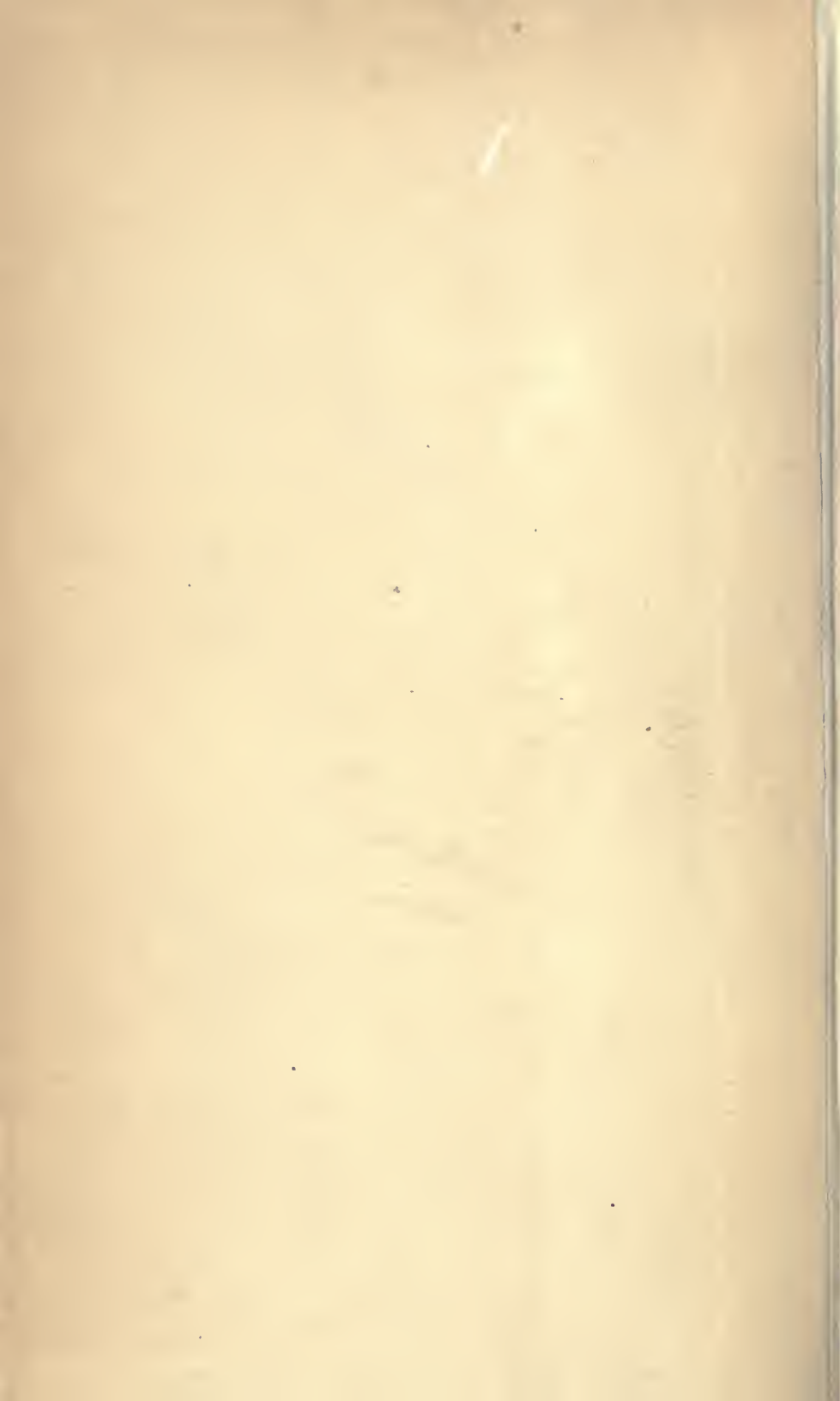




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JURISDICTION IN AMERICAN  
BUILDING-TRADES UNIONS



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SERIES XXXII

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JOHNS HOPKINS UNIVERSITY STUDIES  
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JURISDICTION IN AMERICAN  
BUILDING-TRADES UNIONS

BY

NATHANIEL RUGGLES WHITNEY, Ph.D.  
Instructor in Political Economy

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## PREFACE

This monograph had its origin in an investigation carried on by the author while a member of the Economic Seminary of the Johns Hopkins University. The chief sources of information have been the trade-union publications contained in the Johns Hopkins library. Documentary study, however, has been supplemented by personal interviews with trade-union officials and with employers of labor and by immediate study of labor conditions.

The author wishes to express his appreciation of the helpful criticism received from Professor J. H. Hollander and Professor G. E. Barnett.

N. R. W.



# JURISDICTION IN AMERICAN BUILDING-TRADES UNIONS

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## INTRODUCTION

Just as one cannot imagine the existence of a government without an area over which it exercises control, so one cannot think of a trade union without assuming at the same time that there is a territory over which it claims jurisdiction. To continue this political analogy, just as a government presupposes subjects or citizens under its dominion, so a labor organization is rendered actual and existent by members subject to its control. This membership is not made up from persons chosen at random, nor is it conferred upon all who apply, but is restricted to those engaged in a specified occupation. In the formative period of trade unions this idea of jurisdiction over persons is predominant. The union exercises control over certain men, as men; they are usually, of course, all working at the same trade or craft because a community of interest in their work is likely to draw them together, but outside of the union are many men engaged in the same work over whom the organization claims no authority. At such a stage, jurisdiction is purely personal, and the idea of trade jurisdiction has not emerged.

Gradually, however, as the association becomes more thoroughly organized, by a subtle transition this claim to control over certain persons working at a particular trade passes over into a claim to the trade itself, in which stage the union asserts jurisdiction not only over those persons within its ranks, but over all those who work at its trade.<sup>1</sup>

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<sup>1</sup> The attempt of a union to enforce the closed shop, for instance, is an attempt to impose its jurisdiction beyond the bounds of the union—to take control over other than its actual members. The ground for this is found in the claim of the union to the trade.

Similarly, in the early days of trade unionism the idea of territorial jurisdiction was entirely undeveloped. The jurisdiction of the local union was merely over certain persons. In describing the development of the idea of jurisdiction among the Printers, Professor Barnett says: "In at least one of the early societies it was for a time, indeed, a question whether the jurisdiction of the union was personal or territorial. On April 21, 1810, the board of directors of the New York Society declared, in a series of resolutions, that the 'jurisdiction of the society' extended only to the city and county of New York. Any member of the society employed outside this territory was not required to obey the 'regulations of work.' The considerations which led to this decision have been controlling with the local unions organized since that time. No useful purpose could be subserved by requiring a member to obey in every place rules framed with reference to local conditions."<sup>2</sup>

Three forms of trade-union jurisdiction, therefore, may be distinguished: (1) territorial jurisdiction, (2) personal jurisdiction, and (3) trade jurisdiction. Since the second type, personal jurisdiction, is rudimentary or transitional, attention will be confined in the present study to territorial jurisdiction and trade jurisdiction. Where it seems necessary to speak of what appears on the surface to be personal jurisdiction, it will be dealt with under one of the other two types, into one or the other of which all problems of control over persons must ultimately be resolved. Accordingly, the first and second chapters will be devoted to determining the territory and the trades over which the unions claim control, and the following chapters will deal with the disputes arising from these claims. It will appear that one great class of disputes—dual union disputes—may arise from conflict in either of these two forms of jurisdiction claims,

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<sup>2</sup> G. E. Barnett, "The Printers: A Study in American Trade Unionism," in *American Economic Association Quarterly*, third series, vol. x, no. 3.

while demarcation disputes grow only out of conflict in the latter form.

In general the term "jurisdiction" means the right to say, to dictate, and it implies the possession of authority or control. Specifically, as used by the unions, it means when applied to territory the district or country within which the union claims the exclusive right to organize and control.<sup>3</sup> When applied to trade, jurisdiction means the right to control the conditions of employment in a certain class of work. These ideas are obviously complementary. Trade jurisdiction implies that the authority over certain work extends within the territorial limits of the union, and territorial jurisdiction similarly carries the implication that the authority over a certain territory extends only so far as a specified class of work is concerned. This complementary relation between the two forms of jurisdiction is absolutely necessary under the present trade-union form of organization in which autonomy is preserved to each craft and unions are limited in territory. If a union should claim jurisdiction over the United States and Canada without any specification as to trade, all other unions established within that territory would be trespassing. The same condition would arise if only trade jurisdiction were claimed without any limitation as to territory. If all laboring men were to join a national industrial union, only territorial jurisdiction would need to be recorded. But since there are probably one hundred and fifty or more national unions in the United States, it is essential that each union shall enumerate clearly the district and the trades over which it claims authority.<sup>4</sup>

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<sup>3</sup> A full definition of territorial jurisdiction will be found on p. 40.

<sup>4</sup> The term "national union" has been used in the present study as a convenient designation for the central power, or what might be called the federal authority among trade unions. To make use in each case of the title actually adopted by the union would necessitate varying the term from national union to international union, or to general union, according to the title of the association under consideration. To avoid indefiniteness and confusion, the single expression "national union" has been used throughout.



From what has thus far been said it will be seen that a definite jurisdiction is of fundamental importance to a labor organization. In fact, unionists frequently refer to their "property right" or "vested interest" in the jurisdiction claimed by their union. Just as the extent and the boundaries of private property are not explicitly stated or carefully described in an unsettled country, where each can have almost as much land as he may desire, so in the early days of each national union its jurisdiction is not well defined; but as the union increases its membership and its branches, and as the field is more thoroughly covered, it becomes necessary that the boundaries of each be defined and stated.

The building-trades unions have been chosen for this study in jurisdiction because, in the first place, the unions in the building industry form a group more or less distinct. "The men engaged in the building industry are a family within themselves."<sup>5</sup> In the second place, conflicts over jurisdiction are much more numerous among the unions of building workmen than among other organizations of labor. This is due partly to the fact that in the building industry the division of labor is very minute and many distinct groups are simultaneously employed on the same product, partly to the rapid changes in materials and methods, which are characteristic of the building industry, and partly because the control of the central union over its local unions is as a rule weaker than in organizations outside of the building trades. Finally, the evil effects of jurisdictional disputes are probably greater in the building trades than among any other group, for the sympathetic strike may be more advantageously employed in these trades than elsewhere, and it is because of the use of sympathetic strikes that the evils involved in jurisdictional conflicts are so widespread and costly.

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<sup>5</sup> Pamphlet of Building Trades Council, p. 12.



## CHAPTER I

### TERRITORIAL JURISDICTION

From an a priori point of view it might be expected that the territorial jurisdiction of a central union would be the country in which the union is established, just as we should expect the territorial unit of the local union to be the town in which the local union is situated. This expectation is not uniformly fulfilled in either case. Obviously, a labor organization cannot extend over districts or countries in which living conditions, the standard of life, the extent of the division of labor, and the conditions of industry are widely different, for unless all these factors are, in general, similar in all parts of a union's jurisdiction, it can establish no real central control, certainly no uniformity of wages and hours of work, and only an imperfect system of collective bargaining, for all of which purposes the association exists. From these considerations it may be expected that the unit of jurisdiction will tend to be all that territory in which the conditions enumerated above are approximately the same, unless such districts are separated by physical barriers which make intercommunication a matter of considerable expense and delay. We shall, therefore, not be surprised to find that nearly all the building-trades unions are international in jurisdiction, claiming control over their trades in the United States and Canada, and many of them claiming a potential jurisdiction over the whole continent of North America. But because of the reasons given above which tend to determine jurisdiction, nearly all these unions have local branches in Canada, where industrial conditions are very similar to our own, while comparatively few have branches in Mexico and Central America. Some account of the development of the territorial jurisdiction of the more important building-trades unions will illustrate the conditions which fix the extent of jurisdiction.

