By refusing to pay a debt a man who owed the money could force the creditor to take him to court. Then he could dodge the sheriff when he sought to serve a warrant or not answer a warrant left at his home for him. This would postpone the case a month. Once in court the debtor could seek a postponement which was routinely given and even after he lost the case, he could force the creditor to go to the trouble of holding a sheriff's sale. Thus, with a little planning and without incurring any penalty he could put off paying his debt for months. If a debtor was willing to incur penalties, he could resort to such strategems as executing a delivery bond for his goods when they were seized and then not appear with them at the time of the sale. This would gain the debtor at least another

[42] Ibid., 40-41.

month and force the creditor to seek a writ of fieri facias. Such a writ would cost the creditor money and force him either to absorb the costs or to enter another suit to recover them.

With a system like this it is not surprising that some Loudounites wanted to make changes. In 1789 a group of over 75 county residents asked the state legislature to amend the existing law to allow a single justice to try debt cases involving less than £30, and that the district courts try cases involving more than £30. By removing the overburdened county courts from the debt collection process justice would be speeded up since procedure was simpler in single justice courts and such courts were always in session. Large debt cases could be handled by the district courts, which had the lightest workload of any courts in the state. A byproduct of this shift of debt jurisdiction from the county court would be an increase in the speed with which the county court could consider other business. In a related move to speed the business of county courts, the petitioners suggested changing the 1779 law on book debts to let merchants carry a debt for twelve or eighteen months before forcing them to change it to a note. Finally, they suggested that justices be paid for their services. It was unrealistic, the petitioners said, to expect men to "devote their time & expend their money in the service of the public without compensation for either."

The legislature acted on only one of the requests; it lengthened the time that merchants could carry a book debt from six to twelve months. Two years later more than seven hundred Loudoun citizens renewed the requests in ten identical petitions. Again, the General Assembly failed to act. A year later more than four hundred Loudounites signed six petitions attacking the existing system of justice. They made no specific recommendations except to ask that justices be paid a salary. They also added the new argument that the establishment of speedier justice would give the government more prestige.[43]

The French traveller Rochefoucauld's description of the debt recovery process in Virginia fits Loudoun County. "Suits for the recovery of debts occupy," he wrote, "about one half of the time allotted for the [county court] sessions. The best debt cannot be recovered in a shorter period than eighteen months, and it often happens that several years are not sufficient to put the creditor in possession of his right."[44]

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[43] Legislative Petitions, 16 November 1789, 28 October 1791, 6 and 13 October 1792; Hening, ed., Statutes, XII, 5.

[44] Rochefoucauld, Travels, II, 43-44.

CRIME AND CRIMINAL JUSTICE

Court records indicate that crime was not a serious problem in late eighteenth-century Loudoun. They also indicate that the criminal activity which did take place was generally directed against property rather than against a person. A few cases of assault were about the only crimes involving personal injury. In either case jurisdiction rested with the county courts and Loudoun's appears to have rendered justice both rapidly and impartially.

In cases involving serious felonies for which the penalty could be loss of life or limb, the county court served in a capacity similar to the modern grand jury. Procedure was fairly simple. Any individual who had knowledge of the commission of a felony had a duty to inform a justice of the peace. If that justice considered the complaint worthy of examination by the court, he would order the accused arrested and take bonds from all material witnesses for their appearance before the examining court. The justice would then issue a warrant to the sheriff requiring him to summon the rest of the county's justices to meet at the courthouse on a specific day, not less than five nor more than ten days later. On the appointed day the prisoner was "set to the bar," asked how he pled, and questioned, though not under oath. Witnesses both for and against him were heard and the court issued its decision. If any of the justices considered the accused to be innocent he had to be released. If all

considered him guilty they then had to decide where he should be tried. If the offense was a minor one, the accused would be bound over to appear before the next county grand jury which would meet before the next quarter session of the county court.

If the crime of which he was accused carried a penalty of death or dismemberment, he had to be tried at the district court in Dumfries. Following a preliminary verdict of guilty by the called court, it would, in the case of such a serious crime, issue a writ of mittimus ordering the sheriff to deliver the defendant to the custody of the district jailer. If the offense for which the defendant was held was a bailable one, two of the justices could take the defendant's bail within twenty days after the meeting of the examining or called court. If the defendant did not post bail within that period, he would be transported from the county jail to the district court and would have to post bail with a judge of that court if he were going to obtain his release prior to his trial. When a prisoner was bound over to the district court for trial, the county justices were to record his testimony and that of the witnesses and take bond from the witnesses for their appearance at the district court trial of the defendant.

Before the establishment of the district courts in 1788 all serious cases had to be tried in the General Court at the state capital. Such crimes were thought to require the attention of better educated and more experienced judges than were available on the local level. This system led inevitably

to long delays, great expenses for the transportation and confinement of criminals, and great inconvenience to witnesses who had to travel to the capital to testify. In a move aimed at alleviating these problems, the legislature in 1788 established a system of district courts covering the state. Judges of the court then rode circuit visiting each district court twice a year. Loudoun, Fairfax, Fauquier, and Prince William counties formed one district and their court was held in Dumfries on the twelfth of May and October of each year. This new system mitigated the evils of the old system to a degree, but delays and high expenses were still a problem. The examining courts therefore performed a valuable service. By sifting out cases, they provided the innocent man speedier justice, saved the taxpayers the expense of unnecessary trials, and lightened the burden of the district courts.[1]

In Loudoun eighteen of these examining courts were held during the 1790s. Eleven cases involved theft, three involved breaking and entering, and one each involved buggery, murder, forgery, and bigamy. The thefts involved a variety of items. One thief was accused of being a pickpocket, three were accused of stealing horses, four of stealing clothing, and one each of such varied items as a pair of saddlebags, grain, a gun, and gold. Five of the thirteen defendants (two cases had two defendants) were women.

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[1] For the establishment of the district court system and an act bringing together all previous acts concerning those courts see Hening, ed., Statutes, XII, 730-763; XIII, 427-449. Procedure in the examining courts is set forth in Shepherd, ed., Statutes, I, 20-26. Grand jury procedure is detailed and sample warrants provided in Hening, New Virginia Justice, 146-156.

All three of the men accused of horse theft pled not guilty, but all were considered guilty by the four or five justices who heard their cases, and all were bound over for trial in the district court at Dumfries. The case of one man, Barton Loveless, illustrates what could happen in such a case. Loveless was accused of stealing a horse belonging to George Gregg. An examining court was held on 12 December 1791, but witnesses did not appear. The word of Gregg was not considered sufficient to cause Loveless to be bound over for trial, and so he was taken before a justice of the peace who ordered that proceedings begin again. A second hearing was held twelve days later. This time the witnesses were present, the evidence against Loveless was judged sufficient to warrant a trial, and the sheriff was ordered to deliver him to the district jailer at Dumfries for trial.[2]

Other larcenies formed the majority of cases to come before such examining courts. One case was heard in 1790, two in 1791, four in 1793, one in 1794, one in 1795, and two in 1796, but none were heard during the last three years of the decade. In each case the items stolen were listed, but values were placed on them only half the time. In one case out of three, the defendant was found not guilty and released. Bazel Rhodes, accused of stealing corn, wheat, and barley

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[2] The court records say that the justices considered Loveless "guilty." This is a loose use of the word by the clerk who kept the records because the court did not render such judgments, but only examined the evidence to determine if a trial should be held. Order Book O, 121, 141-142.

from Ludwell Lee, was released because "the court are of opinion that the proof is not sufficient to establish his guilt." Three years later Nancy Merchant, alias Nancy O'Neil, was charged with stealing a calico dress, a short gown, an apron, a bolster, three pillow cases, a pair of silver sleeve buttons, and "sundry other articles" from Daniel McCluskey, but she was released since it was "considered by the court that she is not guilty." Three months later Joseph Mellon was accused of stealing a gunlock, and he was also released, for the same reason. The wording in these three decisions is important. In the McCluskey and Merchant cases, the court considered the accused innocent. In the Rhodes case, it did not state that it considered Rhodes innocent, but only that there was not sufficient proof of his guilt to bind him over for trial.[3] This suggests that the examining court wanted to be fairly certain that a defendant would be convicted before it bound him over for trial. Such a standard is more favorable to the accused than the standard of "probable cause" in use in modern America in determining whether or not to send a defendant to trial.

The examining court also had latitude in deciding what crime a person should be charged with. In October of 1795, for example, Catherine Thatcher was charged with picking the

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[3] Ibid., P, 108; Q, 395, 501.

pocket of David Lacey and stealing £18 worth of gold from it. She pled not guilty, the court heard witnesses, and rendered its decision. "It is the opinion of the court that [Catherine Thatcher] is not guilty so as to merit death, but that she ought to be bound over for her personal appearance at the next grand jury to answer an indictment to be then preferred against her...." That grand jury was scheduled to be called two weeks later when the county court met for its November session, but no jury was impanelled. (Sheriff Charles Eskridge was fined $20 for non-feasance). Catherine Thatcher, therefore, could not have been formally indicted by a grand jury. Still, the seventh entry in the court record for the November session notes that she was "released from the indictment" and that she was required to post a £10 bond that she would be of good behavior for the next year.[4] This was certainly a mild punishment for a person accused of stealing something worth £18. It may be that the fact that she was a woman accounts for her release. The lack of formal indictment does not explain Thatcher's light sentence since other persons tried during the session on serious charges without formal grand jury presentments received harsher sentences. Men were regularly bound over to the district court for stealing far less. Although none of the horses stolen were valued at as much as £18, all of the men accused of stealing them were sent to the district court for trial.

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[4] Ibid., Q, 278-284.

There is no other case in which a woman stood trial alone and was found guilty by the court, and so there is no way to see if women were regularly treated more leniently than men. Peggy Carter was charged with the murder of her bastard child in 1794, and Nancy Merchant was accused of stealing several items in 1796, but both were found innocent by the examining court. The closest analogy to the Thatcher case was that of Sarah Bellamy who, with her husband Robert, was accused of stealing several items worth a total of £10, considered guilty, and bound over to district court. This case becomes clouded later. Both Bellamys were ordered sent to the district court at Dumfries, but the payment to Isaac Larrowe of four dollars says only "for bringing up Robert Bellamy from the district court of Dumfries and maintaining him two weeks." The district court records are lost, but this entry suggests that Sarah Bellamy was not transported to Dumfries for trial. Still, she must have been considered at least partly guilty since in November Loudoun's court ordered that "the Overseers of the Poor bind out Robert Bellamy aged fourteen...to David Miller according to law," the implication being that he was ordered taken from his parents, probably because they were considered unfit to raise him.[5]

Cases involving crimes by freemen other than theft were rare. Peggy Carter was freed of the charge of murdering her bastard child as was another woman who was accused

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[5] Ibid., 278-279.

of bigamy. One man was charged with buggery and another man was accused of falsifying bank notes. The latter was judged by the justices of the examining court to be guilty of forging and passing $50 in Bank of Maryland notes, but the justices decided that the offense should be tried in the county court rather than the district court. The accused, James Subtle, was bound over and indicted the following month. When his case came to trial he was represented by Stevens T. Mason, who had recently resigned as the commonwealth's attorney. Subtle, alias Nathan Allen, was found guilty by a jury and fined £6 plus court costs. He was remanded to the custody of the sheriff until such time as he should pay the fine. He was probably unable to pay the fine because the court ordered the next day that he be released in three months if he were unable to pay his fine before that time. The defendant appears to have been saved in this case by a loophole in the Virginia forgery law. That law said that "if any person shall forge or counterfeit, alter, or erase, any certificate or warrant, issued by any person properly authorized either by Congress or the legislature of this state, for the payment of money. . . .the person so offending, and legally convicted. . . shall suffer death without benefit of clergy." Subtle, either by chance or design, had forged a note from a bank chartered by Maryland and he did not come under the strict wording of the Virginia statute. The examining court ruled

"that the offense is not triable in the district court being without the laws of Virginia, but that he is guilty of a cheat" and binding him over to the next quarterly session of Loudoun's county court.[6] He presumably was tried only "for a cheat," the eighteenth-century equivalent of fraud, a misdemeanor, rather than for forgery which was a felony. Subtle did not spend very much time in the Loudoun County jail in any case. His examining court was held on 9 May, the grand jury indicted him on 8 June, he was tried on 12 June, but he had escaped from the jail by 23 June when Patrick Cavan, acting for the Loudoun County Court, placed an announcement in the Alexandria paper warning all citizens that James Suttle, alias Nathan Allen, had escaped from the jail where he had been serving a three month sentence for forgery. Cavan asked that he be captured and returned to the jail.[7]

Once an individual was bound over for trial in the district courts, his fate is lost to us because the records of the court of Dumfries have not survived. If a defendant were found guilty there, he could appeal to the General Court of the state which sat in Richmond, but there are no

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[6] Ibid., Q, 149, 162, 182, 187; Hening, New Virginia Justice, 210-214.

[7] The notice stated that he had forged Bank of Baltimore notes but all of the court records say Bank of Maryland. The defendant's name is spelled Settle, Subtle, and Suttle in various places. Columbian Mirror, 23 June, 4 July 1795.

instances during the 1790s of a Loudoun case being appealed to the Richmond court. The only other recourse open to the defendant was an appeal to the governor for clemency. Again, there is no record of any such appeal from a Loudounite during the decade. There is one instance, though, in 1789 when two groups of Loudoun citizens petitioned the governor asking that he pardon George Quick, a former Loudoun resident who had been found guilty of horse theft at the district court in Dumfries. The governor's reply is not recorded.[8]

Virginia's justices also had jurisdiction over all crimes committed by slaves. If misdemeanors were involved the slave could be tried in a quarterly session of the court just like any freeman. A slave accused of a felony was tried in a court of oyer and terminer. These courts were based on English precedent. In Britain courts were used to secure speedy justice for particular crimes, most commonly insurrection and treason. Until the eighteenth century, Virginia slaves accused of felonies were dealt with in the same manner as freemen; they were sent to the capital for trial by the general court. In 1702 the House of Burgesses decided that such a system was unnecessary to secure substantial justice and provided that the governor could issue commissions of oyer and terminer for the trial of slaves accused of capital offenses. County justices were commonly so

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8 Calendar of Virginia State Papers, V, 13.

commissioned and thus Loudoun justices could settle all cases involving slaves as defendants.[9]

Virginia law decreed that procedure in such cases be very similar to that in cases of freemen called before an examining court; the great difference was that the judgment of the justices would be final in the case of slaves. Thus such a trial had to be held between five and ten days following the arrest of the defendant. Whereas cases involving freemen could be heard by only four justices, those in which slaves were being accused required the presence of five justices, all of whom had to declare the slave to be guilty before he could be sentenced. Any justice having an interest in the slave was barred from sitting on the court; and thirty days had to pass between the time of sentencing and the execution of sentence except in a case of conspiracy, insurrection, or rebellion when speedier justice was to be rendered. Finally, it was provided that the master of a slave put to death would be reimbursed from the public treasury for his value.[10]

During the 1790s nine slaves were charged with felonies in Loudoun. In about half the cases the name of the owner is listed. One of the crimes was committed in 1790, four were committed in 1796, one in 1797, two in 1798, and three

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[9] Arthur P. Scott, Criminal Law in Colonial Virginia (Chicago 1930), 45-46.

[10] Hening, ed., Statutes, XII, 345.

in 1799. For half the decade Loudoun had a slave patrol, but there does not appear to have been any correlation between the crime rate and the existence of the patrol. The patrol was begun in 1794 in response to an order issued by the state legislature late the preceding year. That order was not issued in response to any single rebellion or to any hostile actions on the part of Virginia's slaves, but was a reaction to a trend toward liberalizing the institution of slavery. Post-Revolutionary efforts at ameliorating slavery by giving slaves more freedom and by hiring them out or allowing them to hire themselves out had led to certain problems. In 1793 the legislature instituted slave patrols to put an end to slaves wandering around. Two years later the state's slave code was revised to strictly regulate hiring-out procedures and the circumstances under which slaves would be allowed to congregate.[11]

In 1794 Loudoun had fourteen men patrolling a total of 250 hours. In 1795 eleven men patrolled for 336 hours and in 1796 five men patrolled 306 hours. Thereafter the county levy contained only very small amounts for slave patrols. In 1797 it paid James Batson, the captain of the patrol, 50 cents, and in 1798 it paid a man 57 cents for thirteen-and-a-half hours of patrolling. This was at the legal rate of fifty cents for twelve hours of patrolling.[12]

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[11] Gerald W. Mullin, Flight and Rebellion (New York, 1972), 24, 32, 87-88, 115, 127, 141, 157.

[12] Shepherd, ed., Statutes, I, 205-207; Order Book Q, 68, 77, 315, 505; R, 234; S, 184.

The lack of connection between slave crime and the slave patrol is supported by the fact that there were only eleven slave felonies during the decade and five of those were committed against other slaves. Two were cases of assault. The records concerning both are brief. In the first case, one slave simply assaulted another; in the second, a male slave broke into a home and wounded and disfigured a Negro man and woman. There was also one case of murder and one of rape. In the rape case the slave, Luke, was brought to trial on the same day he committed the act, 27 September 1796, and he was sentenced to hang on the last day of November. This provided an interval between Luke's trial and his execution just twice the length required by law. The sentence must have been carried out since that year's levy included a payment of ten dollars to Roger Wigginton for erecting gallows. The law provided that an executed slave's owner be compensated for his loss by the state, and Luke was assessed to be worth £110.[13]

The other six slave felonies were cases of breaking and entering. In such cases, proceedings were the same as in cases of whites being tried by examining courts, except that all five justices had to concur before a slave could be found guilty and once he was found guilty, sentence was immediately passed rather than the defendant being bound

[13] Ibid., Q, 502, R, 37.

over to the district court for trial. Three of the cases were tried on one day, 25 April 1796. In the first, Phill, a Negro slave of Abraham B. Tellason, was charged with the burglary of Peter Carr's home on 30 March and the theft of a fur hat, four coats, three shirts, a pair of trousers, a pair of shoes and shoe buckles, a pair of silver knee buckles, one silk, one linen, two cotton, and one blue and white handkerchiefs, a brown linen shift, and a linen table cloth worth a total of £23-3-0. Witnesses were called, the court found Phill guilty of stealing the goods, but not of breaking into Carr's home. The sheriff was ordered to burn him on the left hand in the presence of the court and to see that he received thirty-nine lashes on the bare back at the public whipping-post—the common penalty in such cases.

The second two cases involved Aaron, another of Abraham B. Tellason's slaves. In one case he pled not guilty to a charge of stealing a bay horse belonging to Aaron Sanders on 12 April. Five of the justices present at the court considered him guilty, but one believed that he was innocent and so he was acquitted. In a second trial Aaron was charged with breaking and entering the storehouse of Adam Rohrback and Mary Respold from which he was charged with stealing silk handkerchiefs worth £3, calicoes worth £3, muslins worth £5, and stockings worth £2. The justices acquitted him of breaking and entering, but judged him to be guilty of theft and ordered that he be burnt on the left hand and

that he receive thirty-nine lashes on the bare back.[14]

There were no instances of a slave being accused of physically assaulting a white in Loudoun during the decade, but there was such a case just east of Loudoun in Fairfax County that is worth noting because it shows that a black slave could receive justice in the courts of the era. In that case, a slave was accused of murdering his overseer. At his trial the slave told of beatings which he had received from the overseer and of a threat by the overseer that he would beat the slave as he had his brother who had died from the beating. The slave then killed his overseer. Witnesses testified that the slave was a good man, and he was acquitted.[15]

Blacks could obtain justice in Loudoun in civil as well as criminal prosecutions. There is only one case in which one of the participants can definitely be determined to have been a black, but that case is important. Blacks who were found wandering at large without papers were placed in jail in eighteenth-century Virginia. In 1796 a Black named Nat Gross was picked up in Loudoun, but the court must have believed his contention that he was a freeman since it ordered the jailer to release him so he could go to the heirs of William Richards, his former owner, and obtain a certificate proving his freedom.