The Granite Cutters' International Association of America, as its name indicates, claims exclusive jurisdiction over the United States and Canada. The number of its branches, districts, and members is limited only by the will of the association.<sup>1</sup> Until 1880 it was known as the Granite Cutters' International Union of the United States and British Provinces of America. In that year its name was changed to the Granite Cutters' National Union of the United States of America. From then until 1905 its territorial jurisdiction was limited to the United States, and it was actually, as well as in name, a national union.<sup>2</sup> Even in the period before 1880, while jurisdiction was claimed over the British Provinces as well as over the United States, it was felt that the real territory of the union was the United States, while the territory in Canada was a mere appendage. Thus, the constitution of 1877 provided for the shifting of the central office or seat of government from one State to another, but did not permit it to be moved outside of the United States.<sup>3</sup>

During recent years the continent of North America has come to be considered the territory over which the association has control.<sup>4</sup> The manner in which this extension has come about was suggested by Secretary Duncan when, at the thirtieth anniversary of the founding of the association, in commenting on its growth, he said that the original plan was that the organization should extend only over New England; when, however, granite cutters employed in Granite, Virginia, and in New York asked for charters, their requests were granted, and thus began the extension of jurisdiction.<sup>5</sup> In 1882, just two years after the territory of the national union had been limited to the United States, there was published in the organ of the union a letter from the granite cutters of Toronto, Canada, in which they

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<sup>1</sup> Constitution, 1909, sec. 1.

<sup>2</sup> Constitution, 1880, art. i.

<sup>3</sup> Constitution, 1877, art. ii.

<sup>4</sup> Granite Cutters' Journal, March, 1907, p. 2.

<sup>5</sup> Ibid.

said that they had seventy men at work, and desired the national union to extend its jurisdiction to take them in, so that they might exchange cards and pass back and forth freely without being compelled to pay two initiation fees.<sup>6</sup> This extension of jurisdiction was not made, however, and in 1903 Secretary Duncan said: "A visit to Toronto and correspondence with Hamilton, Montreal, St. Johns, Victoria and Vancouver indicate that the time is ripe for our union to consider again the propriety of changing our title from national to international. In each of the places named, the active members of the granite cutters' unions are members of our union . . . who are trying to make conditions such that if they had a charter from our union they would not handicap their sister branches on this side of the line."<sup>7</sup> The award of a large granite contract in Vancouver brought about the establishment of a branch there in 1905, which the Granite Cutters' Journal said was expected to be permanent.<sup>8</sup> About the same time the committee on the revision of the constitution suggested that the title be again changed to "international," in order to take the whole territory of North America under its jurisdiction, and this was done.<sup>9</sup>

A similar extension of its territorial jurisdiction may be traced in the history of the Bricklayers' and Masons' International Union of America. Organized by the union of a few independent local associations in 1865, it was known at first as the International Union of Bricklayers of the United States of North America. This contradictory title was corrected in 1868, and the union then became the Bricklayers' National Union of the United States of America. In his report to the convention of 1873 the secretary said that when the bricklayers of Ottawa, Canada, applied for a charter it was granted by the president and himself because they felt that national boundaries should not prevent the affiliation of laboring men who lived so near each other

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<sup>6</sup> Granite Cutters' Journal, October, 1882, p. 4.

<sup>7</sup> Ibid., May, 1903, p. 4.

<sup>8</sup> Ibid., November, 1905, p. 2.

<sup>9</sup> Ibid., February, 1905, p. 2; Constitution, 1905.

and worked under almost the same conditions, although there was no power given them by the constitution to do this and the territory of the union was limited to the United States. The president recommended a change of name to "international union,"<sup>10</sup> but this suggestion was not adopted until 1883. Local unions were, however, chartered only in the United States and Canada for many years. In 1904 the secretary of the American Federation of Labor advised the Bricklayers that since they had waived jurisdiction over the bricklayers of Porto Rico, the American Federation of Labor would grant charters directly, to be valid until such time as the International Union might wish to assert control.<sup>11</sup> The following year this control was asserted by the Bricklayers upon Secretary Dobson's recommendation to the convention that these local unions in Porto Rico be chartered, and an application from Honolulu for a charter was also granted.<sup>12</sup>

An examination of the territorial jurisdiction of the International Association of Steam Fitters involves also a study of the jurisdiction of the United Association of Plumbers, for jurisdiction implies the exclusive right to organize and affiliate local unions within a given territory, and each of these organizations disputes the claim of the other in this fundamental particular. The Plumbers and the Steam Fitters both claim jurisdiction over the same territory and, to a certain extent, over the same trade. If each controlled the same territory and different trades, or the same trades in different territories, there would be no dispute between them, but the American Federation of Labor has paradoxically recognized at various times each of these associations as having jurisdiction in the same line of work in the same territory.

When in 1898 the Steam and Hot Water Fitters applied for membership in the American Federation of Labor, the

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<sup>10</sup> Proceedings, 1873, p. 9.

<sup>11</sup> Proceedings, 1904, p. 126.

<sup>12</sup> Proceedings, 1905, p. 26.



application was opposed by the Plumbers, who were already members of the Federation, on the ground that their union had been given jurisdiction over the territory and the trade claimed by the Steam Fitters and that they had steam fitters as members of their association. A committee was appointed to consider the matter, and it recommended that the charter be granted to the Steam Fitters with the proviso that the Plumbers' Association be allowed to keep such steam-fitter members as it already had under its jurisdiction and to admit others to its local unions in towns where they were not sufficiently numerous to form branches under the Steam Fitters.<sup>13</sup> This was, in effect, limiting the territorial jurisdiction of each union by that of the other so far as the steam-fitting trade was concerned, and it was to be expected that difficulties would arise, since jurisdiction, to be effective, involves exclusive control.

At each convention of the American Federation of Labor efforts were made, on the one hand by the Plumbers to have the provisional charter which had been granted to the Steam Fitters revoked, and on the other hand by the latter to have their provisional charter made unconditional. The problem was referred by successive conventions to special committees and by these back again to the conventions. In 1905 the provisional charter, which had been suspended, was restored to the Steam Fitters, and in the following year an attempt to revoke this charter failed in the convention.<sup>14</sup> In 1910 the executive board of the Building Trades Department of the Federation set aside the decision of 1905 and referred the whole matter to the Federation convention. In the convention of 1911 the charter was recalled, and the Steam Fitters were refused membership in the Federation and were ordered to amalgamate with the Plumbers. This they have refused to do, and they now maintain an independent existence, claiming international jurisdiction with local unions in the United States and Canada. The

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<sup>13</sup> The Steam Fitter, March, 1903, p. 5.

<sup>14</sup> Ibid., December, 1906, p. 1.

United Association of Plumbers also claims jurisdiction over the United States and Canada.<sup>15</sup>

The International Hod Carriers and Building Laborers' Union of America is, as its title indicates, international in jurisdiction. In its early years it claimed jurisdiction over all unskilled laborers in the building trades in the United States and Canada, regardless of sex, color, or nationality.<sup>16</sup> This territory was extended by the constitution of 1907, which declared that the International Union grants charters to local unions throughout America.<sup>17</sup>

The International Slate and Tile Roofers' Union of America, according to its title, embraces all America in its territorial jurisdiction.<sup>18</sup> The requirement that "every member of the International shall declare his intention to become an American citizen," as found in the constitution for 1906,<sup>19</sup> seems to limit its territory to the United States, though in fact it has one or more branches in Canada. The Composition Roofers' Union also claims international territorial jurisdiction.<sup>20</sup> The Wood, Wire and Metal Lathers' International Union claims control of the territory included in the United States and Canada, and this is subdivided for organization purposes into five districts—northern, eastern, southern, western, and Canadian.<sup>21</sup>

The Sheet Metal Workers' International Alliance was organized in 1888, with branches in Omaha, Peoria, Toledo,

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<sup>15</sup> Constitutions, 1897-1906. During the fall of 1913, after the above had been written, the Plumbers' Union announced that, in compliance with the order of the Federation, the Steam Fitters' Union had amalgamated with the Plumbers. While admitting that some of their local unions have gone over to the Plumbers, the Steam Fitters insist that their association is still maintaining a separate existence with about twenty-five local branches enrolled.

<sup>16</sup> Constitution, Laborers' International Protective Union, art. ii, sec. I.

<sup>17</sup> Constitution, 1907, art. i, sec. 49.

<sup>18</sup> Constitution, Chicago (n. d.), arts. i, ii.

<sup>19</sup> Constitution, 1906, By-laws, art. iii, sec. 3.

<sup>20</sup> Constitution, 1906, art. ii.

<sup>21</sup> Constitution, 1902, art. viii, sec. I.

Memphis, Kansas City, and one or two other cities;<sup>22</sup> but the territory over which the union has jurisdiction has extended so far that in 1903 President Gompers could write<sup>23</sup> that "the American Federation of Labor declares in the strongest terms that all work in North America . . . under the heading of sheet metal work . . . comes under the jurisdiction of the Amalgamated Sheet Metal Workers' International Association."

The Journeymen Stone Cutters' Association of North America illustrates in an interesting manner the extension of territorial jurisdiction on the part of national trade unions. Its constitution of 1854 provided for jurisdiction only over the District of Columbia, but by 1859 we find branches in Philadelphia, Cleveland, Hamilton (Ontario), Cincinnati, Baltimore, Albany, Detroit, St. Louis, and Buffalo.<sup>24</sup> These branches covered a wide area, and already in 1858 jurisdiction was claimed over the United States and Canada.<sup>25</sup> A further extension was indicated in 1891. At this time some members of the San Francisco branch went to Guatemala to work; when they tried afterwards to obtain clear cards from San Francisco, that local union attempted to charge them a foreign initiation fee. The executive board of the national union denied their right to do this, saying that "Guatemala is in North America, and this is in the jurisdiction of the General Union."<sup>26</sup>

It will be seen from the preceding description of the extent of territorial jurisdiction that the field of nearly all so-called national unions has gradually been extended beyond the national boundaries. That is, starting as organizations which claim jurisdiction only in the United States, the unions have very early established local branches in Canada, and then later in Central America, Porto Rico, the Hawaiian Islands, and other adjacent areas. In 1911 six-

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<sup>22</sup> Amalgamated Sheet Metal Workers' Journal, July, 1905, p. 241.

<sup>23</sup> *Ibid.*, August, 1903, p. 189.

<sup>24</sup> Stone Cutters' Journal, April, 1896, p. 2.

<sup>25</sup> Stone Cutters' Circular, June, 1858.

<sup>26</sup> *Ibid.*, Supplement, November, 1891, p. 2.

teen of the national building-trades unions out of a total of twenty-three had local unions in Canada, with a membership of thirty thousand—about one twentieth of their total membership.<sup>27</sup> The foreign membership in districts other than Canada is much smaller than this.

We must now consider more carefully what is implied when it is said that a national or central union has jurisdiction over a certain territory. There are two implications here: (1) that the union has the exclusive right to charter and affiliate local unions within this territory; and (2) that, besides having indirect control over its members through its control over its local unions, the national union has direct authority over them when they are outside of the jurisdiction of any of the branches and are yet within the territory of the national union.

All national unions have been created by the amalgamation or federation of independent local unions, but after a central organization has been effected the process is reversed, and local unions are then organized and chartered by the national union. The whole matter of affiliating local unions is in the hands of the national union, and it may revoke as well as grant charters.

The constitution of the United Association of Plumbers asserts the authority of the organization to make, amend, or repeal general laws and regulations, to decide finally all controversies arising within its jurisdiction, and to issue all charters to local unions. The rules of the Stone Cutters provide that seven members may form a local branch, and where seven are working together and holding cards of the national union they must organize a branch. Where there is no branch in existence, the first member who goes to work on the job must notify the central office, giving the names of all stone cutters in the town.<sup>28</sup> When trouble arose in 1891 between the independent stone cutters' union

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<sup>27</sup> Report on Labor Organization in Canada, 1911, published in 1912 by the Department of Labor, Ottawa, p. 10.

<sup>28</sup> Constitution, 1900, art. ix.



in Pittsburgh and the Uniontown branch of the national union over the question of establishing this local branch within the territory claimed by the Pittsburgh union, the national union asserted its right to organize branches anywhere within its jurisdiction, and denied the right of the Pittsburgh union to charter other local unions.<sup>29</sup>

The claim to the exclusive right to organize local unions within its territorial jurisdiction is illustrated by certain rules of the Granite Cutters. When members of that union secure work from an employer who has not previously maintained a union shop or in a locality in which no local union exists, they apply to the national secretary for a commission as shop steward for one of their number. The district or shop is then under his supervision as the representative of the national union. When a sufficient number of members is secured, a branch is formed and a charter is issued by the national union.<sup>30</sup> Sometimes a job employing a number of union granite cutters is located in a place where there is no union and where there will not be work for granite cutters except for a short time. On such occasions a shop steward is appointed for the job, and he is the direct representative of the national union.<sup>31</sup> Besides being the sole authority in granting charters, the national union has power to revoke them if the local union is delinquent in paying its dues or violates other national rules.<sup>32</sup> When a forfeiture of charter occurs, all the books and property of the branch revert to the national union.<sup>33</sup>

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<sup>29</sup> Stone Cutters' Circular, January, 1891, p. 1.

<sup>30</sup> Granite Cutters' Journal, September, 1902, p. 4.

<sup>31</sup> *Ibid.*, August, 1902, p. 4. The progression of a locality or of a non-union shop from an unorganized section of the jurisdiction of the national union to a definite and permanent part of the national union is shown in the following comment in the Journal by the secretary: "The Lebanon, N. H., job bids fair to be a permanent feature of that town, for the National Union Shop Steward District has developed into a branch, and a charter has been issued accordingly" (*ibid.*, November, 1902, p. 4).

<sup>32</sup> Constitution, 1897, sec. 201.

<sup>33</sup> Constitution, 1877, art. xxxiv.

The second phase of national territorial jurisdiction, that is to say, direct control over members in districts where no local unions exist, is developed chiefly through the recognition of members-at-large and by direct initiation into the national union. Primarily, national unions have jurisdiction over persons only indirectly; they have control over their local unions, and these in turn have direct jurisdiction over members. The national unions had originally no members except the persons who had been elected by the local unions as delegates to the national conventions.<sup>34</sup> The gradual development of the idea that the individual workman is a member of the national union has profoundly influenced the concept of national territorial jurisdiction. The national union is the only federated form of labor organization in the United States in which the members are the individual workmen. In the city federations, for instance, the members are only those persons who have been chosen as delegates by their respective unions.

In the convention of the Bricklayers in 1904 the matter of direct control over members in unorganized territory was discussed, and it was said that very often a local union suffers by reason of the competition of fellow-craftsmen in adjacent places in which there are not enough workmen to establish a subordinate union. The executive board was therefore authorized to initiate such men directly into the national union and to enroll them as members of the nearest local union.<sup>35</sup> The Hod Carriers also provide for membership-at-large under certain conditions. If a local union surrenders its charter, such of its members as wish to remain in good standing may get cards from the national secretary and may pay dues directly to the national office; if, however, they are working within ten miles of another local

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<sup>34</sup> The Hod Carriers and Building Laborers, even as late as 1911, regarded the International Union as composed only of the members of the branches who have been chosen as delegates to the national convention (Constitution, 1911, sec. 9, p. 9).

<sup>35</sup> The Bricklayer and Mason, March, 1904, p. 2; see also Proceedings, 1904, p. 161.

union, they must deposit their cards and work under its jurisdiction.<sup>36</sup> The constitution of the Slate and Tile Roofers declares that "any slate and tile roofer located in any locality where the requisite five men for the formation of a local union cannot be found, shall be eligible to a direct affiliation with this association."<sup>37</sup> The rules of the Sheet Metal Workers provide for membership-at-large "in localities where there is no local union, or where the jurisdiction of the nearest local union does not extend, or where there is one and not more than six sheet metal workers."<sup>38</sup>

Direct national jurisdiction over members appears in various forms in the Stone Cutters' Association. All members, even those at work outside of the jurisdiction of a local branch, must pay dues to the national union.<sup>39</sup> It has also been decided that in an election for officers of the national union a member who has a clear travelling card is entitled to a vote,<sup>40</sup> whether he is a member of the branch in whose jurisdiction he is working or not. Various methods of extension of direct control over members have been agitated. In 1897 a member of the executive board submitted to referendum a proposition to make a national rule covering all members at work in towns not in the jurisdiction of any branch;<sup>41</sup> a little later the suggestion was made that state conventions should be held which should make a scale of wages and hours to prevail all over the State, so that when a member of the union should work at any place in the State, whether in a branch or not, he would be compelled to work at the state scale.<sup>42</sup>

Another aspect of the problem of territorial jurisdiction which has given rise to innumerable union regulations and many controversies is the territorial jurisdiction of the local

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<sup>36</sup> Interview, General Secretary Persion, August 21, 1911.

<sup>37</sup> Constitution, 1906, art. v, secs. 1, 2.

<sup>38</sup> Constitution, 1909, art. vii, sec. 3.

<sup>39</sup> Stone Cutters' Circular, April, 1892, p. 4.

<sup>40</sup> Stone Cutters' Journal, April, 1894, p. 12.

<sup>41</sup> *Ibid.*, June, 1897, p. 13.

<sup>42</sup> *Ibid.*, March, 1899, p. 12.

union. In any labor union effective organization requires that provision be made to facilitate the transfer or circulation of its members. This applies with special force to many of the workmen in building trades, such as lathers, plasterers, structural iron workers, sheet metal workers, painters, and stone workers, who either move about from place to place to seek work or are employed by builders who take contracts in various places and carry their workmen with them.<sup>43</sup> Therefore, since members of different local unions are continually moving in and out of other branches, there must be a definite understanding as to how far the authority of each local union extends with respect to its neighbors, and how far with respect to the national union. We shall accordingly examine the extent of local jurisdiction in various unions, and then inquire as to the relationship between national and local jurisdiction.

What has been said with regard to the exclusive character of the jurisdiction of a national union applies with equal force, in a more limited sphere, to local union jurisdiction. When a local union of a particular trade claims control over certain territory, it is implied that it has the sole right to organize and to affiliate all persons practicing that trade within the special district.<sup>44</sup> Local territorial jurisdiction tends to expand, just as national jurisdiction tends to expand. This results from two causes: First, local unions, like all other organizations, tend to enlarge their sphere of influence; secondly, the expansion of the territory of a local union is frequently necessary in order that it may exercise jurisdiction over persons and work which by reason

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<sup>43</sup> A member of the branch of the Granite Cutters' Union at Salem, Massachusetts, suggested that a stone cutter ought to have his home on wheels, since ordinarily he cannot have work for more than three months at any one place (*Granite Cutters' Journal*, September, 1888, p. 7).

<sup>44</sup> When more than one branch of the same national union is established in the same territory, either a division is made as to the trades or crafts controlled, or they jointly exercise jurisdiction over the locality.



of their proximity act deterrently upon the efforts of the local union to improve the conditions of employment.<sup>45</sup>

The extent of local territorial jurisdiction may be conveniently discussed by a consideration of four groups of cases: (1) those in which the territory is definite and fixed; (2) those in which the extent is determined by circumstances; (3) those in which only one local union is permitted in a town; (4) those in which more than one branch may be established in the same territory.

(1) The attempt to fix definite limits to local jurisdiction takes in some unions the form of confining jurisdiction to the limits of the town or city in which the local union is established; in others a radius of a certain number of miles is assigned, and in still others the territory of each branch extends halfway to the surrounding branches. As will be seen, practice is by no means uniform even in the same union, for a national union may fix the territorial jurisdiction of certain local unions definitely by any one of these methods, while for others it may not establish definite limits, leaving the extent of jurisdiction to be determined merely by convenience or expediency.

The Slate and Tile Roofers provide as follows: "Each local branch shall have territorial jurisdiction over one-half the distance between itself and the next adjoining local union."<sup>46</sup> The constitution of the Wood, Wire and Metal Lathers contains a similar provision,<sup>47</sup> but in order to bring back into the national union a large number of seceding local unions in New York City, the convention decided in 1907 to give to one local union exclusive jurisdiction over metal lathing for a radius of twenty-five miles about New York, and to have the other local unions amalgamate with it.<sup>48</sup> A third method of establishing local

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<sup>45</sup> The local branch of the Bricklayers at Allentown advised the general office that it had extended its jurisdiction twenty miles to include territory in which bricklayers frequently worked below the Allentown scale (*The Bricklayer and Mason*, September, 1900, p. 8).

<sup>46</sup> Constitution, 1906, By-laws, art. ii, sec. 11.

<sup>47</sup> Constitution, 1911, art. i, sec. 4.

<sup>48</sup> Proceedings, 1907, p. 9.

boundaries was tried in this union when a number of unions formed the Mississippi Valley District Council.<sup>49</sup> This council then laid down the jurisdiction of each affiliated branch in the hope that this action would put an end to the frequent territorial disputes between the branches.

The Stone Cutters seek to set definite limits to local jurisdiction by registering the number of miles of radius which each union controls. The constitution of 1892 requires that "any union, on becoming a part of this association, shall define the limits of its jurisdiction, but in no case shall said jurisdiction exceed a radius of twenty-five miles."<sup>50</sup> During the following year the executive board agreed to grant charters to several new branches, but said that these would not be issued until the branches had announced their territorial jurisdiction.<sup>51</sup> Despite the constitutional pronouncement, many branches have been granted jurisdiction over a wider range than twenty-five miles. Many, of course, have been granted a smaller territory. Rockland, Ontario, for example, was granted a charter with jurisdiction over a radius of ten miles;<sup>52</sup> Albany asked for only six miles;<sup>53</sup> Springfield, Massachusetts, was given ten miles;<sup>54</sup> Seattle, Washington, was granted an extension to the twenty-five-mile radius;<sup>55</sup> Ottawa asked for only ten miles although the nearest local union was three hundred miles distant.<sup>56</sup> On the other hand, Norman, Ontario, applied for a charter giving control over a town one hundred and fifty miles away;<sup>57</sup> Portland, Oregon, was allowed to extend its jurisdiction to one hundred miles;<sup>58</sup> and the San Francisco

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<sup>49</sup> The Lather, April, 1906, p. 34.

<sup>50</sup> Constitution, 1892, By-laws, art. xii.

<sup>51</sup> Stone Cutters' Journal, June, 1893, p. 13.

<sup>52</sup> *Ibid.*, March, 1894, p. 8.

<sup>53</sup> *Ibid.*, August, 1893, p. 14.

<sup>54</sup> *Ibid.*, April, 1884, p. 10.

<sup>55</sup> *Ibid.*, June, 1893, p. 13.

<sup>56</sup> *Ibid.*, February, 1893, p. 13.

<sup>57</sup> *Ibid.*, May, 1894, p. 13.

<sup>58</sup> *Ibid.*, November, 1904, p. 3.

branch claimed control over Sacramento, one hundred and thirty-nine miles away.<sup>59</sup>

(2) Where the fixed rule for determining local territory is not adhered to, we have in effect the situation which we shall illustrate by our second class of cases, that is, those in which jurisdiction is not determined by a definite rule, but by circumstances and expediency. This seems to be the practice of the Hod Carriers and Building Laborers, for their constitution declares that the territory of each local union shall be that assigned by the national union.<sup>60</sup> Thus, during 1907 a member of the executive board was appointed to divide satisfactorily the territory between the Port Chester and the Mamaroneck local unions.<sup>61</sup>

The Bricklayers' plan of dealing with local jurisdiction is essentially of this nature. Each branch has the right to define its local jurisdiction, the only requirement being that a description of such territory shall be filed with the secretary of the national union, to be entered on his records.<sup>62</sup> In case of conflict or of application for the establishment of a new union, the executive board can alter the territorial jurisdiction of any local union. Because it seemed expedient at the time, the executive board granted permission to the four unions located in the Wyoming Valley to extend their jurisdiction, reserving, however, the right to establish other local unions within these lines at any time that it might be thought desirable.<sup>63</sup> It has been the policy of the union to encourage the local unions to assume a wide jurisdiction, but not to allow this to interfere with the establishment of new unions. In a resolution adopted at the convention of 1884, branches were instructed to extend their jurisdiction as far as might be necessary for their proper protection.<sup>64</sup> When a local union in Wellsville,

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<sup>59</sup> Stone Cutters' Circular, January, 1892, p. 2.

<sup>60</sup> Constitution for Local Unions, 1903, art. i, sec. 2.

<sup>61</sup> Official Journal [Hod Carriers and Building Laborers], November, 1907, p. 32.

<sup>62</sup> Constitution, 1897, art. xvi, sec. 1.

<sup>63</sup> Reports of Officers, December, 1901, p. 25 ff.

<sup>64</sup> Proceedings, 1884, p. 16.