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14 Ibid., Q, 382-384.

15 Columbian Mirror, 27 January 1791.

The members of the court did not always believe what they were told, however. Four years earlier, a Black named Joe was picked up by the sheriff. When he protested that he was free, the court ordered the sheriff to hire him out and to send a person to the area from which Joe said he had come "to see if the story he is telling is true." In another case the justices ordered two Blacks hired out and that their descriptions be advertised in the Virginia Gazette so that their owners could identify them. In these cases Blacks were not actually parties to a suit, but in June of 1796 a slave named Jim asked that the court allow him to sue Luke Smallwood for his freedom on the ground that he had been brought into the state illegally. The court not only granted his request, it went so far as to appoint an attorney to prosecute the suit for him and to order that the man then holding him should "not presume to beat or misuse him upon this account and [that he should] suffer him to come to the clerk's office for subpeonas for his witnesses and to attend the trial of his suit." Unfortunately, the outcome of the case is not recorded.[16]

Misdemeanors were tried at the regular quarterly session of the Loudoun court. Literally hundreds were tried during the decade. Again, procedure was quite simple. On the first day of each March, June, August, and November quarter session, the sheriff summoned twenty-four freeholders of

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16 Order Book N, 156-157; Q, 320, 415, 421.

the county, at least sixteen of whom had to appear and take an oath to faithfully perform their duty. Ordinary keepers, constables, surveyors of highways, and operators of mills were exempt from such duty. Any other freeholder who was called but failed to appear for grand jury duty was liable for a fine of up to eight dollars. Loudoun's court regularly levied such fines. An individual so fined could come into court at a later time and explain his absence. The court could, if it found an individual's excuse acceptable, remit his fine. Again, this was very common.[17] Once sworn, the grand jury would adjourn to a separate room where its members would report any misdemeanors which they had observed during the last twelve months and receive any other citizens who would report any breaches which they had observed. To be considered by the jury, the crime had to be serious enough to carry a fine of five dollars or two hundred pounds of tobacco. The jury would then discuss these and make a list of "presentments" which would be returned to the court. The

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[17] For jurymen fined see Order Book N, 29, 37, 112, 124, 204, 208-210; O, 408, 413; P, 47, 51, 187, 196, 299, 455; Q, 166, 287, 293, 345; S, 66, 68, 136, 242, 316; T, 140, 153, 166. For remissions see Order Book N, 32-33, 38, 42-43, 118, 123, 140, 208, 210, 217-218, 245, 269, 284, 287, 300; O, 91, 95, 97; Q, 166, 172, 289, 294, 298, 303, 314, 362, 393, 399; R, 73; S, 82, 133, 142, 243, 316, 318, 369, 373; T, 3. The records do not always differentiate between grand jurymen and petit or trial jurymen. For the law defining the selecting of grand juries and their functions, powers and method of operation, see Shepherd, ed., Statutes, I, 17-20.

individuals named in these would then be scheduled for trial.[18] Most of the defendants had already been brought before single justices of the peace and informed that charges would be brought against them at the next meeting of the grand jury. At that time, the potential defendant had posted an appearance bond. Thus, most defendants were present in the court at the time of their indictment by the grand jury. Summonses were issued for defendants not present. After the indictment, the court proceeded to hear each case. The accused had a right to a jury trial if he wanted one. If he did, a twelve man jury was impanelled to hear the case.

Over half of the persons indicted by grand juries were charged with violations of Virginia's liquor laws. About two thirds of these were charged with retailing spirituous liquors without a license. Among these were several operators of Loudoun's ordinaries. Most of the people indicted for this offense never held ordinary licenses. Since few

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18 Presentments differed from indictments in that presentments were supposed to be based on the personal knowledge of members of the grand jury or of other persons acting in an official capacity, e.g., overseers of the poor, but in fact the term presentment was used to cover what were technically indictments as well as presentments. In each presentment the name or names of the persons who had informed the grand jury of the infraction of the law were listed. These names could be compared with the names of grand jurymen to determine whether a presentment or indictment was technically involved. The two terms will be used synonymously here. For grand juries sworn see Order Book L, 355; M, 116, 200; N, 11, 105, 195, 260; O, 54, 184, 270, 287-288; P, 41, 125, 177, 286, 345, 444, 485; Q, 48, 94, 98, 160, 398, 449; R, 76, 123, 160, 238, 301; S, 25, 170; T, 16. For their presentments see Order Book M, 120; N, 16, 109, 195, 206; O, 60, 188, 273, 393; P, 41, 125, 178, 286, 345, 444-445, 482; Q, 56, 103-104, 162, 210, 449; R, 76, 78, 123, 160, 240; S, 25, 124; T, 19, 139.

of these cases are recorded in the court order books, most of the people must have pled guilty and paid their fines without going to court. The Virginia law of 1785 prescribed a fine of £10, but the few cases that came to trial, i.e., those in which the defendant failed to appear or in which the defendant pled not guilty, were tried under the law of 1779 for some unexplained reason. In each case the record notes that the defendant was found guilty and fined £50 according to the law of 1779, but that £40 of the fine was remitted by consent of the prosecutor. All of these trials appear to have taken little of the court's time and only a few lines to record them in the order books.[19]

Other violators of the liquor laws were indicted for "retailing spirituous liquors contrary to law." The penalty for such an offense was a £10 fine, the same as for retailing liquor without a license. The order books do not make clear exactly what the crime was but such offenses as watering liquor, selling to blacks and minors, and selling liquor at prices other than those established by the county court were probably involved. More of these cases went to trial than did those involving licenses, but the record is still brief and uninforming.

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[19] The penalty for retailing liquor without a license was a part of the general law regulating taverns and ordinaries. Hening, ed., Statutes, XII, 173-174. In 1792 some minor changes were made in the law, but the fine was left the same except that it was stated in dollars, thirty, rather than pounds. One change was the provision that second offenders be jailed for six months. This does not seem to have deterred Loudounites. There were as many violations after the change as before and there is no record of a Loudounite being jailed for violating this law. Shepherd, Statutes, I, 142-145.

A partial exception to this rule is the case of Joseph Ghant. He was not formally indicted by a grand jury yet he was summoned to appear before the court on 12 March 1793. He failed to do so. The general rule in such cases was to assess the defendant's costs for that hearing and to issue a bench warrant for his arrest. Several other persons were dealt with in this manner on that day, but Ghant was not. Instead, a jury was impanelled and he was tried, found guilty and fined £10. Commonwealth's Attorney Stevens T. Mason agreed to remit £40 against the £50 fine prescribed by law. On the next day Ghant appeared in court and sought a stay of the court's verdict on the ground that the information presented against him was insufficient to convict. He also claimed that the court had no right to proceed against him on a writ of enquiry, i.e., a writ ordering his appearance in court to answer charges brought against him. Ghant argued that the judgment was illegal because it was based on the illegal use of a writ and informal procedure. The court did not answer Ghant's charges, but it postponed consideration of his case until June when the next quarterly session was scheduled to be held. The trial was not held at that time but in August Ghant appeared again, this time with Charles Sims of Alexandria to serve as his attorney. The court then ruled that his contentions were valid and set aside its verdict. The record indicates that the charge was then renewed, that Ghant pled not guilty,

and that the prosecutor then moved to trial. Following this there is no further information and so Ghant's ultimate fate remains a mystery.[20] His case does show, however, that criminal procedure was usually quite informal in Loudoun County.

The next most common type of offense to be brought before grand juries in Loudoun after liquor law violations involved roads. About one grand jury in five dealt with such a misdemeanor. Most of these involved the failure of a man to keep a section of a road in good repair. Three quarters of such indictments were handed down at November and March court sessions. These were the months during which the weather made road repair the most difficult. Not a single road case was tried in the court or appears in the court order books. Those indicted must have simply paid their fines or had their cases dismissed.

A few people charged with road violations were charged with something other than failure to keep a section in repair. Mahlon Combs, for example, was charged with failing to alter the route of the road leading from Canby's mill to the turnpike in November of 1792. He was not tried at the time, but he was indicted on the same charge in June of the following year "on the information of Samuel Canby." Canby undoubtedly felt that the road would increase his business

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[20] Order Book P, 46-47, 59, 484.

and wanted it opened.[21] In a similar case heard in March of 1794 Joseph, a free Negro, was charged with "stopping up the road from Capt. Josiah Moffitts saw mill leading to Leesburg by information of Josiah Moffitt." Three months later Moses Plummer was indicted for stopping up the road leading from Broad Run to "Roaches." In August he was indicted again for the same offense. A year later William Means was indicted for not keeping "the bridges in repair over the mill race crossing the road." In August of 1795 Moses Plummer was indicted for a third time. This time the charge was "cutting timber across and stopping up the road leading from Henry Brown's to Roach's Mill." Plummer never came to trial. Presumably he paid his fines. It is unfortunate that the records give no clue to his reason for trying to interrupt travel on that road so many times.[22]

The rest of the grand jury presentments were divided between a few charges of assault and battery, a few for profane swearing, and several miscellaneous indictments. Defendants found guilty of assault and battery were usually fined between ten and twenty pounds. Execution of the penalty could sometimes be put off as in the case of Millar Hough who was indicted for assault and battery in March 1792, tried and found guilty by a jury which recommended a fine of £20. Hough asked the court for a stay of execution and

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21 Ibid., O, 393; P, 125.

22 Ibid., O, 393; P, 125; Q, 56, 210.

it was granted. Later the court revoked the stay, fined Hough £20, and ordered him jailed for the rest of the year without benefit of bail.[23] A jail sentence was almost unique since the court was reluctant to saddle taxpayers of the county with the cost of maintaining prisoners. In another case a man was found guilty of assault and battery, assessed court costs, but not fined.[24] In June of 1792 Henry Henderson was charged with assault and battery against George Pusley and Pusley was charged with assaulting Henderson. That same day Pusley was charged with profane swearing. It is probably safe to assume that the three sets of charges were related.[25]

Indictments such as Pusley's for profane swearing were not uncommon, but in most cases the individuals charged never came to trial. It is possible that the court did not prosecute such indictments and instead let the offender off with a warning, but it is more likely that the offender simply paid the 83¢ fine set by law and avoided incurring court costs. In November of 1791, for example, John Harper was charged with profane swearing, tried, found guilty, and assessed costs but was not fined.[26] In his case, the court may have considered the payment of costs to have been penalty enough.

The records usually shed little light on the circumstances

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23 Ibid., Q, 188, 192, 207.

24 Ibid., 127.

25 Order Book O, 273.

26 Ibid., O, 60, 135; Shepherd, ed., Statutes, I, 192-193.

involved in most cases, but the records for the grand jury meeting in March 1795 are more explicit than others. Moses Sanders was charged with profane swearing on 27 February and John Bartlett and Reuben Doughty were indicted for "profane swearing to wit 'by God'."[27] Two men, Thomas E. Harrison and Patrick Fagan, were charged with breaking the peace on the Sabbath, but no details are given. The only two offenses listed under that heading in the statutes of Virginia were disrupting a church service and laboring or forcing a servant or slave to labor on Sunday, and so the two men must have done one or the other.[28]

The only other indictments include the one against James Subtle for a cheat mentioned above, one against John Henley for keeping a disorderly house, and two connected indictments involving Justice of the Peace Samuel Love, who was indicted for "making up a felonious matter with John Herring and not prosecuting him as the law directs." Herring was indicted at the same time for stealing wheat and corn from Love or purchasing it from Love's slave or slaves without Love's permission. Neither of these cases came to trial and again it must be assumed that the individuals involved paid their fines and that the matter was dropped.[29]

Several grand juries, such as those of August 1792 and November 1793, made no presentments, but there is only one

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27 Order Book O, 103-104.

28 Ibid., P, 125; Shepherd, ed., Statutes, I, 192-193.

29 Order Book P, 444.

case of a report being filed in which an individual was brought before a grand jury but not presented to the court for trial. There were probably other such cases that were not recorded. There is no record of a grand jury being called in March of 1796. In November 1795 the sheriff was fined $20 for failing to return enough persons to form a grand jury. He must have resented this for on the next two days a total of eighteen persons were fined for failing to appear for jury duty. Six of these men had their fines remitted later, but not the sheriff. No grand jury met that month.[30]

There was still another method by which a criminal prosecution could be initiated in the Virginia courts of the eighteenth century. This was by an information and in theory involved a joint suit brought by an individual supplying the information and the commonwealth. Such an action would be entered in the court order books as "The Commonwealth of Virginia vs..." and would usually give the name of the individual providing the information.

Entries in Loudoun County Court Order Books for such cases give only the information, the verdict, and the penalty inflicted. One must go to judicial handbooks like William Hening's New Virginia Justice to find out how the court was supposed to handle such cases. Such proceedings were limited to misdemeanors, and statutes which provide that the informer

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30 Ibid., O, 287-288; P, 286; Q, 281, 287, 294, 298, 303.

divide with the state any fine levied as a result of such a prosecution which perhaps encouraged the use of this sort of proceeding. Proceedings by information qui tam, as this was technically known, differed from proceedings on "an indictment in little more than this, that the one is found by the oath of twelve men, and the other is not so found, but is only the allegation of the person who exhibits it."[31]

When information qui tam was made in the court, the justices would issue a writ of venire facias ordering the sheriff or one of his deputies to summons the accused to appear at the next session of the court. This part of the proceedings was not recorded in the court order books, but the writs can be found among the judgments filed by the clerk. Such a summons had the same effect of other summons; it requested but did not demand the appearance of the accused. Like other summons, however, it could not be ignored or the court would issue a capias ordering the arrest of the accused.

When the accused was brought before the court, the charges were read and he was asked how he pled. If he pled guilty, sentence was passed immediately. If he pled not guilty, and if the possible penalty was over £5, the accused had the right to a jury trial if he wished it. If he did, the sheriff would be ordered to impanel a jury of twelve from the men present in the court or the vicinity. Jurors

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[31] Hening, New Virginia Justice, 263-264 who gives a sample "form of an information qui tam."

had to be over twenty-one and "possessed of a visible estate, real or personal, of the value of one hundred and fifty dollars at least." The inclusion of a person on a jury could be protested by the defendant from the time he was called until the time he was sworn in, but once that was done a juror had to finish the trial unless incapacitated. Witnesses would then be called and the defendant would have a chance to speak in his own behalf. Following this, the jury or justices would render their judgment and the court would assess its penalty.[32]

It was by this method, the information of private citizens, that the majority of misdemeanors were brought to trial and settled in Loudoun. The most common offenses to be tried in this manner were breaches of the peace. A breach of the peace was in theory the breaking of any statute, but in eighteenth-century Virginia the term was applied also to the threat of such action rather than the action itself. When a person feared that a particular individual was going to "burn his house, or do him corporal hurt, as by killing or beating him, or that he [would] procure others to do him such mischief," that person had the right to go to a justice of the peace and obtain a summons calling the individual he feared before the whole court. If the court considered his fear to be justified, it could force the defendant to provide

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[32] Shepherd, ed., Statutes, I, 19. Arthur P. Scott, Criminal Law in Colonial Virginia, 50-136, discusses legal procedures like the right to counsel, the burden of proof, rules of testimony and evidence, benefit of clergy, and pardons, but none of these were questioned in Loudoun during the 1790s and the court order books and judgments are silent on them.

"surety for the peace," which meant to post a bond for his good behavior toward all Virginians in general and the person bringing the complaint in particular during the next twelve months. He also had to find two securities who would each sign bonds of one half the amount he had himself posted.

One or two such cases were heard almost every month by Loudoun's justices. The amount of bond required from the defendant varied from one to three hundred pounds, but in most cases was for either £50 or £100. These bonds and other papers in such cases were not recorded in the order books but were filed with the "Judgements." No complete set of papers was found for any single case, but the bundle of judgments for the July 1797 court session contains examples of each type. On one piece of paper Justice Benjamin Grayson recorded that James Novel Fishback had come before him and stated that he feared that Gabriel Hough would "do him some private injury such as burning his house or killing his horses." Grayson then noted that he had ordered Hough to post bond for his appearance at the next session of the court and for his good behavior until that time. Folded with this paper was another document, this one a bond in the amount of £40, signed by Hough, in which he pledged that he would not harm Fishback and that he would appear in court to answer Fishback's complaint. Another set of papers included similar complaints by Susanna Summers against Stacey Dial brought to Justice Israel Lacey, a bond signed

by Summers and two securities to insure his good behavior and attendance in court, and a bond by Susanna Summers and secured by Jeremiah Hutchison to insure their attendance at the next court to testify against Dial.[33]

Most such complaints were brought by men against men, but some were brought by women against men as in the case of Susanna Summers. Another case is the suit Sarah Gregg brought against Andrew Campbell. In August of 1792, Campbell was forced by the court to post a £20 bond and get two securities to post bonds of £10 each "for his good behavior for twelve months." The entry closed by stating that all of the bonds would be void "if the said Andrew Campbell shall quietly and peaceably demean himself towards all the good citizens of this Commonwealth for the space of twelve months and more especially towards the said Sarah Gregg at whose instance this recognizance was taken."[34] In some cases women were defendants. Mary Ann Boggess was tried, found guilty of a breach of peace and ordered to post a $40 bond in April of 1796; and in 1793 one woman, Anne Stuart, brought charges against another, Ede Stuart.[35]

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[33] Order Book O, 300-301. Sample bonds are given in Hening, New Virginia Justice, 429-439. The largest bonds ordered during the decade were for £300. All were ordered in 1790 and all taken to ensure the appearance at the next grand jury by men accused of breaches of the peace. Order Book L, 327-330.

[34] "Judgements, etc. July, 1797." Cabinet 90, Clerk's Office, Leesburg.

[35] Ibid., P, 446; Q, 367.

Fairly often two or more men were the object of a single complaint. In 1793, for example, Peter Herbert and Samuel Frenary were each ordered to post a bond for good behavior of £10. In May of 1796 three defendants were involved in a similar case.[36] Sometimes the court heard conflicting testimony and could not be certain which party was more likely to do the other harm. In such cases, it was common practice to order both men to post bonds, as for example, in the 1794 court session when Matthew Weatherby brought charges against Jacob Towner, Jr., and Towner reciprocated by doing the same against Weatherby. Both men were ordered to post bonds for good behavior of £20.[37] In a unique breach of peace case William Monakin was ordered by the court to either post £60 bond for his good behavior during the coming year or to give himself up to the sheriff to be jailed for that period of time. The reason for explicitly stating the choice between posting bond or staying in jail in this case is not clear since such an alternative was always available to losers in breach of peace cases even though there is no record of anyone choosing jail.[38]

Other common offenses tried by information qui tam involved the retailing of liquor contrary to law and assault and battery. The March session of 1793 was the busiest one

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36 Ibid., P, 42-43; Q, 393.

37 Ibid., P, 436.

38 Ibid., R, 50.

with liquor violations; twelve individuals were brought before the court.[39] The court dealt with these cases in exactly the same way it dealt with those presented by grand juries.[40]

One other common type of case, those involving slaves, was brought before the court by a writ of information qui tam. There were not very many of these, and those that are recorded involve whites dealing with slaves. Slaves do not usually appear in the records because it was the duty of each master to deal with any of his slaves who committed a misdemeanor.[41] The most common offense involving slaves for which a white was tried was that of allowing a slave to move about freely and hire out his labor. Two such cases came before the court in February of 1795. In the first, James Hamilton brought a complaint against William Powell, the guardian of Sarah Edwards, charging that Hamilton had allowed Sarah's slave Lett to go at large and hire herself out. The set penalty for such an offense was the for feiture of the slave to the county for sale at auction. In this instance the court ordered Powell to appear before it during its next session to explain why the slave should

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39 Ibid., P, 46-49.