New York, applied for a charter, the application was opposed by the Olean branch, forty miles distant, which claimed jurisdiction. The charter was granted by the executive board because they regarded the distance as too great to permit of proper control by the local union at Olean.<sup>65</sup>

In one of his reports for 1906 Secretary Dobson called attention to the constitutional requirement that each branch must specify its territorial jurisdiction in writing at the office of the national secretary. He said that out of nine hundred unions only about two hundred had complied with this law, and that as a result there was constant friction. When new local unions sought a charter in the vicinity of existing unions, the old unions claimed that the town was in their jurisdiction, despite the fact that in most cases where a claim was filed it was only for the city or town in which the branch was located.<sup>66</sup>

As the following examples will show, there is no uniformity in the territorial jurisdiction claimed by local bricklayers' unions. In 1891 the branch at Peoria, Illinois, said that its territory extended for a mile outside of the city limits;<sup>67</sup> the stone masons' union in Washington, Pennsylvania, in the same year claimed control over the entire county;<sup>68</sup> the local union at Hancock, Michigan, announced in 1901 that its jurisdiction covered an area six miles square;<sup>69</sup> and the union in Peterboro, Ontario, described its territory in 1903 as measured by a twenty-mile radius.<sup>70</sup> A case appealed to the convention of 1891 shows the strictness with which local unions seek to draw their lines of jurisdiction when their interests appear to be threatened. The interests involved in this particular case were the initiation fees and the branch dues. A railroad tunnel was

<sup>65</sup> Reports of Officers, December, 1905, p. 75.

<sup>66</sup> Semi-Annual Report of the Secretary, June, 1906, p. 8.

<sup>67</sup> Proceedings, 1891, p. 75.

<sup>68</sup> Proceedings, 1891, p. 74.

<sup>69</sup> The Bricklayer and Mason, December, 1901, p. 9.

<sup>70</sup> Report of the President, 1903, p. 327.



being built, two hundred and sixty-seven feet of which were in the jurisdiction of one local union and four hundred and twenty-three feet in the territory of another union. The secretary of one local union claimed that the boundary line followed the same course under the earth as above it, and asked payment from the other union to the amount of the initiation fees and dues collected from those members who worked in the tunnel beyond the line of jurisdiction, besides payment for the cost and time of having a survey made to determine the line.<sup>71</sup>

In the Sheet Metal Workers' Union, branches are enabled to extend their jurisdiction wherever it seems necessary by installing preceptories. It is provided in the constitution that in towns where no local union exists the way may be paved for unionism by establishing preceptories, such preceptories being under the control of the nearest local union, and being usually organized by the nearest one.<sup>72</sup> Members of these preceptories have almost the same status as members of the union, and a local union may have a number of preceptories attached to it.

As has been noted above, the Stone Cutters do not adhere closely to their nominal limit of twenty-five miles for local jurisdiction. A member of the Stone Cutters, who was working in Texas, suggested in 1894 that the entire State be divided among the three branches then in existence—Dallas, Fort Worth, and San Antonio—in order that all the small towns in the State might be under the jurisdiction of one of these local associations.<sup>73</sup> Expediency, and not the twenty-five-mile limit, determines the extent of local jurisdiction of stone cutters' local unions in the Western States, where the distances are so great and the local unions so few that it is necessary for the branches to assume jurisdiction over a wide territory in order to protect the trade.<sup>74</sup> With this idea in view, a member of the

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<sup>71</sup> Proceedings, 1891, p. 70.

<sup>72</sup> Constitution, 1896, art. vii, sec. 1.

<sup>73</sup> Stone Cutters' Journal, May, 1894, p. 6.

<sup>74</sup> Interview, Secretary McHugh, June 17, 1911.

executive board recommended that the territorial jurisdiction of a local union be left in its own hands, because it is the best judge of its own needs.<sup>75</sup>

(3) Nearly all the building-trades unions have a rule that when one local union has been established in a district no other can be organized there without the consent of the first, but, consent being given, most of them allow more than one branch in a town. There are certain unions, however, which do not permit the establishment of more than one local union in a community. In the earlier history of the Lathers the executive board decided against issuing two charters for local branches in the same city, since they thought it might lead to petty quarrels over jurisdiction.<sup>76</sup> In their more recent regulations, while still retaining the general prohibition of the organization of any local union within the territory of one already established, the proviso is added that if in the judgment of the executive board conditions warrant such action, a new local union may be chartered.<sup>77</sup>

The Granite Cutters do not permit more than one local union in any one branch of the trade to be established in a city. There may be one branch composed exclusively of granite cutters and one branch composed of blue-stone cutters, or there may be a single branch of granite cutters and the other divisions of the trade.<sup>78</sup> The Kings County branch, which was formed in 1891 by the consolidation of the Cypress Hills and Brooklyn local unions, was a result of the conviction that it would be more satisfactory to have only one local union in a city.<sup>79</sup>

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<sup>75</sup> Stone Cutters' Journal, Supplement, February, 1900, p. 11. The Granite Cutters do not fix any limit to the territory over which the jurisdiction of a branch may extend. The New York local union stated that its jurisdiction covered an area greater than that of any two other branches in the association (Granite Cutters' Journal, March, 1906, p. 7).

<sup>76</sup> The Lather, May, 1902, p. 4.

<sup>77</sup> Constitution, 1907, art. viii, sec. 16.

<sup>78</sup> Constitution, 1909, sec. 44.

<sup>79</sup> Granite Cutters' Journal, August, 1891, p. 4.

(4) As has been said, most of the national unions allow more than one local union in a locality. The United Brotherhood of Carpenters permits any number of local unions to be organized as long as no reasonable objections are offered by the local unions already in existence. When there are more than two local unions in a town they must form a district council,<sup>80</sup> through which unity of action is effected. The Sheet Metal Workers allow a local union to be established for each branch of the trade in cities of two hundred and fifty thousand or more inhabitants, provided no objection is made by the local unions already in the field.<sup>81</sup>

The Hod Carriers allow more than one local union in the same territory, and the constitution for 1905 declared that "whenever two or more local unions exist in one city or adjoining cities within ten miles an application must be made to the General Secretary-Treasurer for a charter for a district council, which shall have jurisdiction as to all matters of common interest to the unions in the council."<sup>82</sup> Sometimes, when more than one branch of this union exists in a city, they are distinguished by the kind of work done. Thus Minneapolis had a branch of plasterers' laborers and one of bricklayers' laborers.<sup>83</sup> Again, the division is sometimes made on the basis of nationality, though the president in his report to the convention in 1904 said that he had refused a charter to a laborers' union in Omaha, Nebraska, composed exclusively of members of one nationality, because he thought it bad policy to have unions of this character.<sup>84</sup> On another occasion, however, the executive board decided that in Utica all Italian members of the union must belong to Local Union No. 135, while other members must

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<sup>80</sup> Constitution, 1907, sec. 52 ff.

<sup>81</sup> Constitution, 1897, art. iii, sec. 3.

<sup>82</sup> Constitution, 1905, art. ix, sec. 1.

<sup>83</sup> Report of Executive Board, in *Official Journal* [Hod Carriers and Building Laborers], February, 1906, p. 81.

<sup>84</sup> Proceedings, 1904, p. 15.

enroll in Local Union No. 82, no Italians being permitted to join the latter.<sup>85</sup>

The Bricklayers have uniformly refused to allow local unions to be divided on the basis of nationality. At one time the Italian members of the various branches in New York sought a separate charter for an Italian local union,<sup>86</sup> and at another time the German bricklayers in New York asked for a charter for a German branch,<sup>87</sup> but both requests were refused. The union, however, permits more than one local branch to exist in the same territory, but these must form a local executive committee which has charge of working conditions in the locality.<sup>88</sup> If the unions cannot agree, the national union reserves the right to consolidate all the branches.<sup>89</sup> Thus, some years ago, because of unsatisfactory conditions due to the existence of a number of subordinate unions in the same territory, the executive board ordered the surrender of all the charters in New York, and then apportioned the territory, granting charters to one union in Manhattan, one in the Bronx, and four in Brooklyn and Long Island.<sup>90</sup> That there is a strong probability of friction when there are two or more local unions within the limits of the same city has been shown repeatedly.<sup>91</sup> The branches may not agree as to wages, hours, and working rules; they may attempt to fine or otherwise discipline members of the other branches; they may have trouble over the exchange of cards; the district committee appointed by all the unions may not be able to determine matters satisfactorily to all the unions; or, finally, the two-thirds vote ordinarily required in cases of disputes with employers may not be obtained. The result may be a constant struggle for

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<sup>85</sup> Report of Executive Board, in *Official Journal* [Hod Carriers and Building Laborers], November, 1907, p. 98.

<sup>86</sup> Proceedings, 1904, p. 140.

<sup>87</sup> *The Bricklayer and Mason*, December, 1910, p. 1.

<sup>88</sup> Constitution, 1887, art. xii, sec. 8.

<sup>89</sup> Constitution, 1906, art. xix, sec. 3.

<sup>90</sup> *The Bricklayer and Mason*, December, 1910, p. 1.

<sup>91</sup> Proceedings, 1885, p. 53.



supremacy and much ill-feeling between the large and the small local unions. Some of the branches of the Bricklayers in New York have frequently petitioned the convention to consolidate all the branches into a single local union.<sup>92</sup>

We have seen that a national union regards its control over territory within its jurisdiction as exclusive. In the same way each local union or, where there is more than one local union in a territory, each district council claims exclusive authority as against all other local unions over the territory within its jurisdiction. The Plumbers declare that any local branch of the association on strike is empowered to reject all travelling cards of members of the organization who may wish to work in its jurisdiction.<sup>93</sup> All the unions provide, like the Hod Carriers, that "any member locating in the jurisdiction of a sister branch shall be governed by the rules of that local union."<sup>94</sup> That a local branch is regarded as having, as it were, a vested interest in its territory is shown by a provision in the Bricklayers' constitution which declares that if a member of one branch works in the jurisdiction of another branch when the latter is on strike, he shall be fined by his own branch and the money thus collected shall be turned over to the injured local union.<sup>95</sup>

The Composition Roofers prohibit any of their local unions from making agreements with any associations or parties to cover the territory of another branch union.<sup>96</sup> The practice of the Wood, Wire and Metal Lathers well illustrates the exclusive character of local territorial jurisdiction. If a member joins a local union in one town and, after paying only a part of his initiation fee, goes into the jurisdiction of another local union, he must pay the balance

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<sup>92</sup> Proceedings, 1904, p. 124.

<sup>93</sup> Constitution, 1910, sec. 177.

<sup>94</sup> Constitution, 1909, sec. 89.

<sup>95</sup> Constitution, 1882, art. xiv, sec. 7.

<sup>96</sup> Constitution, 1906, art. xviii, sec. 7.

of his initiation fee to the latter union, which retains it. The union which he joined originally is no longer regarded as having any authority over him.<sup>97</sup>

A branch of the Stone Cutters is held responsible within its territory for any violations of the rules of the national union. Thus a charge was brought against the Nashville branch because some of its members violated the national rule in regard to piece work.<sup>98</sup> In one of their earliest constitutions the Granite Cutters provided against any interference with the authority of local unions over their members in the following rule: "When any branch imposes a fine or penalty on one of its members for violation of local or general laws, no other branch shall have a right to alter or mitigate such decision."<sup>99</sup> In Newark a member of the union was fined twenty-five dollars for introducing a Quincy bill of prices into a yard, for this bill was lower than the local one, and the Newark local union had exclusive jurisdiction over work and wages in that territory.<sup>100</sup>

Some of the national unions have hundreds of local unions scattered throughout the United States and Canada. In some cases, as has been noted, their territorial jurisdiction is fixed by definite rule, in others by expediency. In some cases a number of branches are located within a fixed territory, in others only one. Under these circumstances many perplexing problems arise in the relationship between local unions. The formation of district councils or central committees in cities or closely adjoining districts having more than two local unions has in a great measure reduced

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<sup>97</sup> Constitution, 1903, art. ix, sec. 4.

<sup>98</sup> Stone Cutters' Journal, January, 1895, p. 11.

<sup>99</sup> Constitution, 1877, art. xxxv. The secretary of the Kings County branch of the Granite Cutters said: "Our policy in the future, as in the past, will be non-intervention in the local affairs of other branches; what we concede to others we demand for ourselves. Any member coming here to work will have to deposit his card with this branch, not as it has been in the past with some, leave it with a neighboring branch" (Granite Cutters' Journal, August, 1891, p. 4).