40 For a case of assault and battery tried by information qui tam see, ibid., P, 27.

41 The one exception to this was the case of a negro slave, the property of Thaddeus McCarty, who was brought before the court by virtue of a warrant issued by Patrick Cavan. The court decided that there was not enough proof to convict the slave and ordered the slave's release. The crime of which he was accused was not defined. Ibid., Q, 90.

not be sold according to law. On the same day William McGreath brought a complaint against Bryan Sanders for allowing his slave Harry to go at large and hire himself out. In this case, the court ordered that Harry be given thirty-nine lashes on the bare back "well laid on" and that Sanders post a £50 bond to guarantee that he would not allow Harry to hire himself out in the future. A little over a year later, Samuel Thompson was brought before the court on similar charges and was ordered to post a bond of £100. There is no explanation in the records for the difference in the size of bonds required. His slave, like that of Sarah Edwards, was a woman. Neither woman was whipped as male slaves were in all similar cases.[42]

Under the law whites were not to deal with slaves except through their masters. In 1796 John Ashford was charged with selling liquor to slaves and trading with them without the knowledge of their owner or his overseer. When brought to trial Ashford called two witnesses in his defense, but he was unable to convince the justices of his innocence.[43] In another case involving a slave, Richard Davis was accused of attempting "to take away by force a negro man called Caleb, the property of . . . George Nixon." Both Nixon and Davis

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[42] Ibid., Q, 333, 363-364.

[43] This case was the first brought before the court on 13 June 1796. It was then dismissed but reinstated in September of the same year. The penalty exacted is not given in the record. Ibid., Q, 408, 488-489, 492. The penalty for such trading with a slave was the forfeiture by the offender to the slave's owner of four times the value of the thing bought or sold and a fine of £20 to be given to the person who brought the offense to the attention of the court. Shepherd, ed., Statutes, I, 124.

were heard, witnesses were called and testified, and the court ordered Davis to post a £100 bond as security for his good behavior for a year. It is not clear why Davis was not charged with attempted theft.[44] The court also heard several other cases involving misdemeanors which are hard to categorize, but are worthy of note. Most of these were instituted by a writ of information rather than by indictment. In 1792 Joseph Hough was brought before the court to answer charges of interfering with Constable Ezekiel Silkett when the latter was attempting to perform his duty as an officer. Hough was found guilty and ordered to post a bond of £10 for his good behavior during the coming year. In 1793 Amos Clayton was ordered to post a similar bond for refusing to aid Constable Isaac Gregg in carrying out his duty.[45] In June of 1793 John and Andrew Simsons were tried for an unexplained cheat, i.e., basically a fraud of some type, Through their lawyer, Thomas Swann, the two defendants objected to the conduct of the trial. They asked that the indictment against them be quashed, first, because some of the members of the grand jury which presented their case were not freeholders of Loudoun county, and, second, because some of the members of the grand jury had consumed spirits, specifically wine, while hearing the case, which was contrary to law. The court ruled that the defendants should

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44 Order Book Q, 368.

45 Ibid., O, 257-258; P, 292-293.

have entered their complaint about the grand jurors' residence at the time of the original hearing and that the consumption of spirits was insufficient reason to halt proceedings. A petit jury was then impanelled, the Simsons were tried, found guilty, and sentenced to pay fines of £15 each and to serve ten days in the Loudoun jail. In addition, neither man was to be released from jail until he had paid his fine and court costs. Unfortunately, their crime is not fully described.[46] In another case heard in the same month, John Veale was accused of breaking the peace by rescuing property taken from Veale by Constable Charles Russell as he was carrying out an execution granted Henry Trucks against Veale's property. Veale was found guilty and ordered to post a £15 bond for good behavior during the coming year. His is one of the very few breach of peace cases in which any details are given.[47]

Four other cases of a criminal nature were heard by the court during the 1790s but none of them were handled by indictment or information qui tam. In one case two men were cleared of the charge that they had received stolen goods, but they were found guilty of an undescribed breach of the peace and ordered to post bonds of £10 for their continued good behavior. In the second case Philip Noland was ordered to remove an iron collar he had placed on Patrick Ward and to appear in court to explain why he was holding Ward in

46 Ibid., P, 131-133.
47 Ibid., P, 139-140.

servitude. There is no indication whether this was a civil or criminal case or by what type of writ Noland was ordered to appear and when he did so the record says only that Ward was ordered to continue serving Noland for two years. In the other two cases, one man was jailed for disrupting the court and one was released from custody when a charge of attempted robbery brought against him was ruled "not a true bill." The court order book entries for all these cases are sketchy and the procedures followed are unclear.[48]

What emerges from an examination of crime and criminal proceedings in Loudoun is a portrait of a peaceful, law-abiding society. There were fewer than a dozen trials for felonies during the entire decade and even these were almost all crimes against property rather than against people. Murder and rape were seemingly unknown among White Loudounites, and very rare among Blacks. Assault and battery was more common but the court proceedings show that few such cases involved permanent bodily injury. Even theft was uncommon, at least theft of a nature to end up in court proceedings. In fact, court proceedings were so rare that one would be tempted to conclude that some other method of righting wrongs was being used were it not for the case of a justice and another individual being tried for doing just that. When cases did reach Loudoun's court, procedure was quite simple and justice rendered rapidly. The speed with which criminal cases were dealt with is especially noticeable when compared with the long-drawn out proceedings involved in debt and other civil suits.

[48] Ibid., O, 69; P, 124, 173, 360-362, 444.

PROBATE, ESTATE ADMINISTRATION, AND CARE FOR SURVIVORS

Probate courts did not exist in eighteenth-century Virginia; their functions were handled by the county courts. These functions included the receipt and recording of wills and of estate accounts, the appointment of estate administrators for the estates of people who died intestate, the establishment and recording of administrator bonds, the appointment of guardians for minors, and the settlement of suits involving wills. Procedures in these matters were tightly regulated by law. The most remarkable thing about such procedures is how very few cases involving them were heard by the court in Loudoun.[1]

When a person died, it was the duty of any person having knowledge of a will made by the deceased to bring the will promptly to the court to be recorded. If the court learned that a person had the will of a dead person in his possession, the court could compel that person to produce the will. To be considered a valid will, its signing by the maker was supposed to have been witnessed by at least three persons. These witnesses were required to appear in court at the time

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[1] The laws are found in Hening, ed., Statutes, XII, 140-154; Shepherd, ed., Statutes, I, 88-99. They form the basis of the following discussion since the court records of Loudoun do not describe or give very much information concerning procedures.

of the will's presentation and swear to its authenticity should anyone challenge it. Nearly three fourths (70%) of the 119 wills recorded in Loudoun during the 1790s contained the requisite signatures from three witnesses. Twelve wills had four signatures, six wills had five, and one will had six signatures. The twelve with only two signatures do not appear to have been treated any differently than those with the requisite three. One will, that of William Ellzey, was not witnessed but was still accepted and recorded when an unspecified number of people testified that it was in Ellzey's handwriting.[2]

Following the "proving" of a will and its recording in a will book, the court would appoint an executor or executors to carry out the wishes of the deceased. Over 90% of the makers of the 119 wills named two executors in their wills. The others named either one or three. The executors or administrators as they were sometimes called were usually relatives of the deceased. In almost all cases either a wife or son was named as one of the executors. The persons so named were required to go into court and take an oath for the faithful fulfillment of his job and to post a bond equal to the value of the estate to insure that he lived up to his oath. A testator could direct in his will that his executors not be required to post a bond but none did in Loudoun.

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[2] Will Book E, 184.

If an executor named in the will failed to take the required oath and post bond, the court was to appoint another executor. It had to appoint the spouse of the deceased if he or she were living. If not, a child or the next of kin had to be named. If none of these individuals existed and qualified to serve, the court could name one of the deceased's creditors to administer his estate. In a 1796 case no one appeared to administer the estate of Samuel Couner and the court ordered the sheriff to do so.[3]

The next step in the probate process was for the court to nominate three or more appraisers who were to examine and appraise all of the personal property of the deceased and return a report thereof to the court. After the executor had signed the appraisers' report, it would be entered in the will books of the county as an inventory of the estate's personal property. One hundred ninety-four such inventories were recorded in Loudoun during the 1790s. There were seventy-five more inventories than wills because many people died intestate. Many more people than this died in Loudoun in the 1790s, and some of these left an estate. Women, for example, did not usually leave wills and inventories were not usually taken of their estates. Only eight of the 119 wills belonged to women. There were inventories to go with

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3 Court Order Book Q, 319.

three of these wills and inventories for the estates of four other women.[4]

Once the inventory was taken and returned to the court, it was the duty of the administrator or executor to collect all debts due the estate, to sell enough of the personal property to pay its debts, and then, after paying himself an executor's commission of five per cent of the total estate, to distribute the rest of the property to the heirs according to law or to the terms of the will. Unfortunately,

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[4] The almost complete absence of wills for women is explained by the fact that Virginia law of the era did not recognize the right of women to hold personal estates apart from their husbands. The law provided that the estates of women who died intestate could be kept by their husbands and did not have to be distributed to the woman's children or to anyone else. The fact that there were five women's wills (62%) without inventories and four inventories (57%) without wills points up a basic limitation of the use of the information in will books. To use these materials to examine patterns of property ownership one must have both the will which usually referred to the testator's real property, including that which he had distributed before his death, and his inventory which listed his personal property. Land tax records are no substitute for the will in determining a man's property ownership since tax records would not include lands which he had given to a son or which he was renting out, and would include lands which he was renting but did not own since rental agreements often called for the rentor to pay the land taxes. Other problems arise when inventories are used alone, e.g., Adam Echeat's inventory showed that he owned personal property worth over £540 at the time of his death. The items listed indicate that he was a storekeeper, but there is no way of knowing how large his debts were. They were probably very large since most storekeepers purchased their stock on credit. He was also a creditor himself to many of his customers but there is no indication in his inventory of the amount owed to him. Beyond this he does not appear to have owned any land which means his total estate, both real and personal, was less than that of many landowners with only half as much personal property. Will Book D, 222-225.

there is only one record of exactly how an estate was distributed—that of Thomas Neale with an estate of £670.[5] Once the property had been distributed the executor would make a report to the court and the estate would be declared closed. Dissatisfied parties could bring suits concerning wills at any time within seven years of the death of the testator. There were only a few cases of this sort in Loudoun during the decade, and the court order book entries give no particulars of these.

If orphans were involved procedure was different. After the will was presented and proved, an administrator was appointed. A minor could not personally receive his portion of an estate but had to have a guardian. Sometimes the fathers named the guardians of their children in their wills, but if they did not, the court would appoint guardians for minors. On occasion orphans were allowed to come into court and select their own guardians. In 1795, for instance, four orphans chose their guardians and six had guardians appointed for them.[6] The court records do not indicate why different cases were dealt with differently, and Virginia

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[5] Will Book D, 302-306. Twice during the decade widows went before the court and obtained orders directing executors of their late husbands' estates to give to them property which they had brought to the marriage, thereby removing that property from the estate. Order Book O, 326; Q, 312.

[6] Ibid., Q, 146, 152, 238, 275-276, 300, 308, 310, 312, 350. Cf. L, 41-42, 86, 90, 160, 204, 267, 324; N, 62, 85, 155, 244; P, 273, 284, 323, 329, 483.

law made no provisions for different procedures.[7] Perhaps, the age of the orphan involved was the determining factor.

The guardian who was appointed had to post a bond for the faithful execution of his office. He was required also to deliver to the court at the session following the one at which he was appointed an inventory of his ward's estate. From that time to the completion of his guardianship, he was required to keep an account of all transactions involving the estate of his ward. All expenses incurred in the maintenance and education of the child were to be noted as well as any income, such as that from the rental of a slave. A guardian could not bind out his ward as an apprentice without the approval of the court and he had to present the court with a record of his administration at the time his ward attained adulthood.

There are remarkably few guardian accounts in the Loudoun records, only eleven in the whole decade. This is almost exactly one report for every ten guardians named. All of the recorded reports are by guardians with different last names from their wards, which suggests the possibility that relatives were not required to submit such reports, but the law does not provide for this exemption and many other guardians with last names different from those of their

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[7] Virginia acts dealing with orphans were reduced to one in 1792. Shepherd, ed., Statutes, I, 103-106.

wards returned no reports.[8] Limited as these reports are, they contain much useful information. Three of the sets of reports are for the Minor orphans and cover the years from 1789 through 1791. The Minor boys, William and John and the Minor girl, Ann, cost eight pounds a year to feed, and three pounds to clothe. This total is about twice the five or six pounds usually charged the fathers of children born out of wedlock for the support of a child. The fathers of illegitimate children were paying for children under the age of eight and the Minor children were over twelve, but the difference in the cost of supporting them must reflect either a higher standard of living for the Minor children or the fact that the woman who bore a child out of wedlock usually provided a portion of its support.[9]

The most complete guardian account running over a number of years is that of Thomas Littleton for the support of Mary Kellum. It covers the seven years between 1793 and 1799. Mary's wardrobe can be reconstructed from it and glimpses of other parts of her life can be gotten. In 1795, for example, her guardian purchased the following items for her: a handkerchief, calico for a bonnet, finery for an undercoat, wine & barks (probably as medicine), a pair of calfskin shoes, a woolen undercoat, six yards of lining, one spelling book, one green hat, at a total cost

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[8] The names of the guardian of "Joseph Scott's" children is illegible and could be Scott. Guardian Account Book A, 125-128.

[9] Ibid., 121-125, 129-134.

of £2-5-6. In addition, her guardian paid fifteen shillings for one half year's schooling and charged her account ten pounds for "board, bed, washing, mending & making."[10] As Mary's guardian, Littleton also gave the court periodic reports on the status of her property. Littleton was the guardian of another child, Bailey Donaldson, during much of the same period (1795-1799), and gave the court similar reports on his management of Donaldson's property.

Other guardians were far briefer in their reports. Samuel Love, guardian of William, Anthony and Benjamin Thornton, took only six pages to record an account covering fifteen years. Entries such as "to your account to Stuart & Love—£56-11-5½" indicate that the records of the mercantile house of Stuart & Love would have to be examined to determine anything definite about items like clothing and personal belongings. The second entry shows that one of the children, William Thornton, did not actually live with his guardian but with Dr. Wellford who was paid £25 a year for "board, etc." William Thornton's brother Benjamin reviewed his own account with Love at the time he took control of his own affairs and appended the following statement to it: "I Benjamin Berryman Thornton being of full age have examined the within account and find it to be just & right—given under my hand & seal this fourth day of Janry 1797."[11]

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10 Ibid., 134-136, 151-153, 155-157.

11 Ibid., 138-144.

This is the only such statement in these guardian accounts.

Virginia law spelled out the line of descent of property when a person died intestate. If the deceased were a married male, his widow had a dower right to one third of his estate. The rest of the estate passed to his children or their descendants among whom it would be equally divided. If he had no children, it would pass to his father, if no father to his mother, brothers and sisters and their descendants.[12]

Nine out of ten of the wills recorded during the 1790s were written within a year of the date they were recorded. William Jordan recorded his will thirteen years before his death, but most wills were written so close to the time of death that they reflected accurately the familial condition and economic status of the deceased.[13] For instance, when minor children are spoken of in a will it is usually safe to assume that they were still minors at the time of the testator's death.

All male testators who had wives made provision for them in their wills, but they varied greatly in how and what they provided.[14] Of the seventy-three testators leaving widows, only sixteen granted their widows property without attaching any strings. The most common string, attached by 39 testators, was that the wife was to enjoy only "a life estate"

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[12] Shepherd, ed., Statutes, I, 99-103.

[13] Will Book E, 104-105.

[14] None of the fourteen wills written by women give any evidence that the women had spouses. Thirty-seven of the wills by males contain no note of spouse.

in the property given her. This meant that the widow would have the full use of the property during her life time, but that it would be distributed according to provisions in her husband's will at the time of her death. Fourteen other testators provided that the estate be redistributed should the widow remarry, or at the time of the widow's death if she did not. Only four testators provided for a redistribution should the widow remarry and it appears that a widow inheriting property under one of these wills could devise that property as she wished if she did not remarry. Some testators provided a combination of these methods. Benjamin Burson, for example, provided that his wife should get all of his personal estate but that she should forfeit two thirds of it should she remarry and that the forefeited property should go to the couple's daughters.[15]

Other testators ordered that most or all of their property be distributed among their children, but that one or more of their children support his widow. William Janney, a Quaker, provided that his wife receive the best bed in the house, her choice of a milk cow, apples from the orchard, use of spring water for her garden, use of their house, one third of his personal property, and that their son Robert should supply her with firewood and £5 cash each year. Other testators were not so specific. John Huffman provided simply that his widow, Margaret, should receive "sufficient

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[15] Will Book D, 188-190.

maintenance" during her widowhood. Another provided that his two children pay his widow one third of their income from his estate every year of her life. Still another testator gave his wife only £10 a year to be paid by one of his sons.

Benjamin Mason appears to have had reservations about his wife's devotion to their family because he provided in his will that she should receive £30 if she stayed with the family for a year. If she did not stay, she was to receive only £10 and the property that she brought to the marriage. John Crumbacker had minor children and was concerned about all of the members of his family. He provided that his wife Eve should have control of his entire estate until his eldest son John came of age. Then John was to receive two thirds of the estate, and Eve was to continue to control the rest to support the couple's other two children. As long as she remained unmarried she was to have use of two cows and a colt, but she was to lose the entire estate should she remarry. The widow of Richard Williams received the least of any wife specifically provided for. Her son Enos was required only to provide her with firewood. The testator may have simply assumed that the other four children would take care of her. Stephen McPherson went further than other husbands. He provided that his wife Ann receive all of their household goods, a cow, one third of all the grain grown on the plantation by a man who was renting the land, and

"sufficient support of all things necessary and comfortable from the place I now live upon" for life.[16]

Once a man's wife was cared for, he provided for his children. The general rule was to divide his lands among his sons and then to divide his personal property either among his daughters or among all of his children. Ninety percent of the testators ordered that their estates be divided this way either at once or at the time of their wive's deaths if estates of life or widowhood were involved. It is not clear whether all sons received equal divisions of land. It was common to give the home plantation or farm to one son and to give the other sons other tracts of land. The acreage is rarely stated so comparison is difficult. Jonathan Meyers, for example, gave his son Elijah his home farm and his other son Isaiah a parcel of land on Kittockton Creek which was only described by listing the names of adjoining property owners.[17] Comparisons are also made difficult by the fact that many fathers had provided for at least one of their sons before their wills were drawn up. William Brown's will conveyed to his son Richard "the two hundred acres he lives on," to his son William "the rest of the land where he now lives," to his son John "the land between that I now live on and that of Thomas Hughes," and to his son Jacob "the tract on Goose Creek between the lands of John and Henry Brown." James Nichols left one of the most detailed wills. Two of his sons were to divide the 299-acre

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[16] Will Book D, 195, 252; E, 48, 118-120, 170-171, 257, 297; F, 121; C.f., D, 132-134; E, 39-40, 161, 237.

[17] Ibid., D, 117-120, E, 120-121.

plantation where he then lived, another was to receive the 143-acre plantation on which that son was living, and a fourth son was to receive the 95-acre tract where he was living. Nichols spelled out exactly how he wanted his home plantation divided between the two youngest sons. In addition, Nichols gave his grandson, Nathan Nichols, the 150-acre plantation where his father Nathan, Sr., was living. His two daughters were given £50 and £80 each and two granddaughter's were to receive the proceeds from the sale of one half of one of the plantations.[18] If Nichols was trying to divide his lands equally among his sons, and he probably was, then the 95-acre tract left to one son must have been equal in value to the 143 acres he left to another. This suggests just how difficult it is to document what appears to be true: that almost without exception fathers tried to divide their lands more or less equally among their male heirs.

One exception was the noncupitive (oral) will of Peter Eblen who gave his wife Janet use of the plantation he was renting and all of his moveable property except £2 which was to be divided among his brother John's eight children. Eblen's son John was not mentioned in the will, and he contested it. Both he and his mother hired attorneys, and the court ruled that "the said will is good as far as it relates to the widow." No mention was made of the bequests to the

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[18] Ibid., D, 152-155; E, 50-51.

nieces and nephews, but his son does not appear to have received anything. In two cases widows came into court, renounced the provisions made for them in their husband's wills and claimed instead their dower rights to one third of their husband's estates as provided by law.[19] These are the only clear cases of the will of a man being contested, although there were several contests over the execution of a will.

Ten per cent of the wills explicitly indicate that the testators expected trouble. Benjamin Burson included in his will the phrase that he did "for avoiding controversies after my demise, publish, and declare this my last will and testament," and Joseph Clews provided for the appointment of arbiters should his sons be unable to agree on how to divide his estate. Similar fears may have been what led other men to order their estates sold and the proceeds divided among their heirs. A possible example of this is the case of Richard White who owned only one plantation but had five sons. He ordered that one son Benjamin be given care of the plantation as long as his mother was alive, but that upon her death the plantation should be sold and the proceeds divided equally among the sons. White may have already provided for his other sons since he ordered that all but Benjamin pay their mother £2 a year. A fear of something

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19 Ibid., D, 169-171, 269-271; E, 120-121; Shepherd, ed., Statutes, I, 101-103. In another case John Carr provided for one son but stipulated that his other two sons who "appear[ed] to be alive" were not to receive anything. Will Book E, 96-97.

other than squabbles among heirs bothered James Mohue; he provided in his will that his wife Isabel should have use of his house on the main road, a garden and the household furniture "unless she should get drunk so as to destroy the living [in which case] it is to be taken from her to maintain the children."[20]

Grandchildren were often recipients of bequests, usually a small sum of money, from estates, but there were only six cases of bequests to individuals outside a testator's family. James Lane gave the Rev. Richard Majors and his wife the use of a slave, Harry, "on account of the great regard I have for him & of his unvaried labor in the ministry." At the time of the Majors' deaths, Harry was to be freed. Lane gave his wife Lydia the use of three slaves which were to be freed upon her death if capable of caring for themselves. If not, they were to be cared for out of Lane's estate. Lane had two other slaves whom he did not free but gave to his grandchildren. This is one of the seven cases of manumission by will in Loudoun during the 1790s. In 1793 Joseph Caldwell ordered that one of his several slaves serve his daughter until her death at which time the slave would be freed. Thomas Brown freed Charles the same year for being faithful. Israel Thompson freed two slaves in 1795 and Benjamin Mason freed one. Only two individuals freed all of their slaves. Benjamin Brown had a total of

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20 Ibid., D, 188-192, 272-273; E, 9-10; C.f., E, 32-33, 41-43, 55-56, 85-86, 287-290, 303-306; F, 54-55.

seven who were to be freed at the death of his wife, Winefred. William Ansley provided that all eight of his slaves be freed, the men at age 25, the women at age 21.

Other examples of bequests to non-family members are contained in the will of John Davis who does not appear to have had any children. His first bequest was £100 to the Baptist church which he had attended in Wales before coming to America. He also gave Mary, his housekeeper, "sufficient maintenance from interest of my estate during her life, also use of my bed & bedding, & her wearing apparel." The rest of his estate was bequeathed to his brother's children.[21] William Ellzey, after amply providing for members of his family, bequeathed tracts of land to Matthew and Catherine Harrison and to Albert and Ann Russell. Neither of these couples appears to have been related to him. Similarly, J. Elizabeth Hare ordered in her will that her executors renew her suit against the administrators of her husband's estate and give two thirds of the proceeds from that suit to John Gunnel whom she identified as a friend and one third to a nephew in Maryland. This was her entire estate. Another childless testator, Benjamin Brown, gave his wife a life estate in his property and provided that it should go to her children if she remarried and had any; if not, it was to be divided among three of his friends.[22]

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21 Ibid., D, 209-212, 319-324, 344-346; E, 85-87, 118-120, 255-257; F, 49-50.

22 Ibid., D, 217-219; E, 184, 212, 255-257.

Two other testators made unique provisions for relatives. James Campbell provided that his two brothers and his father did not have to repay debts they owed him and that his other brother, Andrew, should receive the rest of the estate composed of his clothes, bank notes, personal notes, and book accounts. The other will with unique provisions was that of James Grigsby who provided that "Mary Reed, my housekeeper, and five children which I had by her should have the whole estate . . . to be equally divided between them." Grigsby's relationship with his housekeeper must have been apparent to his neighbors if only because all the children had Grigsby for a middle name.[23]

Estate inventories also render information about Loudoun society but they, like the wills, must be used with caution. One hundred ninety-two inventories were recorded in Loudoun during the decade. The mean value of personal property in these estates was £257, the median £170, and the mode £140. The personal property in one fourth of the estates was valued at £75 or less, and in only 15 per cent did it total £500 or more. Since these figures include only personal property, they omit lands and buildings, the most valuable possessions by far of most people in agricultural Loudoun. Those figures do include the value of slaves, with lands one of the two main units of production. Slaves were very valuable and their value can be subtracted from the inventories to

[23] Ibid., E, 132-133, 321-322.

give figures which would be more nearly indicative of personal property holdings as it reflected daily life for Loudoun citizens as a whole. Without slaves the mean estate value was £170, the median £130, and the mode £140.

Beyond this there are few generalizations that can be drawn from the inventories with any degree of certainty. The inventories vary too widely. Only ten per cent of them include cash on hand, for example. In some cases the deceased probably did not have very much if any cash, but it seems probable that more than ten per cent did. What probably happened was that relatives simply pocketed the money. Similarly, fewer than one fourth of the inventories include clothing for the deceased, even though all of them had to have clothing of some kind. Perhaps the clothing was usually not considered worth inventorying. Some inventories list "crops in ground," i.e., the value of a crop planted, but the majority do not and again it seems probable that many more of the testators had some crops planted. Chickens present another problem. Ducks and geese are often listed but no chicken is ever mentioned in an inventory even though contemporary writings often speak of eggs and of eating chicken.

Still, some general idea of life in Loudoun County in the 1790s can be gotten from the inventories. It seems probable that the estates of well-to-do people were more often inventoried than those of the poor, yet fewer than

ten per cent of the inventories contain items like a man's watch, pewter serving pieces, or jewelry. Only two inventories listed clocks. Only twenty per cent listed books other than Bibles, but few of these give any titles. Most are simply listed as "sundry books" and set at very low values. Only thirty-five per cent of the inventories had Bibles listed. This last seems low, and perhaps it can be argued that the inventories are inaccurate or are not reflective of the personal property holdings of Loudoun citizens as a whole. Even so the shortage of furniture in most inventories (it was common for only one bed to be listed and one or two tables), the paucity of luxury items in the lists, and the low value of the total estates taken together are convincing evidence that life was simple and hard in Loudoun County at the end of the eighteenth century.

The last type of document recorded in the will books was the estate account. Most of the ninety-five accounts recorded are so vague as to be meaningless. Many list only the amount paid and the person paid, but give no indication of the reason for payment.[24] The sales of twelve estates are recorded but most of them are also too general to be of much help. Most merely list the name of the purchaser, all of the items which he purchased and the total sum which he paid for all of the items.[25]

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[24] See, e.g., William Carness' estate account, Ibid., B, 327-344.

[25] Ibid., D, 137; E, 59-63, 101-103, 107-109, 129, 154-155; F, 2-8, 24-26, 34, 39, 81-83, 122-123.

The court's responsibility in cases of death went beyond supervising the estate of the deceased if the deceased left behind him dependents unable to care for themselves or an estate too small to care for them. In such cases the court was assisted by a body known as the Overseers of the Poor which after the Revolution assumed many of the functions the parish vestries had once filled. The overseers were selected by the freeholders of the county. They were charged with not only administering to the needs of widows and orphans, but also with administering to the needs of the blind and lame, with seeing that fathers of children born out of wedlock supported those children, and with putting to work all idlers and vagrants so that they did not become a burden to the rest of the population. Each county was divided into not more than four districts and each district elected three men to serve as overseers. Elections were held annually and the overseers were required by law to meet yearly (in March before 1796 and in September thereafter) to levy a tax on the residents of the county for the relief of the poor and needy. Those expenditures were to be recorded in a book and an account of them was to be rendered to the county court each October. In 1791 the county court was authorized to fill any vacancies occurring in the overseers of the poor. Overseers received a dollar a day for attending board meetings and were authorized to

hire a clerk for twenty dollars a year.[26]

Unfortunately, some of the records and reports of Loudoun's overseers have not survived from the 1790s and what we can know of their handling of their duties must be gleaned from the court order books. Apparently they spent most of their time administering to the needs of orphans and seeing to it that fathers of children born out of wedlock supported their children. This and what other little information about the overseers that appears in the records can be summarized briefly.

Orders for the election of overseers in 1792, 1795, and 1798 indicate that Loudoun was divided into three districts.[27] This means that Loudoun had at most a total of nine overseers of the poor at any one time. The elections of 1792 and 1798 appear to have been conducted without incident and the court order books only record the call for them and a report that they were held. The election of 1795 was more complicated.

On 10 March the court ordered three of its members, Charles Bennett, George Summers, and Simon Triplet, to supervise elections for overseers in their home districts. The elections in the first and third districts were to be held in private homes on the twenty-seventh of the month. The

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[26] The overseers of the poor were established and these functions were transferred to them from the church wardens and vestries of the Protestant Episcopal Church (Church of England) following the dissolution of that church as the official state church in Virginia in 1785. Hening, ed., Statutes, XII, 27-30, 273-275, 573-580; Shepherd, ed., Statutes, I, 114-122; II, 35.

[27] Order Book O, 200; Q, 98; R, 307.

election in the second district was to be held "at frying pan spring" on the twenty-eighth. Elections were to be postponed to "the next fair day" if the weather should be inclement on the designated date. A month later Charles Bennett reported that "no Election was held [in his first district] through unavoidable accident," and the court appointed three men to serve as overseers in that district. Some "unavoidable accident" also occurred in the third district; no election was held, and the court appointed three men for that district. There is no mention of the election in the second district.

In the case of the appointees, the first name was that of a member of the county court. One of these individuals, Benjamin Grayson, later came into court and refused to qualify and another justice, Stacey Taylor, was appointed in his stead. Under the law, a person refusing to serve as an overseer was liable for a fine of £10, but none was levied against Grayson, perhaps because of the irregularity of the method of his selection.

These appointments were made in April of 1795. The three overseers from the first district waited until March of the following year to qualify for their positions by taking their oaths of office and posting bond for their faithful fulfillment of their duties. Two of the third district overseers qualified that day, one had qualified the previous December.

It is unclear what happened in the second district. In September of 1795, six months after their election was ordered, an order book entry states simply: "Ordered that William Lane, Sr., and William Butler Harrison be appointed overseers of the poor in Cameron Parish." There is no mention of the ordered election being held or of a third overseer being elected, but James Lewis was sworn in as overseer in December and Loudoun's tax records show that he lived in the second district. Thus, he must have served the second district. He might have been the only overseer to do since there is no record of either Lane or Harrison ever qualifying to serve.[28]

What the overseers did to care for the blind, the lame, widows, and other poor or needy does not appear in the court records, but their work on behalf of orphans is well documented. It was their duty to make monthly reports to the county court of the poor orphans in their districts and of the children whose parents they judged to be "incapable of supporting and bringing them up in honest courses." The justices of the court were then to direct the overseers to bind out the children until they came of age. For males the age of maturity was twenty-one, for girls it was eighteen. In each case the person to whom an orphan was bound was required "to teach them some art, trade or business, to be particularised in the indentures, as also reading and writing,

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28 Ibid., Q, 98, 125, 222, 248, 309, 348, 351.

and, if a boy, common arithmetic, including the rule of three, and to pay him or her, as the case may be, three pounds and ten shillings at the expiration of the time of service."[29]

Over the decade the overseers bound out around 250 orphans, at an average rate of two a month or around 25 a year. The greatest number of orphans, 33, were bound out in 1791 and the least, 16, were bound out in 1794. The court order book entry for binding out a child only listed the child's name and age (or left a blank if the age was not known), the name of the person to whom the child was bound, and the trade that the child was to learn if a male.[30]

The overseers did not remove many children from the custody of their parents on the ground that the parents were unfit to raise the children. The previously discussed case of Sarah and Robert Bellamy, two convicted felons, is probably an example of the court doing so. There is one clear cut case during the decade. On 14 January 1793 the sheriff was ordered to summon Philip Mical to appear before the court "to show cause why his child, Molly, should not be bound out agreeable to law." There is no record of his appearance before the court, but the next month Molly was ordered bound out to Moses Hough.[31]

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[29] Hening, ed., Statutes, XII, 274.

[30] See the following for typical entries: Order Book N, 4, 7, 8, 53, 65, 74-77, 157-158; O, 3, 10, 15, 48, 330-334; R, 266. One child bound out in this fashion was "Suckey, a free negro, 6 years old." Ibid., Q, 475.

[31] Ibid., P, 28, 35.

The overseers were also responsible for seeing that children born out of wedlock did not become a burden to the county's taxpayers. Their method of doing so was to bring suit against the father to force him to post a bond for the payment of child support. This support was usually set at either five or six pounds a year and had to be paid in quarterly allotments. The father was usually required to make these payments for a boy until he was six years old and for a girl until she was eight.[32] If he failed to post bond, as William Stephens did in early 1793, an attachment would be issued against his goods and the total amount due taken from him. In Stephens' case he had been ordered to pay Elizabeth Hottsclaw £5 a year for six years. When he failed to post bond, the court issued an attachment against his property. In a similar case, Joseph Lewis was brought before the court, judged to be the father of a "base born child" by Nancy Rookard, and ordered to post bond for his faithful payment of child support of £6 per year for three years. He posted the bond but protested the proceedings because the warrant for his arrest was dated 3 September 1792, but not executed until 8 November. To be valid it should have been served on him before the October session of the court and his case should have been heard then. The prosecutor, acting for the overseers as he did in such cases, rejected this

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[32] See, for example, Ibid., Q, 65.

argument and the court agreed with him that the proceedings were legal. On the same day, the court heard but dismissed another case in which James McNabb was accused of fathering a child out of wedlock. Neither the name of the mother nor the reason for the dismissal were given.[33]

Bastardy cases numbered only a score across the whole decade. Several were begun but never completed. In 1793, for example, Eli McVay was served with a warrant and posted an appearance bond but did not appear on the appointed day. The court then revoked his bond and issued a scire facias against him. In effect this demanded his appearance before the court to show cause why judgment should not be rendered against him. This is the last entry for his case, and he disappeared from the next year's tax lists; presumably he fled the county to avoid prosecution. In a similar case, the overseers of the poor accused Andrew Henderson of having a bastard by Winefred Reston. He was probably served with a warrant but fled the area because the court order book entry notes that he failed to appear in court and that his two securities forfeited the bonds which they had posted to insure his appearance.[34] Other cases were entered in the book, but marked either "discontinued" or "dismissed." Again, no reasons are given, but it is likely that in many instances the defendant married the woman or, more likely,

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33 Ibid., O, 387-388; P, 59, 61.

34 Ibid., P, 323; R, 62.

that the defendant agreed to pay for maintaining the child which was the main interest of the court.[35]

The overseers brought two other suits during the decade, one against Sheriff Coleman for not collecting a debt owed the overseers in 1791, and another against Reuben Triplett for the delivery of a cow and a calf. Triplett was probably holding property belonging to someone who was a ward of the overseers. The overseers themselves could be parties to suits as happened in 1797 when Dr. Richard Coleman sued Sheriff Charles Eskridge for payment of £75 due him from the funds he had collected and held for the overseers of the poor. The doctor had probably treated people under the care of the overseers.[36]

Taken together these probate records are enlightening, if sketchy, with regard to patterns of testation, probate procedures, and the material care for survivors. Most Loudounites appear to have provided for their sons equally and for their daughters in a lesser but still a substantial way. Widows were generally well taken care of in their husband's will and the county, through the overseers of the poor, appears to have seen to it that destitute orphans were provided for by having them bound out to a couple who could be expected to see that the child was prepared to make his own way in the world when he reached maturity.

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35 For examples see Ibid., O, 388; P, 183; Q, 167.

36 Ibid., O, 65; P, 244; R, 54.

PUBLIC ADMINISTRATION

Administration of Loudoun consumed far less of the county court's time than did the rendering of justice in judicial matters. This is not to say that administration was not important. It clearly was to the ordinary citizen since the court's administrative responsibilities included the appropriation of public funds and the laying of the county levy to cover those appropriations; the licensing and regulation of public institutions like ordinaries and retail stores; the receipt and recording of land titles, bills of sale, apprenticeship papers, wills, inventories, and manumission records; the maintenance of tax lists; the licensing of attorneys and ministers; the administration of public welfare; the appointment of civil and militia officers; the maintenance of public property; and the execution of acts of the Virginia assembly.

Several of these functions are discussed in other contexts. The powers and duties of the justices with regard to transportation included the receipt of requests for new roads, the investigation of the merits of the proposed roads, the laying out of these roads, the maintenance of existing roads, the policing of ferry operations including the determining of the number of boats to be kept at any site, and the number of hands required to operate them. All of these functions are discussed under the heading "Roads and

Travel" as is the court's administration of ordinaries. The appointment of county officials is discussed under the heading "Government Officials." Lastly, public welfare appears to have been limited almost exclusively to the care of orphans and for that reason it is not examined here but in conjunction with probate, patterns of testation, and estate administration.

Taxes and other matters of public finance were undoubtedly matters of concern to Loudoun's citizens and the allocation of resources, the laying of the levy, and the disbursement of funds were all handled publicly. In December of each year until 1796 and in September of each year thereafter, people began presenting bills to the court for services rendered or articles supplied to the government during the preceding year. The court received these and recorded them in the order books along with requests for expenditures to be made during the coming year. Early in the next year, the justices reviewed the unsettled accounts, estimated expenditures for the coming year, and arrived at a total. To this they added a "dispositum" to cover unforeseen expenses and arrived at a total budget. The dispositum was a kind of a contingency fund held by the sheriff and drawn upon by the justices throughout the coming year to pay expenses as they arose. The total figure arrived at was then divided by the total number of tithables in the county and the result was the tax rate for the coming year. At that point the sheriff was ordered to post bond for his collection of the tax, to

collect, and to turn the funds over to the court by the end of July.

The size of the levy and the resultant tax rate varied widely over the decade as is shown in chart 6a. An examination of expenditures (chart 6b) reveals that there was neither a rising nor a declining trend across the decade but that the fluctuation in the tax rate was caused by a wide variance in capital expenditures—mostly for bridges—and the practice of paying all of such charges the year they arose. Other expenses, mainly those involved in the daily operation of the government, remained almost constant.

The salaries of the clerk and the sheriff remained the same throughout the decade and the annual cost of operating their offices did not vary widely. The clerk sought appropriations for office supplies only in half of the years, but he may have purchased such supplies in other years and included them in his account which he presented to the court each year. The fact that his account tended to be higher during the last half of the decade when he sought no special office supply funds supports this conclusion. The sheriff received a six per cent commission for collecting the levy each year, but for some unknown reason no provision was made for him in 1791. The jailer was not paid a set salary, but he presented the court with an annual account of the charges on the public for his services which must have included either his own salary or a commission. Between

LOUDOUN COUNTY TAX RATES IN THE 1790s

Year	Month Begun	Month Laid	Total Levy	Number of Tithables	Rate
1790	December	February	1239.70	5635	22¢
1791	"	"	633.24		
1792	"	"	792.68	5662	14¢
1793	"	"	935.04	5844	16¢
1794	"	March	628.50	6285	10¢
1795	"	April	894.04	6386	14¢
1796	September	December	2304.00	6400	36¢
1797	"	October	640.00	6400	10¢
1798	"	November	637.25	5098	12½¢
1799	"	October	2914.18	5179	56¼¢

Chart 6a: Tax Levies and Rates in Loudoun 1790-1799

Taxes were levied in terms of pounds of tobacco in 1790, 1791, and 1792. In the table above those figures have been converted to dollars and cents for ease of comparison. In 1791 the court ordered that the conversion rate of 100 pounds of tobacco to 12½ shillings be used in the collection of that year's levy (Order Book N, 87). Reduced down this means that one pound of tobacco was worth one-and-a-half pence. When the standard 1790s conversion rate of £3 equals $10 is applied to this, it is found that one pound of tobacco was worth 1 7/8 cents. The salary paid to the county clerk can be used to check this figure. When the levy was expressed in terms of tobacco he was paid 1,260 pounds of tobacco a year. With the conversion rate applied this would make his salary $23.62. In fact, he was paid $25.00 a year when the levy was expressed in dollars and cents. His salary was probably simply rounded off to make book-keeping easier. If not the ratio between his salary in tobacco and his salary in dollars and cents yields a price for tobacco of 1.98 cents per pound. In compiling this chart and those that follow, the legally established conversion rate of two cents equalling one pound of tobacco has been used. Hening, ed., Statutes, XIII, 477-478. The drop in the number of tithables in 1799 was a result of return of a portion of eastern Loudoun to Fairfax county to compensate the latter for lands taken to form a part of the District of Columbia. Shepherd, ed., Statutes, II, 107-108.