<sup>100</sup> Granite Cutters' Journal, December, 1882, p. 5.

friction in such cases. In order to get the local unions into the district councils, the convention of 1904 of the United Brotherhood of Carpenters authorized its president to compel the affiliation of local unions with the district council under which he thinks they ought to be.<sup>101</sup> The Plumbers provide for the creation of state and interstate associations when desired by the local branches concerned, and these associations try to settle controversies arising between their affiliated local unions.<sup>102</sup>

The Bricklayers have had a number of conflicts between their local unions, since they frequently have in the same community branches whose members do either bricklaying, stonemasonry, or plastering exclusively. It has been the practice to let each branch regulate conditions in its own line of work. Frequently the masons have complained that the bricklayers of their own national union not only do not help them to enforce their rules, but even work on jobs on which the stone work is being done by non-union stonemasons.<sup>103</sup> Such a charge, for instance, was made by Local Union No. 30 of the stonemasons in New York. The executive board of the national union in conference with the subcontractors on the New York Rapid Transit Tunnel drew up a working agreement which settled disputes that had existed for almost a year between the bricklaying and stonemasonry branches.<sup>104</sup>

Another form of dispute arises from controversy over the right to collect dues from members of local unions who are temporarily working in another jurisdiction. In the convention of 1889 the Cohoes branch of the Bricklayers filed a protest against the Troy local union because members of the latter continually trespassed upon the territory of the former and refused to deposit working cards or pay dues to the Cohoes union.<sup>105</sup> An unusual arrangement was made

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<sup>101</sup> The Carpenter, March, 1905, p. 10.

<sup>102</sup> Constitution, 1897, art. ix.

<sup>103</sup> Proceedings, 1902, p. 79.

<sup>104</sup> The Bricklayer and Mason, February, 1902, p. 3.

<sup>105</sup> Proceedings, 1889, p. 38.



by the Baltimore and Washington local unions of the Slate and Tile Roofers. The employers in these two cities often take their men from the one city to the other when they have a contract, and the men did not wish to be continually transferring their membership from one local union to the other. Hence it was agreed that the territory of the two local unions should be common to both,<sup>106</sup> but this arrangement did not work satisfactorily and was discontinued. As a result of frequent disputes caused by members of the New York local unions of the Composition Roofers working in the territory of the Newark local union without transfer cards, it was decided at a recent convention<sup>107</sup> that any member working in the jurisdiction of another union without a transfer card should be fined, and such fine be given to the injured local branch.

Like all the other building-trades unions, the Sheet Metal Workers require that when a member of one local union wishes to go to work in the territory of another he must get a travelling card from his local branch and deposit it with the branch in whose jurisdiction he is to work.<sup>108</sup> Recently the general organizer said in his report that he found a good deal of dissatisfaction among the sheet metal workers in Jersey City because the New York branch was overrunning their territory.<sup>109</sup> The same organizer was also called upon to adjust a conflict between the local unions in Norfolk and Newport News over the question as to which should have jurisdiction over the work on the Jamestown Exposition grounds, midway between the two towns.<sup>110</sup>

The Stone Cutters have had many controversies between the branches because contractors made a practice of having the stone cut by the local unions which had the lower wage

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<sup>106</sup> Proceedings, 1904, pp. 10, 11.

<sup>107</sup> MS. Proceedings of Fifth Annual Convention of International Brotherhood of Composition Roofers, 1911.

<sup>108</sup> Constitution, 1901, art. xi, sec. 1.

<sup>109</sup> Amalgamated Sheet Metal Workers' Journal, October, 1909, p. 410.

<sup>110</sup> *Ibid.*, April, 1907, p. 126.

scale and then shipping the finished product wherever they wished to use it. A general rule was enacted by the union forbidding the transportation of cut stone from one place to another, unless wages and hours in the two places were equal.<sup>111</sup> Where two local unions are close together and their wage scales are very different, conflict often arises between them because the branch with the higher wage has difficulty in maintaining its scale. Thus, the executive board of the Stone Cutters threatened to revoke the charter of the local union at Nelson, Georgia, unless it should adopt the same scale and working rules as were in force at Tate, Georgia.<sup>112</sup>

As has been said before, the national unions grew out of a combination of a few local unions. Once formed, the national union rapidly gains supremacy, and with this tendency toward centralization of power the problem of branch jurisdiction becomes less important, for matters of general interest are taken more and more under the supervision of the national body. It will therefore be interesting at this point to describe briefly the division of powers between the national union and the local union, although strictly speaking such a discussion falls under the head of government.

As a general proposition it is safe to say with respect to all the building trades, as the Hod Carriers do in their constitution of 1907,<sup>113</sup> that "the International Union has supreme ruling power over all local unions," and in matters which concern the general interests of the union the local unions are subordinate to the national bodies. The Bricklayers, in outlining the jurisdiction of state associations or provincial conferences, say:<sup>114</sup> "All differences with em-

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<sup>111</sup> Constitution, 1900, art. xii. The secretary of one of the local branches of the Granite Cutters wrote in 1891 that the jurisdiction relations between the local unions were not satisfactory, inasmuch as employers were able to send their granite out of their own town and have it cut in the jurisdiction of a local union whose wage scale was lower (*Granite Cutters' Journal*, September, 1891, p. 5).

<sup>112</sup> *Stone Cutters' Journal*, December, 1892, p. 10.

<sup>113</sup> Constitution, 1907, art. i, sec. 9.

<sup>114</sup> Constitution, 1908, art. xvii, sec. 10.

ployers, 'unfair,' appointment of deputies, grievances relating to strikes and lockouts, judicial appeals and grievances between members of unions in different states, working codes, agreements with employers and constitutions must be submitted to the International Union." In December, 1905, the Bricklayers suspended thirteen of their most powerful local branches in New York City for refusing to obey the national union rule in regard to fireproofing. A few of the branches obeyed the orders, and their charters were retained. The issue as to the supremacy of the national or the local unions was clearly marked, the New York unions claiming that the fireproofing matter was one of purely local concern, and that the national union had no right to dictate in the drawing up of their agreements or contracts.<sup>115</sup>

The Granite Cutters' constitution declares that "all branches shall have the power to make their local laws, providing they do not conflict with the constitution and by-laws of the national union."<sup>116</sup> Within a minimum and maximum limit, local unions of granite cutters have power to fix their initiation fees.<sup>117</sup> In their apprenticeship regulations the successive constitutions of the Granite Cutters show the widening of national jurisdiction at the expense of that of the local unions. The constitution of 1897 declares that both the number of apprentices and the term of apprenticeship shall be regulated by the branches,<sup>118</sup> but the constitution of 1905 fixes the maximum number that local unions may permit to learn the trade and establishes a definite term of apprenticeship.<sup>119</sup> While bills of prices are drawn up by each local union or state association, they must

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<sup>115</sup> The Bricklayer and Mason, December, 1905, p. 3. One of the earliest constitutions of the Bricklayers declared that the national union was the supreme head of all the local unions, and that the by-laws of the local unions must be submitted to the president of the national union before adoption (Constitution, 1867, art. xiii, sec. 4).

<sup>116</sup> Constitution, 1888, art. xxix, p. 28.

<sup>117</sup> Constitution, 1888, secs. 1, 2.

<sup>118</sup> Constitution, 1897, sec. 132, p. 33.

<sup>119</sup> Constitution, 1905, sec. 143, p. 48.

be approved by the national union before they can become effective.<sup>120</sup> All the funds collected by the local unions of granite cutters must be kept in the name of the national union,<sup>121</sup> and the executive committee of the national union may investigate the books or the condition of any branch at any time it desires.<sup>122</sup> The local unions of the Granite Cutters may not strike without permission from the national union, and even after having obtained this consent, they may be ordered back to work at the discretion of the national union if its decision be supported by the votes of its members.<sup>123</sup> According to the constitution of 1909, branches cannot make any binding local rules unless they are first approved by the national union.<sup>124</sup> Finally, it has been declared that at meetings of local unions national union business must take precedence over all local business.<sup>125</sup>

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<sup>120</sup> Constitution, 1896, art. xii, sec. 2.

<sup>121</sup> Constitution, 1896, art. xiii, sec. 1.

<sup>122</sup> Constitution, 1909, sec. 7.

<sup>123</sup> Constitution, 1880, art. xiii.

<sup>124</sup> Constitution, 1909, sec. 140.

<sup>125</sup> Constitution, 1877, art. xxv.



## CHAPTER II

### TRADE JURISDICTION

Trade jurisdiction has been defined as the field of labor over which a union claims exclusive control. It is the complement of territorial jurisdiction; that is to say, the trade jurisdiction of a union means that work over which the union claims authority within a given territory, and conversely territorial jurisdiction implies control of a certain extent of country with respect to specified trades or crafts. In the preceding chapter we have sought to analyze the concept of territorial jurisdiction, as used by trade unions, and to ascertain the underlying principles which determine the extent and control of the territory of a union. Here an endeavor will be made to set forth the considerations involved in the claim of a union to a trade, pointing out upon what grounds such claims are based.

This study will make no attempt to list the complete jurisdictional claims of any union, for this detailed information can readily be obtained elsewhere, and even if such claims were to be enumerated, they are changing so rapidly and continuously that by the time the catalogue of jurisdiction had been made it would be incomplete and inexact. If the purpose of this study is accomplished, certain criteria will have been obtained by which, given any piece of work, we can determine what unions may be expected to lay claim to it. As this statement intimates, several unions may assert jurisdiction over the same class of work, each, of course, usually having some justification for its claim. The result is a jurisdictional dispute. But in the present chapter the matter will not be pursued so far as that; the concern here is with the grounds upon which these claims are justified, reserving for later treatment a more detailed study of the actual controversies arising from the claims.

The essence of jurisdiction is exclusiveness. To say that

a trade or craft is controlled by several distinct organizations would be meaningless and would involve an incorrect use of the word "jurisdiction." The mere fact that labor organizations specify the work over which they claim control is evidence that such control is regarded as exclusive, for if this were not the case and the work were open indifferently to all, there would be no need to register or to specify the work which a union claimed the right to do. The "trade union" or "craft union" claims for its members the exclusive right to engage in a particular trade or group of closely allied trades. In the industrial unions, such as the Mine Workers or the Brewery Workmen, this idea of the exclusiveness of jurisdiction persists. There is simply an enlargement of the unit or field over which the exclusive authority is asserted. The Mine Workers, instead of claiming control over a trade, declare that their jurisdiction covers the whole industry of mining, and the same is true of the Brewery Workmen with regard to the brewing industry.<sup>1</sup>

The "closed union" rests its case upon the assumption that the union has an exclusive right to the trade, and can therefore determine under what conditions outsiders may be admitted to the work; or can exclude them entirely. The "closed shop" is the doctrine of the right to a trade pushed to the extent of claiming for members of the union the exclusive right to the work that is to be done in a shop or plant. These are both forms of pressure designed to make

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<sup>1</sup> As illustrating the conception which unions have of the exclusiveness of jurisdiction, the following quotations are apropos: "The Building Trades Council controls the entire building industry, from the foundation to the roof, including the repairs and alterations of the same. It will tolerate no interference from any other body of miscellaneous trades or callings. . . . The Building Trades Council can not and will not divide responsibility with any central body made up of diverse trades and callings" (Preamble, Constitution, Building Trades Council, 1902). "Recognizing the justice of trade jurisdiction, we aim to guarantee to the various branches of the building industry control of such work as rightfully belongs to them, and to which they are justly entitled" (Constitution, Building Trades Department, 1909, sec. 3, p. 3).

the control of the unions over certain work more complete, and they presuppose the claim of jurisdiction over such work. The concern here, however, is not with the manifestations of the idea of jurisdiction in the form of the "closed union" or the "closed shop." These phases of the subject have been exhaustively treated by other writers.<sup>2</sup> We deal here only with the right of jurisdiction on the part of one trade union against another, that is, the interunion aspect of jurisdiction. It is in this sense that the term "jurisdiction" is commonly used by trade unionists.

The claim on the part of the union to exclusive authority over its trade or industry, more than any other feature of trade unionism, arouses opposition among those who are not members of labor organizations. This state of mind finds expression in such phrases as "the tyranny of labor unions;" in the criticism that "the unions take away individual liberty;" and in the objection that "they have no right to prevent or to interfere with the work of the non-unionist." This interference with individual liberty undoubtedly exists, and whether it can be defended as a matter of social justice is a question for the philosopher to determine; as a matter of union policy and looked at from the union point of view it is defended on the grounds of utility and expediency. It is not our purpose here to go into the argument at length or to attempt to justify trade unionism as opposed to individualism, but we wish to point out the grounds upon which each union claims exclusive jurisdiction over its particular trade.