Year	Clerk		Office Supplies	Sheriff		Commonwealth's Attorney's Salary	Goaler's Account	Court House Upkeep	Capital Expenditures for Bridges	Dispositum	Miscellaneous	Total
	Salary	Account		Salary	Collection Commission							
1790	$25.20	$32.00	$38.40[a]	$25.20	$156.00		$156.00	$32.00	$122.00	$596.62	$135.78	$1232.48
1791	25.20	47.00	64.00	25.20		160.00		64.00[b]		160.00	47.84	593.54
1792	25.20	37.10		25.20	79.40	160.00	79.40	32.00	18.72	98.42	269.08[c]	792.68
1793	25.00	57.66	30.00	25.00	49.37	166.67	49.37	33.67	166.66	257.66	63.05	935.04
1794	25.00	44.27		25.00	40.37	166.67	40.37	33.67	98.87	121.28	36.25	628.56
1795	25.00	46.35	50.00	25.00	48.96	166.67	48.96	33.67	12.50	299.02	133.56	894.04
1796	25.00	63.30		25.00	48.23	166.67	48.23	33.67	11.34[d]	1620.55	164.03[e]	2295.00
1797	25.00	83.98		25.00	39.02	166.67	39.02	33.67		192.63	35.96	640.00
1798	25.00	71.23		25.00	58.77	166.67	58.77	33.67	10.00	186.92	24.07	639.24
1799	25.00	85.52		25.00	44.37	166.67	44.37	33.67	2150.00[f]	197.59	11.84	2914.48
Total	250.60	568.71	182.40	250.60	564.49	1486.69	564.49	361.71	2590.09	3730.69	921.46	11,565.46
Per Cent	2.17%	4.92%	1.58%	2.17%	5.69%	12.85%	4.89%	3.13%	22.40%	32.26%	7.97%	100.0%

Chart 6b: Loudoun County Governmental Expenditures: 1790-1799

a. The sheriff received a 6% commission for collecting the levy.
b. Includes $32.00 for Alexander McIntyre for 1787.
c. Includes $90.00 for processioning.
d. Includes $10.00 for the erection of gallows and $1.34 for road work.
e. Includes $106.00 for processioning.
f. Includes $1000.00 for the construction of a poor house.

1790 and 1797 George Hewett served as jailor. His occupation is not known but his successor, Jacob Moore, was an ordinary keeper and served as jailor to supplement his income. No provision was made for the commonwealth's attorney's salary in 1790, but he received virtually the same salary the rest of the years. The small variance in his salary and those of the clerk and sheriff before and after 1792 is accounted for by the fact that the Virginia legislature ordered that court records be kept in terms of United States dollars and cents rather than pounds of tobacco after 1 January 1793.[1] Together these salary and supply expenses consumed just over one third (34.27%) of the county's budget. When the cost of maintaining the courthouse (cleaning and keeping it supplied with wood, water, and candles) is included in this category, the percentage rises to 37.4 per cent. These expenses remained almost constant across the decade.

The second category of expenditures included capital purchases and their maintenance and varied widely in size. In two years nothing was spent, in three, new bridges were built, and in the rest of the decade existing structures were repaired. Altogether bridge construction consumed 13 per cent of Loudoun's budget during the era. A new poor house consumed another 8.7 per cent. These were the only capital improvements specifically provided for in the levy during the decade, but the court order books detail a few

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[1] Hening, ed., Statutes, XIII, 477-478.

others. In 1790, for example, a payment of $143.82 was made for the erection of a court house belfry. This was paid for out of funds set aside the year before.[2] This is the only court house improvement on which a price is put even though a stove was ordered later the same year, cushions were ordered for benches the next year, stocks and a whipping post were erected in 1795, two tables and benches were purchased in 1796, and the court house was repaired in 1790, 1793, 1797, and 1798.[3] In each case the funds to pay these items and services were taken from the dispositum. The county rented a poor house from Benjamin Moore for £30 per year in the early part of the decade, but it is not clear from what account this amount was paid since £30 was $100 and the dispositum did not include that amount in 1792.[4]

Just where most of the funds in the dispositum went is not clear. Funds were taken from the dispositum to pay $4.00 to Isaac Larrowe for transporting a prisoner from the district court at Dumfries to Leesburg in 1795, to pay 24 shillings to Sebastian Losh for escorting two prisoners to Dumfries the following year, to pay John Littlejohn £3 for bringing copies of the acts of the legislature to Leesburg, and up to $50 for emergency repairs to Broad Run Bridge. Other accounts were ordered paid but the items or amounts were not specified.[5]

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[2] Order Book L, 154, 343.

[3] Ibid., L, 343; N, 212; P, 128, 270; Q, 160, 486; R, 249; S, 63, 222; T, 100, 105.

[4] Will Book E, 118.

[5] Ibid., P, 451; Q, 34, 59, 278-279, 486; R, 96, 249; T, 5.

Thus, only a tiny fraction of the $3730.69 dispositum fund which served as a kind of contingency account and consumed 32.26 per cent of Loudoun's tax revenues during the decade can be accounted for.

Beyond these classifiable expenditures, the county spent $921.46 or 7.97 per cent of its tax revenue on a wide assortment of minor items. These are lumped together in the miscellaneous category. There are specific entries in the levy for about one half the money involved. Other entries merely give the name of the individual receiving payment with the notation "on account." The identifiable payments are interesting. One hundred ninety-five dollars was paid to individuals who assisted in the processioning of land boundaries in the county in 1792 and 1796; $44.82 was paid to 32 individuals, 1794-1798, for taking part in slave patrolling at $1.50 per 24 hour period; $12.50 to the surveyor for laying out the prison bounds in 1797; $2.50 to John Hicklin to reimburse him for expenses incurred in the care of a pauper (no reason is given for him obtaining this from the county court rather than from the overseers of the poor); $89.92 to three individuals for making court dockets (probably lists of cases to be heard by the court) in 1791 and in 1794 through 1797 (it is not certain but the clerk could have made these during the other years and included his charge in his account); $19.00 to three men for bringing copies of the state legislature's acts to the county from Richmond; $5.00 was paid to John Littlejohn for bringing in a copy of the

acts of the United States Congress, and a total of $26.26 was paid to Nathan Potts as bounties for killing seven wolves between 1791 and 1795. The fact that one of these entries is for "the balance owed on one old wolf" shows that Potts had probably been paid the rest of the bounty from the dispositum. Altogether these expenditures total $385.00.[6] The purposes to which the funds marked "on account" were put are, like those to which most of the dispositum were put, lost to us.

Once the levy was laid the court ordered the sheriff to collect it. Before doing so the sheriff had to come into court and with two securities post a performance bond for double the value of the levy.[7] He then collected the levy (he had until the end of June to complete the collection) and began making the payments authorized by the court. He kept an account of his collections which he returned to the clerk, but he does not appear to have kept an account of his disbursements except for himself. He probably did not give the clerk a copy since there is no mention of such an accounting in any of the official county records and no such accounts have been located for the era. Money left after

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6 Ibid., N, 87; O, 133; P, 6, 318; Q, 68, 118, 313, 315, 493, 508; R, 199, 234; S, 184. In 1785 the colonial act providing bounties for the killing of wolves expired. In 1789 it was revived for seventeen Piedmont counties, including Loudoun. Three years later its coverage was extended to five other counties. The purpose of the act was to encourage the eradication of wolves in eastern Virginia where they posed a threat to livestock. Hening, ed., Statutes, XIII, 33, 561; Shepherd, ed., Statutes, I, 253.

7 Court Order Book M, 19; O, 55, 178; P, 39; Q, 394; R, 37.

these payments stayed in the sheriff's hands as a "dispositum" subject to the court's order.

The method of county disbursement can be examined in conjunction with the court's fulfillment of its management of the county's real estate, another of the justices' administrative tasks. During the 1790s Loudoun County owned only two buildings, the court house and the jail. Each was repaired several times during the decade. Capital improvements were also made to each during the same time. The general method was to appoint a committee of three justices to let a contract for the completion of the necessary work. When the work was completed, the same justices or another group would examine the work and recommend to the court whether or not to accept it. In every case their report was positive.

This procedure was followed several times during the 1790s. In February of 1790 the court named Patrick Cavan, Thomas Respess, and John Littlejohn to a committee "appointed to direct and let the repairing of the court house and purchasing and erecting a stove and make report thereof to the court." A year and a half later the same method was used to purchase cushions for some of the benches in the court house. On 10 June 1793 Littlejohn and Cavan were named to another committee with Samuel Murray to view repair work done on the court house by Mathew Weatherby and returned a report to the court on 11 September of the same year. In 1795 Littlejohn and Cavan were appointed to purchase

tables and seats for the jury room, but they probably did not do so since the next year the justices ordered benches constructed for the grand jury room on the second floor and for the petit jury box in the main court room. The court appointed Samuel Murray and Joseph Smith to oversee this work. Other unspecified repair work was done in 1797, 1798, and 1799 and each time the process was the same: the court appointed a committee of justices to let a contract, to oversee its completion, and to report back to the court at which time the court ordered that the sheriff pay for the work out of the dispositum in his hands.[8] There was only one case in which a court house contract was handled differently. Early in 1792 Clerk Binns was simply authorized to have boxes made to file his papers in and to present an account to the court. He returned two accounts to the court that year: one for 1,600 pounds of tobacco and another one for 255 pounds of tobacco. One of these must have been for the boxes.[9]

Routine cleaning of the court house was handled on a contractual basis. Sebastian Losh, a Leesburg ordinary keeper, had the contract during the entire decade. Alexander McIntyre had held the contract in 1787 and Jane McIntyre had it in 1788 and 1789. In 1790 the court paid "Sebastian Losh and Jane his wife" for the service. Thereafter, only Losh's name appeared in the levy. The obvious conclusion is that

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8 Ibid., L, 343; N, 212; P, 128, 270; Q, 160, 486; R, 249; S, 63, 222; T, 100, 105.

9 Ibid., O, 180; P, 6, 38.

Losh married Jane McIntyre, widow of Alexander McIntyre, and thereby inherited the job. The court may not have been completely satisfied with Losh's performance of his duty because on 10 September 1794 it "ordered that it be entered of record that whoever shall be appointed to superintend the courthouse after Sebastian Losh's time expires shall give bond with security for the performance of that office with care and attention." In any case Losh was re-appointed "keeper of the courthouse, to sweep the same, find water, wood & candles the ensuing year and John Littlejohn is appointed to take his bond for his faithful performance agreeable to the 10th September last."[10] The yearly payment of $33.67 while quite small probably formed a welcome supplement to Losh's income as a tavern keeper.

The repair of the jail appears to have been more of a problem than the courthouse. Virginia law required that justices keep their county jails in repair or they risked being fined. Since the sheriff was responsible for securing any prisoner whom he had arrested, it was he who examined the jail and asked that repairs be made if needed. Should the court refuse to make any repairs requested by the sheriff, then the responsibility for the prisoners passed from the sheriff to the justices. It is not surprising that the court always provided such funds to a sheriff seeking them in the 1790s.

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[10] Ibid., L, 154, 341; N, 62; O, 132-133; P, 6, 317-318; Q, 34, 67-68, 315, 493; R, 199; S, 184; T, 104.

The jail was repaired in 1789, but it was in such poor condition two years later that the sheriff "protested" its condition and the justices ordered it repaired. It may have been these repairs that were paid for in September of 1793 when the court ordered Sheriff Samuel Love to pay John Littlejohn the remainder of the dispositum fund for the year 1793. Fifteen months later, the court ordered Sheriff John Orr to pay the remainder of the dispositum for the year 1794 to Littlejohn for the same reason. Only six months later the new sheriff, Charles Eskridge, complained that the jail was still inadequate for holding criminals. The court may have ignored his plea for funds because the next order for repairs to the building was not entered in the order books until 1798. This was the last such entry for the decade, but it is clear that the Loudoun County jail was often in need of repairs during the 1790s and a considerable amount of money was spent considering how few prisoners were held there. Related to the jail was an order to John Littlejohn and Patrick Cavan to contract for the erection of stocks and a whipping post in 1795, but they probably did not do so since the court again ordered stocks only two years later.[11]

Of a more regular nature was the court's receipt and recording of land titles, bills of sale, wills, inventories, and manumission papers. The receipt of probate records has

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[11] Ibid., L, 7, 201; N, 206, 212; Q, 34, 59, 160, 201; R, 168; S, 254.

already been described and the court's recording of land titles, bills of sale, a mortgage was a routine matter. Order book entries merely list the type of transaction, the participants and the method by which it was proved. Such a transaction could be proved or validated in one of two ways, either by the oaths of two witnesses to the transaction or by the acknowledgment of the transaction in open court by the participants. Two consecutive entries in the record for 8 December 1794 illustrate these methods:

> Indenture of bargain and sale and the receipt thereon endorsed from Nathaniel Moss and Anne his wife to Barnett Mann were acknowledged by the said Nathaniel Moss and together with the commission for the privy examination thereof are ordered to be recorded.
>
> Bill of sale from John Gest to Joseph Lewis, Jr. was proved by the oaths of Benjamin Hutchison, Jr., and George Hutchison and ordered to be recorded.[12]

The "privy examination thereof" referred to in the first example was necessary in Virginia to be sure that a married woman, a "femme covert," was not being forced by her husband to sell against her will property in which she had an interest. When the wife and husband jointly owned property, as would be the case with lands brought to the marriage by the wife, the buyer wanted to be sure that he had a clear title to the land and so he would obtain a commission from a justice of the peace to have someone take the woman out of her husband's presence and ask her if she was

[12] Ibid., Q, 59.

willingly selling her right to the land in question. If she answered that she was acting freely, a certificate to that effect would be returned to the court along with the deed. The "indenture of bargain and sale" referred to in the same example, was like the conveyance by "lease and release," a system of land transfer in use since medieval times which had the effect of clearing a title to the land involved. It was the clerk's duty to record such transfers in the county deed books. Once a deed was recorded he would return the original to the purchaser.[13]

Manumission papers were similar to deeds for transferring land except that in such a case the owner emancipating a slave always came into court in person and acknowledged that the deed was genuine. Under the law a deed of emancipation could be proved by the signature of two witnesses but none were proved this way in Loudoun. The law also required that the justices of the court examine the freed slave to see that he was mentally and physically capable of caring for himself; taxpayers did not want a master to use emancipation to transfer the burden of caring for a non-productive slave from himself to the overseers of the poor. Once the slave had been examined and the deed of emancipation proved, the clerk of the court would register the deed and give the former slave a certificate of his emancipation which he was required to

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[13] Sample conveyances are contained in Hening, Virginia Justice, Appendix I.

carry with him at all times.[14] Only twelve slaves were freed in Loudoun under the terms of this manumission law after it took effect in December of 1792. An April 1796 order book entry reflects the process:

> Deed of emancipation to Negroe Jeremiah Moore who acknowledged by the said John Mason and the court being satisfied with the health and ability of the said Jeremiah Moore the same is ordered to be recorded.[15]

Before 1792 a master wishing to free one of his slaves had to obtain a special act of the legislature to do so and there is no record of a Loudounite having done this between 1790 and 1792.[16]

The justices recorded one other type of paper regarding slaves. Virginia law prohibited the importation of slaves into the state on penalty of one hundred dollars fine for the buyer and another hundred dollar fine for the seller. In 1792 it provided also that a slave so imported or one brought into the state by a Virginian and kept in the state for a total of 365 days would be declared free. This never happened in Loudoun, but one black, Jim, brought suit for his freedom under the terms of this act (see above).

An exception to this rule was made in the case of immigrants coming into the state. They would be allowed to bring their slaves with them if they took the following oath before

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[14] Shepherd, ed., Statutes, I, 125-126.

[15] Order Book O, 124; P, 27, 102; Q, 324, 359, 369, 441, 446; R, 57, 124; T, 4.

[16] Hening, ed., Statutes, XII, 611-616.

a justice of the peace within ten days of entering Virginia:

> I _____ do swear that my removal into the state of Virginia, was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves with an intention of selling them, nor have any of the slaves which I have brought with me been imported from Africa, or any of the West India islands, since the first of November, 1778. So help me God.[17]

During the decade twenty-four masters took the oath in Loudoun and were allowed to bring their slaves into the county.[18] A typical court order book entry of this type reads as follows:

> Hugh Douglas, gent. returned a certificate that Benjamin Price had taken the prescribed oath for the importation of slaves and so recorded.[19]

These laws against importation bothered some Loudounites, especially those who lived along the Potomac River which separated Virginia from Maryland. In 1798 Thomas, James, Baker, and Roger Johnson of Frederick County, Maryland, petitioned the state legislature to exempt them from the law's provisions. Thomas and James explained that they "occupied" an iron furnace in Loudoun County. Their brother Roger "held" another furnace across the river in Maryland near the mouth of the Monocacy River. These three, together with their brother Baker owned another iron furnace in

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[17] Ibid., XII, 182-183; Shepherd, ed., Statutes, I, 122.

[18] Order Book N, 73; P, 20, 24, 97, 271, 292, 478; Q, 33, 42, 52, 69, 75, 85, 163, 213, 307, 323, 441; R, 282; S, 196, 209, 295, 302; T, 163.

[19] Ibid., Q, 323.

Maryland and several skilled slaves. All four asked that they be allowed to take some of the skilled blacks to Loudoun to work "from time to time." The state legislature received the petition but did not act on it. A year later sixty-four Loudounites signed two identical petitions in which they pointed out that Maryland had recently passed a law which allowed persons owning land in both states to use their slaves in either state. The petitioners enclosed a copy of the Maryland act and asked the Virginia legislature to pass a similar one, but it did not do so.[20]

The administrative functions of Loudoun's court included more than simply the recording of legal documents and the administration of county finances. In other broad areas of responsibility, the court had to exercise discretion and judgment. The court was responsible, for example, for licensing attorneys and ministers. In the case of ministers the justices had to examine a prospective minister's certificate of ordination, administer to him an oath of allegiance to the state of Virginia, and to take and record the bond of his two securities in the sum of fifteen hundred dollars. The court had also to satisfy itself that the minister planned to serve a particular parish or church since it was public policy in Virginia to oppose itinerants.[21] Court order book entries for the six ministers licensed during the decade

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[20] Legislative Petitions, 10 December 1798, 5 December 1799.