The idea of exclusive control probably goes back historically to the English guilds or trade societies, each of which had a legalized monopoly of its particular craft. The modern labor organization began, as has been said in another connection, as a group of men who were for the

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<sup>2</sup> For discussions of the "closed union" and the "closed shop," see F. E. Wolfe, "Admission to American Trade Unions," in Johns Hopkins University Studies, ser. xxx, no. 3, and F. T. Stockton, "The Closed Shop in American Trade Unions," in Johns Hopkins University Studies, ser. xxix, no. 3.



most part engaged in the same kind of work, but whose association did not claim exclusive control over such work. However, men who had devoted years of time and effort to acquiring a knowledge of a particular trade felt that they had a property right in the trade, and gradually the unions, with increase in membership and growth of power, came to feel that they represented the sum of these individual interests, and that they were entitled to full control of the craft. A corollary of this proposition was the principle that no other association would be permitted in the trade, or, in other words, that each union was to have exclusive jurisdiction.

As against individuals, the claim of exclusive jurisdiction takes the form that every person engaged in a certain trade who is not a member of the union is, from the point of view of the union, trespassing on its jurisdiction, and so far as it is within its power the union will force such individuals to join the union or leave the trade. Obviously this pressure will be little felt by non-unionists in a district or on a piece of work where the union is weaker in numbers or strategic position than are those outside the organization. Where the union is in control and its pressure is severely felt, the non-unionists are in the minority either in numbers or influence, and hence, it is argued, have no valid reason for complaint when their freedom of action is restrained, since the exercise of that freedom might jeopardize the success of the union, which represents the majority. The situation is compared to that of a city which, entirely setting aside individual rights or desires, might enforce vaccination or other prophylactic or sanitary measures for the safety of the majority. The greatest good of the greatest number is the justification offered for the claim by a union to exclusive jurisdiction over a specified trade.

This priority of right or claim against non-unionists is also asserted against members of other unions, for these are non-unionists so far as the particular trade is concerned. Indeed, the feeling is often more bitter against infringe-

ments by other union men than against those by non-unionists, and reprisal is usually more certain and severe.

But to make effective any form of restraint against encroachment requires action by a group of men. As long as men worked as individuals they could do little, and, having merely their individual interests to consider, they would be inclined to try to do little to prevent workmen in another trade from trespassing upon what they regarded as their particular work. With the growth of unionism in a craft and the development of a common interest there comes not only the feeling that the union is charged with the task of protecting the interests of its individual members, but also the power in many cases to do so. This is one of the reasons why jurisdictional disputes tend to increase, one might say, in geometrical progression with the increase in the number and strength of the unions.

It becomes necessary, then, when a union is organized, to specify the work over which it claims jurisdiction for the twofold purpose of attracting into its association all those engaged in that line of work, and at the same time of warning members of other unions not to infringe upon this field. On account of the rapid changes in the methods of work, more extensive use of machinery, the introduction of new forms of the division of labor, the use of new materials,<sup>3</sup>

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<sup>3</sup> In a prospectus of the Building Trades Department, Secretary Spencer said: "Demand for cheap labor has transformed the building trade from its old line of construction and compelled the organization of the Building Trades Department. The inventive mind of man is so specializing the work upon the building that the basic mechanic of a few years ago represents the lowest per cent. of labor on the structure. The architect and contractor today are steadily seeking to lower the cost of the building by the employment of cheaper men, and to this end they are effacing the skilled portions of every trade by the substitution of materials, the construction and installation of which can be performed by men of scarcely any training. Naturally the heirs of building specialties and tributary trades are those men of the primary or basic trades that are intended to be displaced by the employment of a specialty, but heretofore, by reason of a want of understanding, the building trades

and the increasing number of unions, trade lines have become so intertwined that it grows each year increasingly necessary for each union to specify clearly its jurisdiction claims. These claims are also continually becoming more definite and detailed, as can be seen by comparing the work claimed to be under the jurisdiction of a union in the early history of the organization with that listed more recently.

The United Brotherhood of Carpenters and Joiners furnishes a good example. During the first few years of its existence no specific claim to jurisdiction was made except such as was implied in the title of the union, it being assumed that every person knew what work belonged to the carpenter and joiner. In 1886,<sup>4</sup> five years after its organization, we have the earliest attempt of this union to catalogue its work, in the following words: "Those persons are eligible to membership, who are competent carpenters and joiners, engaged at wood work; and also any stair builder, millwright, planing mill bench-hand, or any cabinet maker engaged at carpenter work, or any carpenter running wood working machinery shall be eligible." If one compares this general statement as to jurisdiction with any of the jurisdiction claims made by this union during the past two or three years, which are too long to be quoted here (one section, that defining the work of the millwrights, requiring about six hundred words<sup>5</sup>), he will get an idea of the detail and particularity with which trade jurisdiction is now expressed.

While the increase in the number and in the strength of

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have countenanced the adoption of these specialties to the extent that the members of the various unions are gradually being displaced by younger and less skilled mechanics. Acting concertedly, further trade disintegration can be prevented, since surely the right of the affected workmen to be consulted as to the division of the main or basic trades into subordinate specialties can not be gainsaid, or their efforts to reclaim such specialties denied."

<sup>4</sup> Constitution, 1886, art. vi, secs. 1, 2.

<sup>5</sup> Folder issued by United Brotherhood of Carpenters and Joiners, describing the jurisdiction claims of the millwrights affiliated with them.

national trade unions has increased the difficulty of defining jurisdiction and has made the controversies arising over jurisdiction more serious, inasmuch as they affect large bodies of men throughout the country, the formation and extension of national unions tends also to decrease the number of disputes, since it brings about greater clearness and definiteness in the registry of jurisdiction. Obviously the first step toward preventing overlapping of trades is to describe trade boundaries so clearly that all may know them. The second step is to obtain uniformity in these claims. As long as each local union had power to lay down its own lines of demarcation there was bound to be uncertainty and confusion as to just what work was included in a certain trade.<sup>6</sup> The early history of most of the building-trades unions shows that to a large extent the determination of the work belonging to the trade was left to the local unions, but the strengthening of the central union at the expense of the local unions has resulted now in the general practice of having a single statement of jurisdiction emanating from the national union which is binding upon all its local unions.

The history of the Bricklayers offers illustrations of the differences likely to exist when claims to work are made separately by the local unions. The national union for many years contented itself with laying down a few general principles of trade jurisdiction broadly defining the lowest limit of jurisdiction, and permitted the various local unions to determine details and larger claims as to work. As a result we find the Paterson branch describing bricklayers' work thus:<sup>7</sup> "All fireproofing, cutting, fitting and setting of

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<sup>6</sup> The National Building Trades Council sought to obtain a clear statement of jurisdiction by the following provision: "All organizations affiliated with any local Building Trades Council shall plainly and satisfactorily define the class of work they claim, and no trade will be permitted to do the work pertaining to another. Each trade will be obliged to classify the work claimed, and file same with the secretary of the local building trades council" (Constitution, 1900, art. iv, sec. 7).

<sup>7</sup> The Bricklayer and Mason, April, 1902, p. 3.



terra cotta and cutting of brick work and mason work," while the Philadelphia local union enumerated as its jurisdiction "the cutting out and pointing of all brick work, the cutting of all joist holes, chases, etc., fireproofing, block-arching, the cutting, setting and fitting of all terra cotta and rock face brick when cut on the premises, and the backing up of same (except when backed with stonemasonry) and the setting of cut stone trimmings, such as sills, beads and blocks that do not require cutting and fitting, and can be carried by two men." Some local unions did pointing and cleaning of brick walls, while others refused to do this work. In St. Louis this refusal led to the organization of the Tuck Pointers' Union, and caused the national union a good deal of trouble that could have been avoided if there had been a complete statement of jurisdiction by the national union such as it made later.

President Huber, of the United Brotherhood of Carpenters, in his report to the convention of 1904, said of the difficulty with the Amalgamated Wood Workers in regard to the mill men, over whom both unions claimed jurisdiction: "This mill question is one of the most knotty and intricate problems that confront our Brotherhood today. . . . In many localities we find that the outside carpenters are heartily in favor of lending a helping hand to bring about the desired results [the unionizing of the mill men]; in other localities the outside carpenters have no use whatever for the man working in the mills."<sup>8</sup>

In the early history of the Steam Fitters a good deal of local variation as to what constituted the work of the trade grew up because the union left the definition of steam fitters' work entirely to the local unions.<sup>9</sup> The Stone Cutters, when they sought to draw up a national schedule of jurisdiction, experienced considerable difficulty in having it accepted because of the lack of uniformity in the practice of its local unions.<sup>10</sup> A member of the branch at Uniontown,

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<sup>8</sup> Proceedings, 1904, p. 37.

<sup>9</sup> Proceedings, in *The Steam Fitter*, September, 1899, p. 5.

<sup>10</sup> Stone Cutters' Circular, January, 1891, p. 2.

writing to the Stone Cutters' Circular in 1892, commented on a dispute at East Saginaw over the setting of cut stone, and said that stone cutters in general did not claim this work and that it belonged to the masons.<sup>11</sup> On the other hand the local union at Sault Ste. Marie reported that its members were working on a building on which they were cutting and setting the stone.<sup>12</sup> Most of the Stone Cutters' local unions claim only exterior stone work, but the branch at Knoxville, Tennessee, reported in 1898 that it did both exterior and interior work.<sup>13</sup> The union at Cobleskill, New York, reported in 1902 that it was working on a hard gray limestone which, when shipped to New York City, was controlled by the Granite Cutters.<sup>14</sup>

The chief interest, however, of local trade jurisdiction at the present time is found in those national unions, such as the Bricklayers, Marble Workers, Carpenters, and Sheet Metal Workers, which have several more or less distinct crafts within their organization. Although stonemasons and bricklayers are organized in the same national union, they control distinct trades, and a local union chartered exclusively for one trade has no jurisdiction over workmen engaged in the other branch of work. Thus the constitution of 1891 provided that "it shall not be obligatory upon bricklayers to deposit a travelling card in a local union composed exclusively of stonemasons in a locality where no bricklayers' local union exists, and vice versa."<sup>15</sup> The extent to which this separation was carried is shown by the following incident.<sup>16</sup> A New York City bricklayer appealed to the national convention of the Bricklayers to relieve him of a

<sup>11</sup> Stone Cutters' Circular, February, 1892, p. 6.

<sup>12</sup> Stone Cutters' Journal, July, 1895, p. 5.

<sup>13</sup> *Ibid.*, March, 1898, p. 8.

<sup>14</sup> *Ibid.*, December, 1902, p. 10. The local union of stone cutters in Springfield, Illinois, announced that it had taken in all the granite cutters in the town, since there was not work enough for the two unions, and since some of the stone cutters were lettering granite most of the time (*ibid.*, March, 1901, p. 8).

<sup>15</sup> Constitution, 1891, art. xiv, sec. 1 ff.

<sup>16</sup> Proceedings, 1883, p. 2.



fine. He was a member of both the bricklayers' and the stonemasons' unions, and when his job as bricklayer was struck, he obtained work as a stonemason. This was allowable, but when he drilled some holes through fireproof arches for gas pipes, the bricklayers' local union claimed that he was doing work which they controlled, and accordingly fined him. More recent rules provide for the formation of mixed local unions where they are desired, and such branches may divide their work among bricklayers, stonemasons, and plasterers as they deem best, though in arbitrating any points of difference<sup>17</sup> the suggestion is made that all questions pertaining to the trade of the mason shall be settled by those connected therewith.<sup>18</sup>

The jurisdiction of local unions of Marble Workers is also more specialized than the jurisdiction of the national union. When a local union applies for a charter, it must designate which branch of the industry it desires to control; if it is a mixed local union, each member must be registered in one branch of the work, as cutter and setter, polisher, bed-rubber, helper, machine hand, or quarryman, and he is restricted to the work for which he registers.<sup>19</sup> A similar restriction is found in the Plumbers' Association. One of the clauses of the constitution is this: "In all local unions organized separately or combined, members of any one trade are prohibited from working at that of another, provided that a member or members of such other trade can be secured within the jurisdiction of a local union in the vicinity."<sup>20</sup>

The Composition Roofers made an agreement with the Slate and Tile Roofers in 1908 under which local unions, composed of members of each national union, might be established. Although the two national unions still maintained their jurisdiction claims, the right was conceded to

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<sup>17</sup> Constitution, 1900, art. xviii, sec. 2.

<sup>18</sup> Constitution, 1901, art. ix, sec. 3.

<sup>19</sup> Constitution, 1902, art. iii, sec. 14.

<sup>20</sup> Constitution, 1902, art. xxv, sec. 25.

such mixed local unions to determine by majority vote whether the members should be permitted to work at each others' trade. This privilege could be exercised only within the territorial jurisdiction of the mixed union.<sup>21</sup>

Outside of the considerations here dwelt upon, local trade jurisdiction is a matter scarcely to be reckoned with, and when one speaks of the trade jurisdiction of a union he refers to the work claimed by the national union. The Building Trades Department of the American Federation of Labor requires all affiliated national unions to file their jurisdiction claims at its office, and these statements are regarded as the official definitions of the various trades. If the building industry were stationary, these claims once established would be valid for all time, and jurisdictional disputes would soon come to be merely of historical interest. But the industry is not fixed, and changes in methods, materials, and skill come about with so much rapidity that the building-trades unions are unable to adapt their jurisdictional claims without friction. Constantly confronted by the knowledge that parts of their trades are being permanently taken away from them by new methods, they must always be on the lookout for new work to take their place.<sup>22</sup> Secretary McGuire, of the Brotherhood of Carpenters, in speaking of the need of expansion to cover all parts of their work, said in 1894: "Year after year carpenter work is becoming less and less plentiful owing to recent innovations in architectural construction. With the introduction of iron and steel frames in the larger buildings, with iron and stone staircases, tile floors and tile or metal

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<sup>21</sup> Proceedings, American Federation of Labor, 1908, resolution 81.

<sup>22</sup> A curious example of the way in which changed methods and materials are causing jurisdictional disputes is seen in a conflict which has occasionally arisen between the Painters and the Electrical Workers. Until recently all signs were made of wood and painted, and this work was of course regarded as belonging to the Painters, but lately electric signs have come into vogue and are rapidly replacing the painted ones, and this new work is now claimed by the Electrical Workers (Proceedings, Building Trades Department, 1912, p. 94).

wainscoting, with cornices and bay windows in many cases of other materials than wood, and with numerous other changes going on . . . the increase and perfection of wood-working machinery . . . the chances for the steady employment of carpenters are extremely uncertain."<sup>23</sup>

What is true of the carpenters' trade is equally true of nearly all the other building trades. The stone which was formerly cut "on the job" is now shipped in, ready to be placed in the wall, or it may be that the "stone" is made up in the required shape from cement; the plasterer who formerly put on the lath as well as the plaster is now restricted to the latter work, and indeed finds himself threatened by substitutes for plaster which come in sections ready to be attached to the wall; the plumber finds the skill formerly required for his trade rendered useless because most of the parts used in plumbing are made in a factory and can be connected without much knowledge of the trade; even the hod carrier finds his work much lessened by the use of lifts which are operated by the hoisting engineers. When in addition it is recalled that new kinds of work are constantly arising—such, for instance, as those connected with the installation of vacuum cleaning and fire protection apparatus, with new arrangements for heating and lighting, and with the various uses of cement—it will be seen that it is a task of considerable difficulty to determine just what are the bounds of each trade.

Let us, as a preliminary step, construct in imagination a modern office building and learn, from their statements as to jurisdiction, which unions lay claim to the various parts of the work. From these different claims the general grounds upon which such claims are based may be ascertained. The work of excavation, requiring mainly unskilled labor, is claimed by the Hod Carriers' and Building Laborers' Union,<sup>24</sup> and, except where the excavation is so

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<sup>23</sup> Proceedings, United Brotherhood of Carpenters, 1894, p. 27.

<sup>24</sup> Jurisdiction Claims of Unions Affiliated with the Building Trades Department, published by the Department in 1911, p. 10.

deep that a hoisting engine or other machine is needed to bring up the dirt, it may be regarded as conceded to this union. If the foundation walls are built of stone, they will be claimed by the stonemasons, who are a part of the Bricklayers' and Masons' Union, since the jurisdiction claimed by this union covers the setting of all stone.<sup>25</sup> If the foundation had been of brick, the work would have been controlled by the same national union. If the foundation had been of concrete, the Cement Workers would have laid claim to the work,<sup>26</sup> while the Bricklayers' and Masons' Union would also have been likely to demand control of it, on the ground that the concrete was being used as a substitute for brick or stone.

The framework of the building, being of structural steel and iron, will be conceded to the Bridge and Structural Iron Workers' Union.<sup>27</sup> For the outside walls, if granite be used, the stone must be cut by the Granite Cutters, who have exclusive jurisdiction over the cutting of that material.<sup>28</sup> If a sandstone or any stone softer than granite is used, the Journeymen Stone Cutters' Association will control the cutting,<sup>29</sup> though this may be contested in some cases by the stonemasons, who claim that very often it is necessary, or at least expedient, for them to cut stone in connection with setting it. On the other hand, the Stone Cutters may claim the placing of the stone in the wall on the score that the setting of stone is a branch of the stone cutter's art, but generally stone setting is yielded to the masons.

The roof, if made of composition, slag, or other roofing material such as asphalt and gravel, will be built under the control of the Composition Roofers, who have jurisdiction over the placing of this roofing material;<sup>30</sup> if the roof is of

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<sup>25</sup> Constitution of the Bricklayers' and Masons' Union.

<sup>26</sup> Jurisdiction Claims, 1911, p. 6.

<sup>27</sup> *Ibid.*, p. 3.

<sup>28</sup> *Ibid.*, p. 9.

<sup>29</sup> *Ibid.*, p. 17.

<sup>30</sup> *Ibid.*, p. 16.



slate or tile, it is conceded to the Slate and Tile Roofers.<sup>31</sup> The floors are likely to be of reinforced concrete. In that case the Carpenters will claim the building of all moulds and forms;<sup>32</sup> the mixing and the handling of the concrete will be demanded by both the Cement Workers and the Hod Carriers, while the Bricklayers will contend that such work ought to be done under the direction of a bricklayer foreman. Finally, the metal sheathing which forms the basis for the concrete is claimed both by the Lathers<sup>33</sup> and by the Sheet Metal Workers. If the floors are made of wood, they will be conceded to the Carpenters as their work. The lathing of the building will be done by the Wood, Wire and Metal Lathers, though on one side this work approaches closely the trade line of the carpenter, and on the other that of the sheet metal worker.

The painting and the decorating of the building will be claimed by the Painters,<sup>34</sup> although the putting up of picture molding is demanded by the Carpenters on the ground that the material is wood and is attached by the use of carpenters' tools. The placing of the hollow metal doors and sash throughout the building will be considered by the Carpenters as belonging to their trade because this work requires the use of their tools and their skill and because the use of sheet metal is displacing what was formerly carpenters' work,<sup>35</sup> while the Sheet Metal Workers regard this as part of their trade, inasmuch as they manufacture this material and do nothing but handle sheet metal, so that they have the skill necessary to erect it.<sup>36</sup> Plumbing, heating, and lighting are trades not very difficult to distinguish, but if a vacuum cleaning system, a sprinkler system, or some other extension of one of these older trades is to be in-

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<sup>31</sup> Jurisdiction Claims, 1911, p. 16.

<sup>32</sup> *Ibid.*, p. 5.

<sup>33</sup> *Ibid.*, p. 11.

<sup>34</sup> *Ibid.*, p. 13.

<sup>35</sup> Constitution, United Brotherhood of Carpenters, 1911.

<sup>36</sup> Jurisdiction Claims, 1911, p. 13.

stalled, difficulties arise. The Steam Fitters maintain that custom ought to be the guide, that is, that it should be ascertained which trade group was originally regarded as the most competent to do the work, as evidenced by the choice of the builder. The Plumbers would also claim this work on the ground that they have men in their organization who practice these trades, and that the whole pipe-fitting industry ought to be united under their jurisdiction, but this complication arises out of the existence of dual associations, and is not due to uncertain trade lines.

The construction of the elevators will be claimed in its entirety by the Elevator Constructors,<sup>37</sup> but this demand will be opposed for different parts of the work by the Electrical Workers, the Sheet Metal Workers, the Machinists, the Structural Iron Workers, and the Carpenters, each of these unions claiming such part of the work as it regards as lying within its trade. The Elevator Constructors maintain that the whole work is so closely connected that it cannot be conveniently or properly performed in parts by different trades. The plastering of the building will be conceded to the Plasterers, since the work of applying plastic material to walls is pretty well defined. However, if certain forms of decorative plaster, which are made up in factories and cast in sections all ready to be nailed to the wall, are used, the Plasterers will still insist on the control of the work because the use of this material is displacing the older form of plaster,<sup>38</sup> and the Carpenters will demand it on the ground that to nail these blocks to the wall is essentially their work since it is performed with their tools. The interior marble work for stairs, mantels, fireplaces, and columns will be done under the jurisdiction of the Marble Workers, who have control of the cutting and setting of interior marble work,<sup>39</sup> whereas if the same material were used on the outside of the building the Stone Cutters and

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<sup>37</sup> *Jurisdiction Claims*, 1911, p. 8.

<sup>38</sup> *Ibid.*, p. 14.

<sup>39</sup> *Ibid.*, p. 12.



the Masons would have control. The erection of the scaffolding used in various stages of the construction of the building will be claimed by the Hod Carriers and Building Laborers on the ground that it requires little skill and is therefore to be classed as laborers' work; by the Carpenters, because carpenters' tools are used; and, when scaffolding is to be used by the Marble Workers, by the Marble Workers' Helpers on the ground that the erection of the scaffolding is closely associated with the placing of the marble.

The varieties of work upon a modern office building have been by no means exhausted, but enough has been said to show that over and over again a few main considerations are relied upon to justify a union's claim to jurisdiction over any given work. These are (1) the materials employed, (2) the tools used, (3) the sanction of custom, (4) the skill required, (5) the fact that the work under consideration replaces work heretofore done by the union, and (6) the fact that the work in question is so closely associated with other work as to be most conveniently and economically performed in connection with it.

These criteria being recognized, their validity may be tested by a critical examination of the jurisdiction claimed by some of the more important building-trades unions. In this analysis no attempt will be made to present the entire jurisdiction claims of any one union; merely such parts of its claims will be used as are important for the present purpose, which is to show that in formulating its trade claims a union is guided by one or more, perhaps all, of the above-mentioned considerations.

The Granite Cutters claim jurisdiction over the cutting and polishing of granite and of all similar hard stone on which granite cutters' tools are used, and over all tool sharpeners associated with the trade.<sup>40</sup> This statement shows the presence of three of our determinants. First, the union controls work on granite and similar materials.

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<sup>40</sup> Jurisdiction Claims, 1911, p. 10.

Second, if granite cutting tools are used, the work is claimed. This test is merely supplementary to the first one, for the fact that granite cutting tools are used is here simply the guide for determining whether the material is such as the union controls. Third, the sharpening of granite cutters' tools is included because this work is so closely connected with granite cutting as to be best controlled by the same union.

The Hod Carriers and Building Laborers assert jurisdiction as follows: "Wrecking and excavating of buildings . . . digging of foundation holes . . . concrete work for buildings, whether for foundations or floors . . . helping masons, plasterers, bricklayers, and carpenters . . . handling of materials."<sup>41</sup> This jurisdiction may be classified as based on a negative use of one of the determinants. It is the absence of skill of a specialized nature which marks out the work of the Hod Carriers and Building Laborers. Any work about a building operation which requires no special training may be put down as building laborers' work.<sup>42</sup>

The field over which the Bricklayers exercise authority is divided into three parts: bricklaying, stonemasonry, and plastering. Bricklaying is said to consist of the laying of bricks in any structure or for any purpose where trowel and mortar are used, all cleaning and cutting of brick walls and work upon brick requiring the labor of a skilled person, fire-proofing, terra-cotta cutting and setting, the laying and cutting of cork blocks, mineral wool, and all substitutes for such materials, and the erection of plaster block partitions where they are substituted for brick.<sup>43</sup> Stonemasons' work

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<sup>41</sup> Constitution, 1903, art. viii, sec. 1.