[21] Shepherd, ed., Statutes, I, 131.

vary widely and appear to reflect a lack of precision on the part of Loudoun justices in the execution of this responsibility. Entries for Thomas Scott, a Methodist, and Alexander McFarling, an Episcopalian, include the names of their requisite securitors, but the entry for Episcopalian David Martin's licensing includes only the name of Charles Binns as a securitor. The entry for James Kennen, a Baptist, does not include even a single securitor. All of the entries indicate that the justices examined the prospective ministers' certificates of ordination, but none list a specific church which was to be served. Thus, James Kennen could have been planning to serve any or even all of the six Baptist congregations in the county.[22]

Loudoun's justices also took part in the more complicated process of licensing and regulating attorneys. When an individual wanted to become an attorney he first studied law, usually in the office of an established attorney, but possibly at a law school like the one at William and Mary. The next step was the procurement of a certificate from the court in the county in which he had resided for the past year attesting to his "honest demeanor" and age which had to be "upwards of twenty-one years." The prospective attorney then took that certificate to three judges of the Virginia

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[22] The lack of church records makesit impossible to tie any of the ministers to their respective congregations. Quakers did not have ministers and the laws made provision for their system of marriage by the congregation. Order Book M, 206; P, 102, 275; Q, 83, 321; T, 22. Licenses did not have to be renewed periodically and there were many other active ministers in Loudoun during the decade.

superior courts who would examine him on points of law. If the judges were satisfied that he was qualified to practice law, they would grant him a license. Finally, the attorney would go before the justices of whichever court he planned to practice before, present his license, swear his allegiance to the state, and take the following oath:

> I _____do solemnly swear that I will honestly demean myself in the practice of law, as counsel, or attorney, and will in all respects execute my office according to the best of my knowledge and abilities.[23]

During the decade only three persons sought and were given a character recommendation by Loudoun's justices. One attorney received the court's recommendation in 1797 and another in 1799. Both returned to the court and took the prescribed oaths the same year, but one man endorsed by the court, Alexander Dow, never returned to present his license and take his oath. Perhaps he failed to pass the examination given by the superior court judges. It is also possible that he had only lived in Loudoun to study law under one of the county's attorneys before returning home or going elsewhere to practice.

Eight other attorneys presented their licenses to the court and were authorized to practice in Loudoun. None of these men were Loudoun residents. This is not surprising since no single county generated enough business to support many attorneys and most attorneys travelled from county seat

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[23] Shepherd, ed., Statutes, I, 13-16.

to county seat to practice law. Court days were set to facilitate this practice of riding circuit. In northern Virginia, for example, Frederick County court sessions began on the first Tuesday of each month. Loudoun sessions began on the second Monday, Fairfax sessions began on the third Monday and Fauquier sessions on the fourth Monday. Thus, an attorney could keep quite busy appearing in these four counties. Many of the eight attorneys who qualified to practice before Loudoun's bar in the 1790s, as well as many who had previously qualified, probably rode this circuit or one like it.[24]

The county court's responsibility for regulating attorneys did not end with licensing. The court was also tasked by the state with seeing that attorneys practiced in a professional manner. The county court justices could, if they considered it prudent, order an attorney to post bond for his good behavior. If an attorney failed to attend court and defend his client, the justices were empowered to order the attorney to pay the costs and damages sustained by the client. Lastly, the court was required to see that attorneys did not charge fees higher than those set by law. Loudoun's court did not charge an attorney with breaking any of these rules during the 1790s. The only action the court took regarding an attorney came in August of 1796 following the

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[24] Order Book L, 372; Q, 205, 343, 404, 505; R, 120, 153, 251, 303; S, 320, 374; T, 9, 125.

death of William Ellzey when it had to order that notice be given his client to obtain other counsel by the November session of the court or have their causes heard in court without attorneys. It is not clear why Ellzey's son and executor, William Ellzey, Jr., did not handle the cases since the younger Ellzey was also an attorney.[25]

Loudoun's court also licensed ordinaries and retail stores. The process for ordinaries was described in conjunction with roads and travel in Loudoun. It, like the licensing of attorneys and ministers, involved a certain amount of discretion on the part of the court. The final type of licenses, for retail stores, was mandatory and served as a tax. In 1786 the legislature passed a tax bill which required retail merchants to appear before the court of the county in which they resided and secure a license to sell their goods. If the court determined that the merchant was a citizen of the United States or of a nation with which the United States had a commercial treaty he paid a five pound fee for his license, but if he was a citizen of a nation with which we did not have a treaty, he had to pay twenty pounds. This act was aimed at Great Britain and remained in effect for only five years. Thus, Loudoun's court collected license fees during only the first year of the decade. In that year, fifteen licenses were sought and issued, all to citizens of the United States.[26]

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[25] Shepherd, ed., Statutes, I, 15-16; Order Book Q, 466.

[26] Hening, ed., Statutes, XII, 286-287; XIII, 114; Order Book L, 352, 360; M, 101, 111, 124, 130, 157, 206; N, 4, 10, 49, 54, 60.

Closely akin to the licensing process was that for the establishment of mills. Mills were considered quasi-public utilities in Virginia and their operation was regulated by law.[27] A person wishing to build a mill had to appear before the county court in which the mill was to be located and seek permission to dam the stream involved. If the applicant owned the land on both sides of the stream, the court would simply authorize him to erect the dam and mill. If the applicant owned only one side of the stream, the court would issue a writ of ad quod damnum meaning literally "to what damage." Such a writ was given to the sheriff ordering him to impanel a jury. The applicant for the millseat would then give the owner of the land on which he planned to abut his dam ten days notice of his intention following which the sheriff and jury would view the land involved, mark off one acre, and appraise its value. The applicant would then be empowered to purchase that acre of land at the appraised price whether the owner wanted to sell or not.

A writ of ad quod damnum could also be used to impanel a jury to decide other related matters. Such a jury might, for example, examine the lands above the proposed mill to determine how much land might be flooded by it, who owned that land, and the value to place on it so that the mill applicant could reimburse the owner for his loss. It would

[27] Shepherd, ed., Statutes, I, 136-138.

also determine whether or not the mill would obstruct navigation on the stream or the passage of fish and whether the resulting stagnation of waters would pose a health problem to nearby residents. Once these determinations were made, the sheriff would issue summonses to all of the involved parties to appear before the next session of the court at which time all concerned individuals would have a right to state whether or not they opposed the application and on what grounds. The court would then decide whether or not to approve the application. It could not do so if the proposed millpond would cover any dwelling or garden, but it could do so in all other cases. If the court refused to grant permission, that ended the matter. If permission to build the mill was granted, the applicant had to immediately pay the owners of condemned land for their land. The applicant then had one year within which to begin construction of his mill and three years within which to complete it or the lands which he had purchased after condemnation would revert to their original owners. The lands would also revert to their original owners if the mill ceased to operate. This same process of impanelling a jury to view the affected lands had to be followed if the owner of an existing mill wished to raise the height of his dam.

A total of around fifty persons petitioned the Loudoun court for authorization to build mills during the 1790s. Order book entries are quite brief for all of these, but the

papers for several have been located in a cabinet in the basement of the clerk's office in Leesburg. The dates involved range from 1792 to 1799 and the papers are tied together in a bundle marked "Mill Papers, Writs of Ad quod Damnum."

When the petitioner owned both banks of the stream on which he wanted to build a mill, the process was quite simple. In one case in 1792, for example, no writ of ad quod damnum was even issued. The court simply received the prospective miller's request, gave its approval, and ordered the following entry made in the court order book:

> Upon the motion of William Lane liberty is granted him to build a water grist mill on Cub Run below the mouth of rocky run at or near said Lane's lower corner the said Lane being possessed of the land on both sides of the run whereon the said mill is to be located.[28]

Five years later, in a similar case in which Cornelius Shown owned the land on both sides of Clarke's Run and wanted to erect a mill, the court did issue a writ of ad quod damnum. Shown sought permission to build the mill on 11 July. The writ was issued five days later returnable at the September session of the court. On 9 September Deputy Sheriff Mortho Sullivan led a twelve-man jury on an inspection tour of the area and reported to the court that "the erecting of said

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[28] Order Book O, 374. For other entries see Order Book L, 343, 348; M, 201; N, 59; O, 25, 156, 244-245, 253, 265, 374; P, 4, 23, 30, 331, 478-479; Q, 13, 74, 76, 88, 120, 125, 204, 279, 319, 326, 333, 353, 392, 482; R, 35, 155, 211, 268, 289; S, 19, 91, 108, 119, 189, 218, 274, 278, 285-286, 310, 314, 374, 391; T, 2, 39, 96, 128.

mill will damage the lands of John Erskine by overflowing of the water to the value of twenty-five pounds." There is no record of Shown ever purchasing the affected property from Erskine or of his constructing the mill. He may have considered twenty-five pounds too high a price to pay.[29]

Instances in which the petitioner owned only one bank of the stream were more common. In 1792, for example, Ald Davis petitioned that he be allowed to construct a mill dam across Goose Creek from his lands to those of Josiah Watson on the other bank. His request was dated 14 May and a writ was issued shortly thereafter and returned on 28 May with the notation that a jury had met and assessed the acre of Josiah Watson's land sought by Davis to be worth ten shillings. This report was received by the court on 13 June and a summons was issued to Watson to appear before it at its next monthly meeting "to show cause why the said land would not be condemned." In July the case was continued and does not appear again. Watson appears to have simply sold the land to Davis and settled the matter.[30]

Proceedings of this type could take much longer if the owner of the land in question was not a resident of Loudoun. In 1797, for example, Joseph Carr petitioned the court for authorization to build a mill from his lands to those of William Fitzhugh, a resident of Prince William County. He made his first motion on 11 July 1797. The jury met in

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29 "Mill Papers," cabinet 90, Clerk's Office, Leesburg.

30 Ibid.

August and appraised the affected lands of Fitzhugh to be worth two-and-a-half pounds. A summons was issued for Fitzhugh's appearance before the Loudoun court in September, but was not executed because Fitzhugh did not live in the county or have an agent there. Another summons was issued for his appearance and given to the sheriff of Prince William County, but he did not do so, perhaps because the date it was returnable was too near at hand. A third summons was issued in December but again does not appear to have been served. One was finally served requiring Fitzhugh's attendance at the court's February session. Again there is no note of his having appeared. Since the case ended here, Fitzhugh probably sold the land in question to Carr.[31]

Other factors could further complicate mill proceedings. A particularly involved case began in December 1792 when Samuel D. Harriman petitioned the court for permission to construct a mill from his lands across Goose Creek to those of William Byrd Page. Page, a minor, was away attending school at the time and notice of the proceedings was given to his guardian Wilson Cary Seldon. In January 1793 Clerk Binns issued a writ of ad quod damnum which he headed "Inquisition for Condemnation of an acre of land for a Mill." This was done over the protest of Stevens T. Mason, Page's

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[31] Virginia law did not require the recording of a deed and many Virginians did not take the time to go to the expense of recording their deeds. Thus, it is not surprising that no record of a land sale from Fitzhugh to Carr appears in Loudoun records for the period. Ibid.

attorney, who argued that Seldon "was suggested but not proved to be the guardian of William Byrd Page" and furthermore that the law made no provision for the condemnation of the lands of a minor for such purposes. Both these protests were rejected, the first because Seldon had acted for Page on a regular basis in the past and the second on the ground that Page had come into possession of the land by purchase rather than inheritance. On 12 March Deputy Sheriff William Stevens and a jury of twelve citizens returned a report dated 19 February in which they reported the execution of the writ and that the jury impanelled valued the lands of Page to be taken at seven pounds. The jury had also "examined the lands above and below [the proposed mill] which may be overflowed and were of the opinion that no danger will be sustained by any person whatsoever . . . and it is also our opinion that the health of the neighbors will not be annoyed by the stagnation of the waters." Included in the report was a plot of the land to be condemned. There does not appear to have been any more action on this case and so Page or his guardian, or both, must have accepted the verdict.[32]

Juries did not always return positive reports. In August of 1799, for example, Adam Householder sought permission to build a mill on his lands on Ketockton Creek and a writ of ad quod damnum was issued. On 30 September a jury examined

[32] Order Book P, 23, 30-31; "Mill Papers." There is no account for William Byrd Page among Loudoun's Guardian Accounts. Seldon, acting as Page's guardian had sued two men for debts in 1791. Order Book L, 355.

the area and reported that the dam proposed by Householder would damage Henry Brown's property to the sum of over £320 and Melchor Stropp's land to the sum of over £34 even though Householder owned the land on each side of the stream where the dam was to be placed. Beyond this the jurymen reported that "we likewise believe the health of the neighborhood will be annoyed by the stagnated waters & also that several neighbors will be injured by the water rising several feet high where two public roads cross" the stream. It was, in short, a strongly negative report. It is not surprising that there is no evidence of a mill having been built on the site.[33]

The court's jurisdiction did not end with its approval or disapproval of the building of a mill. Loudoun's justices had also to see to it that millers ground all of the grain brought to them, for a miller could not refuse to grind anyone's grain. The court was also supposed to ensure that millers did not charge more than the one-eighth part fee set by law for grinding grain into meal or the one-sixteenth part fee for grinding meal into hominy or malt. Millers were forbidden by law to keep hogs at their mills or to make any changes in their mill dams which could make passage of it by fish impossible. Lastly, millers had to keep at their mills standard, government inspected measures of a half bushel and a peck against which customers could measure their

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33 "Mill Papers."

grain and meal.[34] It was the duty of justices to enforce all of these rules. It was probably to facilitate enforcement of the last that Loudoun's justices appointed Edward McGinnis "to keep the weights and measures belonging to the county."[35] It is impossible to determine how many times charges were brought against millers for violating any of these rules because action under them was brought before a single justice whose decision was not appealable and whose court was not a court of record.[36]

All of these licensing functions were handled in such a manner as to make frequent entries in the order books of the county necessary. Certain other administrative functions were not so handled and are harder to examine.

One of the most important such functions was the maintenance of tax records. The sheriff served as the court's agent in this matter. Once the tax list was compiled, the court had little to do except to order exemptions. Virginia law provided that "the county courts may by reason of age, infirmity, or other charitable reasons, exempt from the payment of public taxes" persons who would otherwise have to pay them.[37] Across the decade the masters of twelve slaves were specifically excused from paying taxes on one of their slaves (probably because he or she was unable to work) and

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34 Shepherd, ed., Statutes, I, 137-139.

35 Order Book Q, 277.

36 Sample warrants and judgments against millers are given in Hening, Virginia Justice, 321-323.

37 Hening, ed., Statutes, VI, 35-36.

thirty-seven whites were excused from paying all taxes. This total of less than fifty persons presumably incapable of working and without income producing property appears quite low for a county the size of Loudoun. Most Loudounites, black or white, it would seem were productive throughout their lives.[38]

One of the court's most troublesome administrative tasks was the processioning of Loudoun land boundaries. Processioning was the system of walking around the boundaries of each person's lands. The marks used to define the boundary lines were officially observed and renewed if necessary. This procedure had to be followed every four years and was quite time consuming. Loudoun's lands appear to have been processioned in 1792 but the record in the court books is very brief, only a payment to processioners is recorded. No reports are listed and this may have only been a partial job.

This lack of records may be explained by the fact that the law delegating responsibility for processioning was in a state of flux. During colonial times this function had been entrusted to the parish vestrymen who walked the bounds and made their reports to the vestry and churchwardens of the Anglican Church. The vestry would then forward the processioners' reports to the county clerk, and he would make the reports a part of the official records of the county.

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[38] Order Book L, 339, 392; M, 16, 202; N, 53, 158, 207, 241, 261; O, 147, 226, 261, 286; P, 27, 39, 173, 229, 234, 238, 279, 281, 394, 434; Q, 47, 91-92, 126, 154, 276, 365, 388, 408, 479; R, 140, 198, 220, 236, 294, 328, 363; S, 176; T, 1, 97, 308.

With the dissolution of the Anglican Church, it was unclear what body, the overseers of the poor, who had assumed the church's welfare responsibilities, or the county court should assume responsibility for processioning. In all probability neither wanted it. In 1792 the Virginia assembly passed a law vesting the county court with the duty of processioning. The law ordered justices of the peace to divide their counties into a convenient number of precincts at one of their meetings between June and September of 1795, and to appoint "two or more intelligent, honest freeholders, of every precinct, to see such processioning performed." Each processioner was to be paid fifty cents a day for his services which were to be completed by the following March at the latest. The men appointed to undertake the task were to give three weeks prior notice of the day that they planned to procession any section of their precinct. On the appointed day, they would proceed to walk the bounds of every man's land, usually in the company of landowners, following which they would make a report of their work to the county clerk who was ordered to record their reports in a special book. If two neighbors did not agree on their common boundary, the processioners were to report this to the court which would impanel a jury and send it, with the county surveyor, to the lands in question to determine and mark the boundary. The cost of this would be charged to the individual against whom the boundary was decided.[39]

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[39] Shepherd, ed., Statutes, I, 75-77.

The Loudoun court followed the assembly's directive by dividing the county into seventeen districts and appointing processioners. The actual work of processioning was probably put off until fall and winter when there was less work to be done on the farms and when leaves had left the trees making natural boundary markers like rocks and trees more easily visible. Processioners in the sixth and eighth districts reported disputes in January and February of 1796, and juries were impanelled to fix the boundaries involved. Both disputes must have been settled by April since the processioners of the sixth and eighth districts were among those from ten districts who returned their reports to the court that month and noted that no disputes had been encountered.

Papers found in the basement of the clerk's office in Leesburg give details of another dispute, in the sixteenth district, but there is no note of the dispute in the court record books. Still, it was probably a typical case. On 12 April 1796 Benjamin Mead and Timothy Taylor, processioners, reported that "William Spencer is not satisfied with his courses, particularly them between him and John Handy." Spencer claimed that the corner of his land was marked by a black oak, but Handy insisted that a white oak marked the true corner. On 5 August a jury viewed the matter and returned a report stating that "by consent of the parties it is agreed that a certain line lately marked by Israel Janney leading from sd. Box white oak to a certain marked

black oak on a stoney knowl is the dividing line between the said Handy & Spencer." None of the papers make clear which party lost the case and had to pay its costs.[40]

The reports from four more districts were returned to the court in May. No more reports were returned in June or July, and in July the court ordered the sheriff to summon delinquent processioners to show cause why proceedings should not be started against them for neglect of duty. This spurred two processioners to bring their reports to the August session of the court, but ten other processioners were tried, found guilty of non-feasance, and fined according to law. Another three processioners were brought before the court but had acceptable excuses and were not fined. The only other order book entries dealing with processioning dealt with two disputes in the eighth district and the payment of a total of $106.00 to sixteen men for 212 days spent processioning. No processioning books have been located for Loudoun for the decade and only a few loose papers have been located in the basement of the clerk's office in Leesburg. It is not clear whether processioning was completed in 1795-1796 or not. Fewer than half the number of processioners appointed were paid for work done. It is possible that those found guilty of non-feasance in August agreed to complete the work and not ask for payment in return for the commutation of their fines for non-feasance. In any case, processioning was clearly a time consuming process and a job which many

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[40] Loose Papers, Basement, Clerk's Office, Leesburg.

wished to avoid.[41]

Stray animals always presented a problem in an agricultural community like Loudoun. All farmers and planters did not have their fields adequately fenced and even those who did must have had to chase an errant cow or horse every so often. Boats that floated away from their moorings presented another problem. Items like animals and boats were valuable and Virginia's assembly passed detailed laws governing the return of them to their lawful owners. The role of the justice of the peace and the court in this process was important. Any person finding a stray on his property was required to "forthwith give information thereof to some justice of the peace" who was immediately to issue a warrant to three freeholders ordering them to come before him and take an oath for the performance of their duty. The freeholders would then view the stray, appraise its value, and compile a description of its breed, color, size, age, and any brands or other marks. They would return this description to the justice who was to deliver it to the clerk of the court within twenty days. The clerk would then enter the description and other pertinent information in an "Estray Book" kept specifically for that purpose. The clerk was then obligated to make copies of the description and post them on the court house door during the next two court sessions. He collected a fee of ten pounds of tobacco for entering the stray in the

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[41] Order Book Q, 317, 327, 365, 371, 381, 388, 392, 442, 451, 453, 480, 508; "Processioning Papers 1796." Cases 88 and 90, Clerk's Office, Leesburg.

record and another ten pounds for each copy of the description posted. If the animal taken up as stray was worth under one pound, it would become the property of the finder if not claimed by the end of the second court session at which it was advertised. If it was worth over a pound the clerk had to advertise it in three editions of the Virginia Gazette, and it did not become the property of the finder until one year and one day after the first date of publication. The provision for a stray boat was the same. When an owner appeared to claim his stray property he had to reimburse the finder for the fees paid to the clerk and for the advertisement in the paper if one had been necessary. Travellers were not allowed to pick up strays, only the people on whose land they were found, and any person finding a stray on his property but not reporting it was liable for a fine of ten pounds.[42]

Strays were fairly common in Loudoun (see Table 6c). There were around thirty cases a year of an individual finding a stray animal or two on his property. In a few cases even more animals were found at once. John Berkins, for example, found a sow and ten barrows on his plantation near Snickers Gap. In compliance with the law, he went to Justice of the Peace Benjamin Grayson and informed him of his find. Grayson appointed Joseph Fredd and Thomas Drake to describe and appraise the hogs. In January of 1791 the two jurors

[42] Hening, ed., Statutes, VIII, 356-357; XII, 168-170.

ESTRAYS

Year	Total Cases	Cows	Horses	Hogs	Sheep	Total Strays
1790	37	22	19	1		42
1791	38	10	24	33[a]		67
1792	35	12	14	8	3	37
1793	25	14	12	4	1	31
1794	31	18	12	5	10[b]	46[c]
1795	29	20	5	10	2	37
1796	20	11	10	3	1	25
1797	34	25	17	2		44
1798	27	15	3	5	2	30
1799	19	10	10	1		21
Total	295	157	121	72	19	380

6c: Estrays

a. Ten hogs were found at one time.
b. Six sheep were found at one time.
c. One entry is illegible.

set the value of the hogs at ten pounds. That same month Archibald Johnston found a sow, two barrows, and four gilts on his plantation. Justice Leven Powell named three appraisers who fixed the worth of the sow at fourteen shillings, the gilts at nine shillings, and the barrows at nine shillings. Another Loudounite found six sheep in 1794. Hogs and sheep often strayed in groups, but cows and horses did not. Five women found animals on their land, but none of them were very valuable.[43]

Three appraisers were appointed most of the time, but the appointment of only two was not uncommon. The skill of these appraisers at valuing the animals involved is impossible to assess, but they clearly took pains to give accurate descriptions as is shown by the following typical entries in the county Estray Book for the period:

> April 1794
>
> William Bronough Gent. returned a certificate that James Luth had taken up as a stray a black horse 14 hands 2 or 3 inches high with a blaze face & forefoot white several saddle spots and had been much galled with the collar. He appears to be very old, has a brand on the rear thigh which appears to be B. He is docked very short and the heirs are unclear. Appraised by Thomas Lewis, Elisha Powell, Thomas Russel 20/current money & no more.
>
> January 1797
>
> Leven Powell gent. returned a certificate that Richard Crupper had taken up as a stray a pale red heifer with white hind feet about 4 years old next spring marked with a nick in the under part of the right ear and a piece taken off of the upper part of the left ear. Appraised by Arch Johnston, Thomas Gibson & Henry Down.

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[43] Estray Book, 238, 249, 269, 279, 306.

The provision that all strays valued at over one pound be advertised in the Virginia Gazette was not followed in Loudoun, but some were advertised in the nearby Alexandria paper. One Loudounite also advertised that he had lost a sorrel mare and offered a reward for its return.[44] The recording of strays and the overseering of their return to their rightful owners could not have been very interesting work, but it was clearly crucial to the peaceful operation of an agrarian society like the one in Loudoun.

The final administrative function filled by Loudoun's court was the execution of special orders from the state government. Such orders came only twice during the 1790s.

In 1792 the Governor of Virginia ordered that all sheriff's summon all pensioners living in their respective counties to appear before the county courts to show cause why they should be continued on the state's pension rolls. There is no note of how many individuals Sheriff Love summoned, but only one came. Andrew Green appeared on 9 April 1793 and was certified to be "a proper person to be continued on the pension list having been examined by the court."[45]

The second set of special orders was sent by the governor in September of 1793. In them he requested that Loudoun justices "adopt some safe mode for preventing the introduction

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[44] Ibid., 260-261, 289-290; Leesburg True American, 17 January 1799; Columbian Mirror, 7, 14 January 1799; 12 January 1791; 20, 23 June 1795; 2 March 1797.

[45] Ibid., P, 22, 99.

of the pestilence disease (which now prevails in the city of Philadelphia, the Granadies and the Island of Tobago) into this state." The pestilence to which he referred was the great Yellow Fever epidemic of 1793. The disease had been brought to Philadelphia by French refugees fleeing the Black Rebellion on Santo Domingo. The first cases of the disease appeared in early August and the death toll rose rapidly from an average dozen a day in August to between fifty and sixty a day during the last half of September. By then mass panic had swept the city and as many as half its population of 55,000 had fled. Residents in the surrounding area became frightened, quarantine areas were established, and some areas refused to let stage coaches stop or land passengers.[46]

The panic had spread as far as Virginia by the middle of September. Early in the month, Willoughby Tibbs wrote to Governor Henry Lee from Dumfries that the citizens of that town had refused to let Captain Elwood of the "Philadelphia Packet" land either his cargo or his passengers for fear of the plague. Willoughby closed by telling the governor that "any information relative to a proper line of conduct to be observed by the citizens of this place will be most thankfully received." The ship later moved on to Alexandria, but was blocked from landing there. The mayors of Norfolk

[46] John H. Powell, Bring Out Your Dead: The Great Plague of Yellow Fever in Philadelphia in 1793 (Philadelphia, 1949), passim.

and Fredericksburg also wrote to the governor seeking guidance, and he responded with a proclamation ordering that all ships entering Virginia waters from Philadelphia, Tobago, and the Granades be quarantined for twenty days.[47] In the Shenandoah Valley west of Loudoun, the people of Winchester placed guards on all of the roads leading into town from the Potomac River to inspect all travellers and turn back those suspected of coming from Philadelphia. The fact that this action was taken by the people and not the Frederick County Court indicates that procedure was not uniform. The governor may not have sent specific instructions but merely ordered all counties bordering on the Potomac to take what precautions they considered expedient.[48]

Loudoun's justices were impressed with the gravity of the situation. Eight attended a special session of the court on 2 October, the most to attend any session during the decade. The gravity of the situation is also reflected by the measures passed by the court. A corporal or sergeant and four men were stationed at each ferry crossing the Potomac and ordered to stop every traveller to determine whether he came from Philadelphia or its environs. If the traveller did come from Philadelphia, or if his appearance was suspicious, the men were to refuse him admission to the county until he had spent six days on the Maryland bank of the river with all of his possessions spread out open to

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47 Calendar of Virginia State Papers, VI, 536-538, 541.

48 Mathew Carey, A Short Account of the Malignant Fever, Lately Prevalent in Philadelphia (Philadelphia, 1794), 53-54.

the air. If any traveller appeared to be ill, the guard at the ferry was to send for Dr. Charles Douglas who was to examine the patient. If the doctor determined that the traveller had yellow fever, the traveller of course would be barred from entering the county. The court also appointed seven men, five of whom were justices, to enter into contracts with farmers in the neighborhood of the ferries to supply the guards with provisions. That the court did not expect the crisis to pass quickly is shown by its provision that the guard be changed once a week. The court ordered that a record of all expenses be kept so that they could be forwarded to the governor who had promised to pay them out of state funds. Finally, it directed that notices of its actions be placed in the Baltimore, Frederick, and Georgetown newspapers. The outcome of these precautions is unknown. The only subsequent mention of them is the official records of the period in an entry in the levy for the year: "To the sheriff per account for summon called court respecting the small pox . . . $4.20.[49] As there is no record of there being any special court dealing with the small pox, the obvious conclusion one draws is that the clerk simply entered the wrong disease. There is no indication how long guards were kept at the ferry crossings but the first frost of the year hit the Philadelphia area on 28 October, the mosquitoes died, and the yellow fever abated. Word of this would not

[49] Order Book P, 272-273, 318.

have reached Virginia for a week or so. Thus, the guards may have been stationed at the ferries for as long as six weeks or two months.

These, then, were the Justices of Loudoun's county court, the many and varied functions of that body, and the way in which Loudoun's leaders conducted public business.

EXECUTIVE OFFICERS

The theory of separation of powers was not applied to county government in Virginia during the early national period. The county court was involved in executive matters in addition to managing the county's legislative and judicial affairs. Since Justices of the Peace received neither salaries nor fees, the press of business might have proved burdensome if justices had been required to attend court regularly or to do very much work between sessions. It has already been shown that few justices attended sessions very regularly and that attendance varied both from day to day and from session to session. Work between sessions was even less onerous. Justices had to settle suits for small debts and issue writs but they had no other duties. The bulk of daily routine administration fell not on the justices but on the executive officers of the county.

There were seven such officials, a clerk, a sheriff, a commonwealth's attorney, a coroner, a surveyor, an escheator, and several constables. All were chosen either directly or indirectly by the county court. Constables and the clerk were chosen outright. As for the other offices, the court was only empowered to make a recommendation to the governor, but since the governor never appointed anyone but the person the court recommended, the court's recommendation amounted to appointment. The selection of their officials does not

appear to have been attended by controversy in Loudoun. At least the extant records and the personal papers that survive from the period give no hint of any personal or partisan wrangling. Court order book entries are brief, simply stating the appointee's name and the office which he was to hold. Nor does an examination of officeholding uncover any hierarchy of offices, line of progression, or pattern of familial officeholding. In short, major offices, those above the level of road surveyor, were widely spread out among many of Loudoun's citizens as is shown by the accompanying chart.

LOUDOUN COUNTY OFFICEHOLDERS

County Clerk:	Charles Binns, Sr.	1756-1796[a]
	Charles Binns, Jr.	1796-1837[a]
Sheriff:	George Summers	1789-1790
	James Coleman	1791
	Samuel Love	1792-1793
	John Orr	1794-1795
	Charles Eskridge	1796
	John Alexander	1797-1798
	William Bronough	1799
Commonwealth's Attorney:	Stevens T. Mason	1790-1794[b]
	Matthew Harrison	1794-
Surveyor:	William Ellzey, Jr.	-1795
	William H. Harding	1795-1801
Coroner:	Thomas Lewis	1786-1791
	John Gunnell	1791-1795
	Joseph Lane	1795-1801
Escheator:	Josias Clapham	1786-1803[a]

a. Died in office
b. Had to resign when he became a United States Senator. Virginia law did not allow an individual to hold office in both the state and national government.

The most important official was the clerk. He not only kept all of the county's records, but also provided much of the continuity of government. Court attendance by individual justices was inconsistent at best. Only the clerk attended most or all of the court's meetings. At these meetings he took notes of the proceedings in what were called Rough Minute Books. He later enlarged upon the entries in these books, put them in proper form, and entered them in the Order Books which formed the official record of the court's business. Even the final entries were sketchy, and the justices at one session of the court would certainly often have to rely on the clerk to tell them what had taken place at earlier meetings and to give them more information than was recorded in the Order Book. Beyond this, the clerk was the man to whom copies of the laws passed by the assembly were sent and he probably knew as much, or more, about them as any justice. The importance of the office of clerk is reflected by the fact that every clerk had to post a bond, with two securities, for three thousand pounds to insure his faithful fulfillment of the duties of his office.[1]

Until the Revolution clerks had been appointed by the royal governor, and it was Governor Robert Dinwiddie who appointed Charles Binns, Loudoun's first clerk when the county was organized in 1756. The senior Binns served

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[1] For the law governing the actions of clerks, prescribing their oaths of office, and setting penalties for mal- and non-feasance see Shepherd, ed., Statutes, I, 9, 11-13.

Loudoun for forty years before being succeeded by his son Charles, Jr., in 1796. The younger Binns served for forty-one years. This record of eighty-one years of service as county clerks by a father and son is without parallel in Virginia history, although sons quite often succeeded their fathers in the clerk's office.[2] The younger Binns was presumably appointed to his position by Loudoun's justices of the peace, but there is no note of this in the court's order books. Binns had probably been assisting his father in execution of the office of clerk (the senior had at least one deputy recognized by the court) and simply succeeded to the office as a matter of course.

The job of clerk appears to have consumed the full time of both of the Binns. Neither man owned a plantation or held a license to operate a store or an ordinary. Still, at least the younger Binns had an eye open to the possibility of making money on the side, and this brought the only recorded criticism of either man. In 1795 Charles Binns, Jr., discovered two unclaimed tracts of land in the county and filed with the state for possession of these. Peter Dow, the owner of the lands bordering one of these tracts, placed a letter in the 28 August issue of the Columbian Mirror and Alexandria Advertiser in which he charged that Binns as deputy clerk of Loudoun had made unethical use of his father's custody of Loudoun land records to discover the existence

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[2] Johnson, Virginia Clerks, 240; Order Book N, 33.

of the unclaimed land and to file claim for it with the state. No copies of that issue of the paper are extant and details of Dow's charges must be gleaned from Binn's response which was printed two weeks later. Binns responded that he would not have stooped to answer such charges had the paper only circulated in Loudoun county where people knew him, but that he felt forced to answer since the paper's circulation was much wider. He began by pointing out to Dow that the land records in his father's possession would not provide the information upon which he had acted. To verify the existence of an unclaimed tract of land one had to examine the records of the state land office where the original land patents were filed. Binns asserted that Dow's charges against him were motivated by Dow's wish to get one hundred acres of the land for himself. Binns also defended Loudoun surveyor William H. Harding against Dow's charges that he had conspired with Binns to obtain the land for him. Binns again pointed out Dow's lack of familiarity with laws respecting land. Harding, Binns pointed out, had merely fulfilled his duty as Loudoun's surveyor when he recorded Binns' claim to the lands. Lastly, Binns noted that Dow need have no fear of any collusion between Harding and himself because he planned to ask not Harding but one of Harding's deputies to survey the land in question. Beyond this the issues in question are difficult to unravel.

It appears from Binns' response that Dow also made charges against Charles Binns, Sr., that Dow had in the past attempted to obtain a government office, and that he now sought to succeed Binns as Loudoun's clerk. The younger Binns stated that he thought that Dow's ignorance should be clear to all, charged him with having attempted to use foul play, namely by cutting down a line tree and moving some rails, with having tried to steal land from his neighbor named Shaver, and with having made false statements against Binns in a case involving a widow named Elgin. Binns' letter provides no details about the charges made in connection with Shaver and Elgin. He simply denied "the gentleman's stubborn facts, or rather the heated fancies of his mind" and declared that "it might prove a great satisfaction to the neighborhood if he would confine himself to truth, by bridling his poisonous tongue from evil speaking, lying and slandering of his neighbors which is well known to be the character of the worthy gentleman." The tone of Binns' response to Dow's letter became even more acrimonious as it continued:

> [Dow] seems to have a great desire to fill the office of a clerk, of the management of which he is nearly as ignorant as the bull which he says he lost, or he should not inform you that he did not ask for a search, but to look at the certificates for strays.

Binns was probably implying that Dow had planned to make a false claim to a stray animal belonging to another. Binns' statement that Dow "appears to have a natural propensity for scribbling and a vehement desire for some public office"

probably accurately reflected Dow's attitude toward Binns. Finally, Binns closed with a final assault on Dow's character and an apology to the readers in which he poked fun at Dow:

> It is equal to me [Binns wrote], whether his production proceeds from malice, envy, or the galling sensations of my entry, or from his well known propensity for scribbling, but this much he may rest assured that I would as soon he should (nay rather) speak ill of me than to speak well, for was he to speak well of me, I should be under dreadful apprehensions, that I should be suspected of being compound of every species of vice vile unto the gentleman himself but wilst he keeps up the _____ which he has begun, there may be some few who know him and if they do I am sure I shall stand acquitted of any charge he may bring forward against me.
>
> I am sorry to have trespassed so far on the time and patience of my readers, and in filling so much space in a useful paper, but hope to stand excused as I have been unavoidably drawn into it by the all-wise productions of Peter the Great, and will not wantonly waste your time and paper in taking notice of any thing the gentleman may in future bring forward, but treat it and him as he deserves.[3]

Binns' letter is interesting and gives a glimpse of a certain amount of discord in Loudoun. Unfortunately, there are no further communications in the paper concerning this Peter Dow-Charles Binns, Jr., controversy, nor do the extant letters from the period shed further light on the matter. The controversy apparently did not affect the justices' opinions of either Binns. There was no unusual rise in court attendance; and by the end of the year the younger Binns had succeeded his father as clerk of Loudoun.

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[3] Columbian Mirror, 13 August 1795.

During the eighteenth century the sheriff was one of the most important local officials. His responsibilities for the execution of the court's will, the collection of taxes, and the serving of court summons and warrants have already been described. His job was quite time consuming even though each Loudoun sheriff had either two or three under-sheriffs or deputies to assist him. In addition to fulfilling the duties listed above, the sheriff had to oversee all elections and to attend every session of the court himself or to see to it that one of his deputies did. He was liable for a fine of five dollars for every day's session at which he or a deputy was not present. This rarely happened but Loudoun's justices fined Sheriff John Orr for failing to attend the 10 March 1795 session of the court and Sheriff Charles Eskridge for failing to attend the 17 June 1796 session, an indication that the requirement was enforced.[4]

The method for appointing a man sheriff was a bit more complicated than that for appointing other officers. In the first place, the man appointed had to be a justice of the peace. Secondly, the court recommended not one, but three persons for the position from which the governor of the state chose one. Lastly, a man could only serve as sheriff for two consecutive one year terms. Once appointed sheriff, a

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[4] Order Book Q, 95, 425. In the latter case Eskridge sent George Hammett in his stead, but the court refused to accept this; Sheriff James Coleman was fined for the same offense in 1791, but his fine was later remitted. Ibid., O, 132. See also L, 266; M, 200, 203, 220; N, 83, 104-105, 172, 302; O, 52, 386, 132, 395; S, 53, 60, 334, 341.

man had two months in which to take the oath of office and post a bond for the faithful execution of his duty and his collection of the county levy. The sheriff was responsible for the collection of the taxes the court levied. He had to pay from his own pocket any taxes which he was unable to collect plus a penalty for not having collected them on time. In return, the sheriff was paid a yearly salary of $25.00, he collected fees for executing warrants, and he was allowed to keep a five per cent commission on all state and six per cent commission on all local taxes he collected.[5]

Serving as sheriff could mean a chance to earn a fairly large sum, but it also involved a certain amount of risk, as one of Loudoun's sheriffs found out. George Summers, sheriff in 1789 and 1790, appears to have been successful in collecting the county levy but less so in collecting the state land and personal property taxes for 1790. The receipts for the state taxes collected were due in the state treasurer's office in June of 1792, but Summers was not able to deliver them at that time. There is no record of the state taking legal action against him to recover the shortage, but that it could have is shown by the fact that such action was taken against his successor, James Coleman. Coleman appears to have been short by only eleven pounds, but the state moved against him in the court anyway, obtained a judgment against him in the amount of the unreturned taxes plus a penalty of twenty

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[5] Shepherd, ed., Statutes, I, 43-48.

per cent a year to be computed from 9 June 1791 until the bill was paid, and ordered Loudoun's incumbent sheriff, Samuel Love, to seize and offer for sale enough of Coleman's property to satisfy the amount owed the state. If the goods could not be sold in Loudoun, Love was ordered to transport them to Alexandria and offer them for sale there. A year later Coleman was able to collect and pay into the state all of the principal and interest. In October he petitioned the state legislature asking that the damages he had paid be remitted. The legislature never responded.[6]

Sheriff Summers was not able to get out of his difficulties so easily and it could have been his efforts to collect taxes that led to his neglect of his duties concerning the execution of some summons and warrants. This negligence was discussed in relation to the debt collection process since all of the warrants involved concerned debt suits. The fact that Summers appears to have been the only Loudoun sheriff to get into trouble over both tax collection and/or process serving could be a reflection of his abilities, but it is more likely a product of a poor economy. Loudoun, with its heavy dependence for cash on the sale of grain suffered from the poor grain market in the 1780s and early 1790s. When the Wars of the French Revolution spread across Europe during the 1790s, grain prices turned up dramatically and Loudoun's

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[6] Calendar of Virginia State Papers, VI, 448-450; Legislative Petitions, 29 October 1793.

economy recovered with them. In 1793, James Coleman, Loudoun's sheriff, was forced to report to John Pendleton, Virginia's state auditor, that property could not be sold in Loudoun to recover taxes due in 1790 and 1791 because there were no buyers. It was doubtless small comfort to Summers to know that Loudoun was only one of twelve Virginia counties in this predicament.[7] It does explain, however, why his successor was ordered to take property to Alexandria and offer for sale there is necessary. Lastly, it is worth noting that Summers, a Loudoun justice since 1768 and still a justice after his two-year term as sheriff, did not attend another meeting of the court in that capacity. Perhaps his experience as sheriff soured him on county government in general.

There is no apparent pattern to the selection of nominees for the office of sheriff by Loudoun justices. The table of county officers shows that four of the men who held the office during the 1790s served two terms and that three served only one term. Loudoun's justices must certainly have given the matter of appointment careful consideration, but all we have are bare entries in the order books giving the three names to be forwarded to the governor and the fact that each sheriff qualified for his office by taking his oath of office and posting a bond. The one exception to this was the entry for the recommendation of a sheriff for

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[7] In 1790 there had been a lack of buyers for property on which taxes were due in 1786. Ibid., V, 198; VI, 200.

1794. In that instance the court recommended only two men rather than the three required by law. In fact, the court gave the governor no choice but to appoint John Orr because Samuel Love, the other man named, had already served two years and was ineligible for reappointment. There is no evidence of any move by the state to have Loudoun's justices recommend a third man as required by law. Orr served two years before being succeeded by Charles Eskridge. This time the court recommended three men, but again the incumbent's name headed the list, giving the governor only two men to choose between. Eskridge's name was second on the list followed by that of John Alexander who followed Eskridge in the office after Eskridge served only one year.[8] This was the general pattern: the Loudoun justices made their nominations, putting the incumbent's name first on the list and the governor selected the first eligible man on the list. No reason for appointing a specific individual was ever given. Only once did an individual refuse to serve. On 29 June 1799 Farling Ball was nominated by his fellow justices to take office the following November. He "failed to give security" for some undisclosed reason, and James McIlheney was recommended, appointed, and served in his stead.[9] Each of Loudoun's sheriffs chose two or three deputies to assist him and the deputies were sworn into office by the court. The same law that regulated the office of sheriff also pro-

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8 Ibid., Q, 157.

9 Ibid., T, 19, 59, 95; "Register of Justices and Other County Officers, 1783-1811," 97.

vided that deputies could not serve for more than two years, but one Loudounite, Martho Sullivan, served for three years from 1797 to 1799. There were no qualifications established for the position of deputy sheriff and none of the men who served in the office ever held another major office during the decade.

The Commonwealth's Attorney was the newest county office. It was created in 1788 by the same act that established the district court system. Under its provisions the state attorney general was authorized to appoint attorneys to represent the state in those courts that he could not attend himself. These attorneys, officially known as "deputy attorneys for the commonwealth," prosecuted all breaches of the state's criminal code and represented the state when it became party to a suit, such as in the case of a dispute over unclaimed lands. During the first half of the decade the commonwealth's attorney in Loudoun was Stevens T. Mason, the commander of the Virginia state militia and one of the state's leading politicians. In 1794 Mason was elected to the United States Senate to fill the vacancy created when James Monroe resigned to become American Minister to France. Virginia law barred anyone holding office under the national government from holding any office under the state except those of justice of the peace and militia officer. Mason therefore resigned as commonwealth's attorney on 9 December 1794, and the court immediately named Matthew Harrison to succeed him.[10]

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[10] Hening, ed., Statutes, XII, 758, 694-695; Order Book Q, 67.

The names of both Mason and Harrison appear repeatedly in the court records as prosecutor and in the levy when their salaries of $25.00 a year were paid. Mason practiced law in other counties and both men owned plantations, but little else is known about either man's conduct of the office.

Other county officials much less important than the clerk, the commonwealth's attorney, and the sheriff, were the coroner, the escheator and the surveyor. Instead of being paid a salary each of these officials was entitled to collect fees as set in a single comprehensive act passed by the state legislature in 1792.[11]

It was the duty of the coroner to investigate the circumstances surrounding any accidental or mysterious deaths that occurred in the county. When such a death occurred, he was to go immediately to the scene, examine the body, and if he felt it necessary order the county sheriff or a constable to impanel a jury of twelve freeholders to repair immediately to the spot of death where the coroner would then conduct an inquest. If the jurymen concluded that the deceased had met with foul play and indicated who they suspected the culprit to be, the coroner had the power to order the accused arrested and held until an examining court could be convened. After the inquest the coroner had to make a written report of his inquest and deliver it to the court. For the conduct of an inquest a coroner was supposed to receive $2.80 from the estate of the deceased, or from the county levy if the estate

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[11] Hening, ed., Statutes, XIII, 381-401.

was insufficient.

The coroner could also serve writs, attachments, and summons in the sheriff's absence or when the sheriff was an interested party in the case for which the writs were issued. The coroner collected the same fees for doing these things as the sheriff. The coroner was chosen in a manner similar to the sheriff. The county court nominated two men as being fit for the post, the governor appointed one of the men, and the appointee went before the court and posted a bond of £10,000 for his faithful execution of his office.[12] A county could appoint more than one coroner if it saw fit, but Loudoun did not. It hardly had need for even one. Thomas Lewis served as Loudoun's coroner from 1786 until 1791 when he was succeeded by John Gunnell who served until 1795 before he was succeeded by Joseph Lane who served until 1801. All of these were justices of the peace. No reason is ever given for one man stepping aside and another taking his place, but the four to five year intervals indicate that Loudoun's justices probably considered it a rotating office. Gunnell's securities are not listed but two of Loudoun's leading citizens, Stevens T. Mason and John Littlejohn, gave their bonds as security for Joseph Lane in 1795.[13]

A second fee officer, the escheator, had even less to do than the coroner. When an individual died intestate and without legal heirs, ownership of his property "escheated,"

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12 Shepherd, ed., Statutes, I, 48-51.

13 Order Book O, 66, 131; Q, 156, 204; War 9, 102.

i.e., reverted to the government. When an individual died under such circumstances it was the duty of the escheator to call an inquest. If no claimants appeared for the property of the deceased, the escheator would take control of it in the name of the Commonwealth of Virginia. The escheator would then rent out the land and make a report of his proceedings to the nearest district court, which would determine the final disposition of the property in question. If more than one claimant appeared, neither of whom was a blood relative, the escheator would keep control of the lands involved until the court decided to whom to award them. If no claimant appeared within three months the escheator sold the estate and turned the proceeds from the sale over to the state.[14]

The history of the office of escheator in Loudoun during this era demonstrates clearly how unimportant an office it was. Josias Clapham was appointed escheator for Loudoun on 16 June 1786 by Governor Patrick Henry, but he did not present his commission to the Loudoun court or take his oath of office for almost six years. It is not clear what prompted him to appear on 9 April 1793 before the court, take his oath of office, and post bond of £2,000 for his faithful fulfillment of his office. Almost a year later the following entry was made in Loudoun's court order book:

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[14] Shepherd, ed., Statutes, I, 51-53.

> Agreeable to a letter from his Excellency Henry Lee, esquire, Governor of the Commonwealth of Virginia, dated the 25th day of January 1791, Ordered that it be certified to the executive that at a court held for said county of Loudoun on the 9th day of April 1793 Josias Clapham, Gent. produced a commission from his Excellency Patk. Henry Esqr. late Governor of said Commonwealth as Escheator in & for the county of Loudoun and took oath & entered into bond as the Law directs.

Neither of the letters referred to in the entry is extant. Clapham may have qualified in response to the Governor's letter, but this still leaves an unexplained lapse of over two years between the governor's letter and Clapham's qualifying. Perhaps this was simply Clapham's way. He had also refused to qualify as a justice of the peace when he was first appointed in 1764. He had qualified by 1767, but was never a regular attender of court sessions. Although still a justice in the 1790s, he failed to attend a single session during the decade. In any case, there is no record of a Loudoun escheator conducting any business in the 1790s. Clapham probably served until his death in 1803.

The next known escheator, Israel Lacy, was not appointed until 1810.[15] The last of these officers appointed by the court was the surveyor. It was his duty to survey on demand any tract of land that an individual considered unclaimed and wanted to file a claim for it with the state. The surveyor was required to make a plat of such lands and

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[15] Order Book P, 99, 368; War 9, 102; "Register of Justices... 1778-1811," 42; Edward Ingle, ed., "Justices of the Peace in Colonial Virginia," Bulletin of the Virginia State Library, XIV (1921), 71-72, 87.

return a copy of it to the individual employing him within thirty days. He was forbidden by law to give any other copy of that plat to any other person for one year following the survey. The surveyor could also be employed in a private capacity by an individual landowner to survey his lands for any reason, for example, to divide it into small farms to be rented to tenants.

After 1783 surveyors were appointed by the most involved process then in use in Virginia. First, the county court recommended a candidate to the faculty of the College of William and Mary. The court had to certify that the candidate was a capable and honest man. The faculty of William and Mary was supposed then to examine the candidate to see if he were technically competent to fill the position, a role it retained from the charter granted the college by the Crown in 1693. If they found him so, they were to advise the Governor who would then give the candidate a commission. The surveyor would take his commission to his county court, present it, take an oath of office, and post a bond in the amount set by the governor. Once in office the surveyor had to maintain a survey book in which he recorded copies of all surveys made by himself or by one of the deputies whom he employed (Loudoun had two deputy surveyors) and made a yearly report of all surveys made during the previous year to his county clerk and to the College of William and Mary. After 1792 he had to pay to the president and masters

of William and Mary one sixth of all the fees which he had collected in the previous year.[16] The process prescribed for the selection of county surveyors is the only instance in which the Virginia legislature required any test of technical competence for an individual to hold public office.[17] There was no requirement that a commonwealth's attorney be a lawyer, for example, or that a coroner have any legal or medical knowledge.

William Ellzey, Jr., served Loudoun as its surveyor during the first half of the 1790s. He may have resigned his position in 1795 in order to pursue his other business interests. He owned a small farm of 142 acres, five slaves and four horses. His father was in the last year of his life and, although still practicing law, may have been ill. The younger Ellzey probably had assumed or was about to assume the management of his father's two plantations, one of 600 acres and one of 116 acres with nineteen slaves and fifteen horses. Ellzey's decision to resign may also have been precipitated by his dissatisfaction with the remuneration provided by the position. This dissatisfaction is clear from a petition he and Fairfax County surveyor Col. William Payne sent to the state legislature in November 1794 asking that the 1792 law establishing surveyor's fees be clarified and the fees increased. The two petitioners claimed that

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16 Hening, ed., Statutes, XI, 352; Shepherd, ed., Statutes, 65-70.

17 Porter, County Government, 123-124.

there was not enough business to support surveyors in the eastern part of Virginia, but enough to interfere with their other work. This low fee schedule would lead in time to a situation in which no good man would take the job. It was already impossible, they said, to get deputy surveyors because the surveyor was allowed by law to pay a deputy only one-half his fees and no one would work for that rate.[18] The legislature did nothing either to clarify the old fee schedule or to increase the fees. Six months later, in March 1795, Ellzey delivered his resignation to Loudoun's justices. The court then:

> certified to the masters and professors of William and Mary College that William H. Harding is a person of honesty, probity & good demeanor, and a proper & fit person to be by them commissioned as Surveyor of this county & that he has acted for sometime as a deputy to the [retiring] William Ellzey.

The confirmation process moved rapidly and only a month later Harding, who had served as Ellzey's deputy since November of 1793, was able to present his commission to the court, take the oath of office, and with Charles Binns and Isaac Larrowe as his securities post a bond of £1,000 for the faithful fulfillment of his duty. On the following day the court ordered Ellzey to deliver the surveyor's books in his possession to Harding. In August Harding appointed Joseph Lane, one of Loudoun's justices of the peace, to be

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18 Personal Property and Land Tax Books, 1795; Legislative Petitions, 17 November 1794.

one of his deputies. A year later, in October of 1796, he appointed a second deputy, John Matthias, to assist him. It was Matthias who would succeed him in the office of surveyor in April of 1801.[19] None of the records maintained by Ellzey and Harding are extant but neither man appears to have been involved in any controversy as a result of his conduct as Loudoun's surveyor.

The most numerous county officers were constables. Loudoun had a great number of them. Their appointment did not have to be confirmed by the governor of the state since each constable was an official of the single justice court which was not a court of record. In effect a constable served for a justice court the same functions the sheriff served for the county court. The following fee schedule for constables reflects their inferior position to sheriffs (it established fees about one half those established for the sheriff for similar services) and is a good indication of their duties:

For serving a warrant,	$ .21
For summoning a witness.	.10
For summoning a coroner's jury & witnesses,	1.05
For putting [a person] into the stocks,	.21
For whipping a servant (to be paid by the owner and repaid by the servant),	.21
For servicing an execution or attachment, returnable before a justice,	.21
For serving an attachment, returnable to the county court, against the estate of a debtor removing his effects out of the county	.63
For whipping a slave (to be paid by the overseer, if the slave is under an overseer, if not, by the master)	.21
For removing any person suspected to become chargeable to the county (to be paid by the overseers of the poor) for every mile	.04
The same for returning.	

19 Order Book P, 311; Q, 98, 122, 142, 222, 505.

At these rates the office of constable could not have paid very well, unless a constable was lucky enough to have a lot of mysterious deaths take place in his neighborhood. Still, the position paid well enough to provide extra income for small farmers. County courts were allowed to decide for themselves how many constables were needed. During the 1790s Loudoun's justices appointed sixty-eight men to be constables and discharged another eighteen from office. Constables served during good behavior before 1803 when their terms were set at two years and it is impossible to determine how many individuals were alive in the 1790s and holding appointments from earlier decades. Since constables were not officers of any court of record, it is not surprising that no information is available concerning their execution of duties.[20] There were no other regularly established county officers in Loudoun during the 1790s, but the court was occasionally called upon to make other appointments. For example, the court appointed a turnpike surveyor and commissioners in 1795, 1797, and 1798, a town sergeant for Leesburg in 1796, and vestrymen for Cameron Parish in 1794, but each of these was a unique situation. The appointments are discussed in connection with the activity involved.[21]

Officers in Loudoun's two regiments of state militia were technically not county officials. The governor made his appointments upon recommendation from county courts,

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[20] Hening, ed., Statutes, XIII, 397-398; Order Books L - T, passim.

[21] Order Book P, 443; Q, 309, 356, 371; R, 59, 350.

but the court order books give only the name of the man recommended and the regiment and rank that he was to be considered for. None of the jockeying for position that must have taken place is recorded in either the court order books or the meager militia records which are extant. Thus little besides the names of officers and a description of the prescribed uniform is known about Loudoun's militia during the era.

It was these county officials who administered Loudoun between county court sessions. All but the two Charles Binns were members of the county court which met periodically to set policy and to review their actions and the Binns were clerks to the court. Thus, the gentry who composed the court drew from their own membership all important county officials and were in firm control of Loudoun's government at all times. The men chosen shared the common interests of their fellow justices just as the justices shared the common interests of all of Loudoun. It was this singularity of interest which gave Loudoun its unity and insured that both the county court and the other officeholders could count on the support of most of Loudoun's citizens and that the office-holders would generally serve the interests of all concerned.

EPILOGUE

Twenty years ago Edmund S. Morgan called forth historians to a herculean task. If we are to understand the Revolution, he said, "we need to study the social groupings in every colony: towns, plantations, counties, churches, schools, clubs, and other groups which occupied the social horizons of the individual colonist."[1] This is equally true for the post-revolutionary period. Such an undertaking is so large as to require the talents of many individuals and is certainly beyond the scope of this work. Still, it is useful to summarize the findings of this study and to place them in the context of American society in the first decades after independence.

Historians of the young Republic have largely concerned themselves with conflict—with contention between the rich and poor, between urban and rural residents, between newer and older communities, between subsistence-level farmers and commercial agriculturalists, between democratic-minded individualists and elitists, and between varying social, religious, and ethnic groups—but the most striking thing about Loudoun County during the 1790s is the absence of such contention.

Signs of discord between Quakers, Episcopalians, Presbyterians, Methodists, Baptists, Lutherans, and German

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[1] Edmund S. Morgan, "The American Revolution: Revisions in Need of Revising," WMQ(3), XIV (1957), 15.

Reformed church members are non-existent. If there was economic strife between the slaveowning planters of eastern Loudoun and the small-grain farmers of its northern and eastern valleys it does not appear in the public records or the extant private letters of the time. Debtors appear to have made every effort to pay what they owed and creditors raised little opposition to a system which clearly worked to the short-term advantage of the debtor. Most candidates stood for elective office unopposed. Fully two thirds of the justices of the peace attended fewer than one session in eight. Had Loudoun society been acrimonious, had it been very contentious, the sessions and actions of its court would have reflected that conflict. Instead the court's proceedings appear to have been marked by almost total unanimity among the justices and acceptance by the general populace. Crime and poverty, other symptoms of unrest, did not pose problems in Loudoun. The county's governmental system was aristocratic, but there are no signs of serious dissatisfaction with the way the government was being conducted. The petitions to the state legislature make no requests for major changes and the men elected to represent Loudoun in the state and national governments did not propose or support radical measures.

This study does not explain the absence of basic conflict but it contains signs pointing the way to such an explanation. Life was hard in Loudoun as elsewhere in

eighteenth-century America. Residents had very few luxury items, but few people suffered want of the necessities of life. Real estate and personal property tax records indicate that there was little division between rich and poor. The source materials demonstrate Loudoun's overwhelming commitment to agriculture. The vast majority of its residents lived on farms and tilled the soil. Tax lists indicate that fewer than fifty of the county's taxpayers owned enough slaves to free themselves from the drudgery of labor on the land. Even the artisans and merchants who lived in Loudoun's villages were indirectly tied to agriculture. The estate inventory of village storekeeper Adam Echart and the newspaper advertisements of Loudoun's other merchants clearly show that they depended on selling their wares to farmers and that they accepted agricultural produce in exchange.[2] Loudoun citizens followed a half dozen different faiths but religion appears to have been more a private than a public concern during the 1790s. Surviving records indicate that church membership and attendance were lower than one might expect for the period but none of the churches appear to have been racked with dissention.

The very absence of basic conflict adds to the importance of Loudoun. Conflict can be an essentially extraneous factor and draw attention from the more important characteristics of a society. The historian interested in the

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[2] Will Book D, 222-225.

average citizen, in his everyday life, and in studying society as it was viewed by individuals can learn much from studying Loudoun. The value of such study is not simply to examine Loudoun for an intrinsic reason but to study it as one of the individual tiles that made up the mosaic that was America at the turn of the nineteenth century. Local studies like this one provide individual pictures. With the completion of others a montage can be formed to which all blend together in form a whole yet remain distinct. The performance of such a task is not easy, but it is necessary if the past is to be fully understood.

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B. Published

1. Newspapers

2. Official Records

3. Correspondence and Other Contemporary Works

II. Secondary Sources

A. Books

B. Articles

C. Unpublished Dissertations, Theses, and Papers

III. Miscellaneous Materials

Abbreviations

Duke	William R. Perkins Library, Duke University, Durham, N.C.
LC	Library of Congress, Washington, D.C.
LCO	Loudoun County Clerk's Office, Leesburg, Va.
SHC-UNC	Southern Historical Collection, University of North Carolina Library, Chapel Hill, N.C.
UVA	Alderman Library, University of Virginia, Charlottesville, Virginia
VHS	Virginia Historical Society, Richmond, Va.

VBHS — Virginia Baptist Historical Society, University of Richmond, Richmond, Va.

VMHB — Virginia Magazine of History and Biography

VSL — Virginia State Library, Richmond, Va.

WM — Earl Gregg Swem Memorial Library, College of William and Mary, Williamsburg, Va.

WMQ — William and Mary Quarterly. The number in parentheses following WMQ is the series number.

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