<sup>42</sup> In the dispute over the jurisdiction on concrete work between the Hod Carriers and the Cement Workers, the Cement Workers asked that they be given jurisdiction because the Hod Carriers were merely helpers to the bricklayers, and because to give them control over concrete would be to put the industry into the hands of its enemies, the Bricklayers, who have been continually fighting against the use of concrete in building (Proceedings, Building Trades Department, 1908, p. 77).

<sup>43</sup> Constitution, 1908, art. ii, sec. 3.

consists of the laying of all stone and the cutting of ashlar, jambs, and corners.<sup>44</sup> The work of plastering is sufficiently clear to need no definition.<sup>45</sup> In these claims are found most of the factors mentioned above. Primarily, the work pertaining to the bricklaying, stonemasonry, and plastering trades may be determined in general according to the materials used. Bricklaying is marked out by the use of the trowel, the distinctive implement of the trade. Skill is a determinant in that all "work upon brick requiring the services of a skilled person" is claimed. When jurisdiction is asserted over plaster block partition, which takes the place of brick,<sup>46</sup> replacement or substitution is made the test.

The Stone Cutters formerly described their trade as "all stone work on which a mallet, mash hammer and chisel are used, shoddy work and pitch-faced ashlar included."<sup>47</sup> To this has since been added "the cutting of artificial stone."<sup>48</sup> In these claims jurisdiction is determined on the basis of the material and the tools used, but the branch of the Stone Cutters in Cleveland, Ohio, was fixing trade lines according to custom when it reported that its members did not set stone, since "it has always been the custom for the masons to do the setting."<sup>49</sup>

The United Brotherhood of Carpenters has probably had a greater variety of trade jurisdiction disputes than any other union. This has been due partly to the extension of the carpenter's trade in so many directions, and partly to the fact that the most far-reaching and rapid changes in

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<sup>44</sup> Constitution, 1897, art. x, sec. 3. The convention of 1898 decided that all stone work, such as monuments, moldings, fine-cut faced work, trimming, lining, and carving stone, and all fine stone cutting is stone cutters' work and not masons' work (Proceedings, 1898, p. 45).

<sup>45</sup> The Bricklayer and Mason, April, 1900, p. 12.

<sup>46</sup> Ibid., March, 1904, p. 2.

<sup>47</sup> Constitution, 1900, By-laws, art. xiii.

<sup>48</sup> Constitution, 1905, art. xii.

<sup>49</sup> Stone Cutters' Journal, March, 1905, p. 10.

methods and materials in the building industry have centered about the work of the carpenter. As President Huber, of the United Brotherhood, said at the convention of 1910: "The disputes [jurisdiction] generally arise over the erection of certain work which originally belonged to the carpenters, but which through the growth of the building industry has changed form to such an extent that you could not say unless you know the class of trade which put it up, to what trade the work now belongs. The basic carpenter trade was and is one of the most general and complete trades which a man can learn. It is generally the carpenter foreman who takes care to see that the excavation stakes are properly set; who sees that the foundation is properly laid; who sees that the proper openings are left; who attends to the scaffolding for the painter, the electrician, the lather and plasterer. In fact, he is usually the superintendent of the job, and on his shoulders falls all the responsibility to see that the work is carried forward promptly and properly. He must be able to read blue prints, detailed plans and specifications, not only for his own work but for every building trade that comes on the job. To do this and do it properly it is necessary that he have a wide learning and a general knowledge of the diversified crafts with which he comes in contact." Urging that action be taken to extend the jurisdiction of the union so as to maintain control over all the work that formerly belonged to the carpenter, he said: "Something must be done or it is only a question of a decade or two until the carpenter craft will be such in name only, and our membership will gradually disseminate and affiliate itself with some special branch, which is simply the child or offspring, so to speak, of the carpenter industry."<sup>50</sup>

In view of these statements it will not be a surprise to find the Brotherhood of Carpenters working out its jurisdiction claims in great detail, and in one form or another making use of all of the above-mentioned tests to demon-

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<sup>50</sup> Proceedings, 1910, pp. 67, 68.



strate that certain work belongs to its trade. The jurisdiction of the union in a general way covers "all journeymen carpenters and joiners, stair builders, ship-joiners, millwrights, planing mill bench hands, cabinet makers, car-builders or operators of wood working machines . . . whether employed on the building or in the preparation and manufacture of the material for the same."<sup>51</sup> Here the material is the determining factor, and all skilled workers upon wood other than wood carvers seem to be regarded as working at some form of the carpenter's trade. It is argued that all wood working in mills belongs to the Carpenters because the machinery used in this work represents simply an improvement over the tools which the carpenter was formerly accustomed to use, and because the material is carpenter's material.<sup>52</sup> The declaration is frequently made that "every man employed in the wood working industry—handling edged tools—ought to belong to the United Brotherhood of Carpenters and Joiners."<sup>53</sup> Furthermore, as has been noted in the remarks of President Huber which have been quoted, the argument has been frequently used that the Carpenters ought to have jurisdiction over this or that work because the trade of the carpenter is the most comprehensive and fundamental of building trades. Here the appeal is made to custom as a determinant of the bounds of the trade.

In the claims of the Carpenters to control the erection of metal cornices and metal sash, doors, and trim the material is ignored as a guide to jurisdiction, and the demand is made upon the double ground of the skill required and the fact of replacement or substitution. It is claimed that the skill required to put up metal cornices and metal trim is the same in character as that required when wood is used, and that this metal work is simply replacing carpenter work. It is also argued that the tools of carpenters and not those of

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<sup>51</sup> Constitution, 1907, sec. 73.

<sup>52</sup> Proceedings, 1904, p. 38.

<sup>53</sup> Proceedings, p. 45.



sheet metal workers are used in placing this material. It is cut with an ordinary wood saw, is nailed or attached with screws in the same manner as wood, and does not at any time require the use of the metal workers' "snips" or "soldering irons." In an agreement with the Bridge and Structural Iron Workers' Union the Carpenters conceded the validity of another of the tests—that of close association or convenience of grouping. They agreed that the Structural Iron Workers should have jurisdiction over all false work in connection with the construction of iron and steel bridges, since the erection of the false work is merely preliminary to and necessarily associated with iron and steel work.<sup>54</sup>

The Marble Workers claim<sup>55</sup> the cutting and setting of marble for interior finish and decoration, and also the cutting and setting of slate, glass, and composition used in place of marble.<sup>56</sup> In a dispute with the Tile Layers over the question of setting "marbleithic" tile the Marble Workers claimed the work because the material was a composition made largely from marble dust. The United Association of Plumbers asserts its exclusive right not only to fit the pipes used in plumbing, but also to control the whole pipe-fitting industry, because the various tasks are so closely connected with one another.<sup>57</sup> The Cement Workers claim all work in cement.<sup>58</sup> The Lathers assert their jurisdiction over

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<sup>54</sup> The Carpenter, July, 1909, p. 28. The Carpenters' claims to jurisdiction have brought them into conflict with the Hod Carriers and Building Laborers, Sheet Metal Workers, Wood, Wire and Metal Lathers, Structural Iron Workers, Electrical Workers, Elevator Constructors, Painters, Tile Layers, Machinists, Asbestos Workers, Car Workers, and Carriage and Wagon Workers.

<sup>55</sup> The Marble Worker, September, 1910, p. 234.

<sup>56</sup> *Ibid.*, July, 1912, p. 158.

<sup>57</sup> Jurisdiction Claims, 1911, p. 14. The union claims jurisdiction over plumbing, gas fitting, steam fitting, power pipe fitting, fire protection apparatus, vacuum cleaning systems, speaking tubes, etc. (Constitution, 1902, art. xxv).

<sup>58</sup> The Cement Workers' full claim is as follows: "All artificial stone, concrete wall or foundation work, coping and steps, concrete

wood, wire, and metal lath, plaster board, or other material replacing these.<sup>59</sup> The Sheet Metal Workers describe their trade as including the manufacture and erection of all sheet metal and the glazing of metal sash for skylights. The latter is claimed on the ground that the work can be most conveniently contracted for and done in connection with the metal work.<sup>60</sup> Throughout the building trades these same determinants are found again and again marking the bounds of the various crafts.

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floors and sidewalks, cementing on concrete, cement mold work, curbs and gutters, cemetery improvements composed of concrete, fire-proof floors, sidewalk lights set in cement, and all other concrete construction" (Secretary's Report to Bricklayers, 1904, p. 479).

<sup>59</sup> Constitution, 1909, art. i, sec. 3.

<sup>60</sup> Constitution, 1909, art. vi, sec. 2.

## CHAPTER III

### DUAL UNIONISM

Having considered the jurisdictional claims of the building-trades unions in respect to territory and to trade, we shall turn, in this and the following chapter, to an examination of the disputes which arise as the result of conflict in these claims. These controversies are of two classes: dual-union disputes and demarcation disputes. The fundamental distinction between a dual-union dispute and a demarcation dispute is that in the former a settlement of the dispute, at least according to the claims of one of the disputants, would involve the dissolution of one of the unions involved, while in a demarcation dispute both unions have claims to jurisdiction which are not involved in the controversy. In other words, in a dual-union dispute the jurisdiction claimed by one of the disputants is either exactly coextensive with that claimed by the other or is entirely included within it. In a dual-union dispute the question is not as to whose trade the work belongs to, but merely as to what unions shall have control over the workers in a particular trade. Thus the two rival national unions of electrical workers are dual organizations since they claim jurisdiction over exactly the same trade and territory. The Plumbers and the Steam Fitters, the Bricklayers and the Operative Plasterers are dual unions with respect to each other because in each case one of the unions claims, in addition to other jurisdiction, all that is included by the other in its jurisdiction claim. These conflicts occur, not because there is any dispute as to the lines of division between the separate trades involved, but because each union denies to its rival association jurisdiction over a particular trade in its entirety within the territory embraced by the United States and Canada.

A second distinction between the two classes of disputes

but one much less clear-cut is that demarcation disputes occur because of conflicts in the various claims as to trade jurisdiction only, while dual-union disputes develop from rivalry in regard to trade or territory. The possibility of making this distinction, however, is entirely due to the fact that in every trade of any importance a national union exists which claims jurisdiction over the American continent. If the central unions in the United States claimed jurisdiction only over districts, demarcation disputes might very well arise between the different districts as to whether certain places were in the jurisdiction of one or the other of two unions.

The fact that the life of one of the disputants is at stake gives to dual-union disputes a ferocity which warrants their separate classification. There is among trade unionists a definite impression that dual-union disputes form a distinct category, although the line of distinction between dual-union disputes and demarcation disputes is not drawn with clearness in the literature of the unions. The general public is accustomed to think inaccurately that jurisdictional disputes include only demarcation conflicts, but dual-union controversies are responsible for as many contests and evil results as are the former.<sup>1</sup>

While the concern here is only with the building trades, it is well to bear in mind that dual unionism is not peculiar to a few occupations, though it is more frequently present in some than in others, but that it crops out in the history of practically all organizations at one time or another. The query as to when and under what conditions dual unions are most likely to arise will be answered subsequently in greater detail. As a preliminary it will suffice to state that dual unions develop most readily in time of strike, largely

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<sup>1</sup> The journal of the Amalgamated Wood-Workers, in speaking of the quarrel of that union with the United Brotherhood of Carpenters, said that frequent attacks and reprisals were made by one organization upon the other, not so much on account of trade disputes as for the purpose of obtaining jurisdiction over all the men in the wood-working industry (July, 1906, p. 211).



on account of the efforts of employers to divide the union into opposing factions; they appear also in times of industrial activity when labor organizations are expanding and multiplying. Furthermore, they are seen with greatest frequency among the building trades, since of all industrial products it is probable that a building is the one upon which the division of labor is carried to the greatest extent. When so large a number of tasks on a single piece of work are portioned out to different associations, many of them working simultaneously, the opportunity for new combinations is always present, and the results are often disastrous to industrial harmony.

It is consequently not surprising to find much of the attention of organized labor directed toward preventing or eliminating dual unionism. The Structural Building Trades Alliance was organized in 1903 with the avowed purpose of opposing "the formation of dual and rival bodies; to demand their complete annihilation and to assist only such unions as are affiliated with their respective national or international unions."<sup>2</sup> The Wood, Wire and Metal Lathers, who during their early history were troubled greatly by secessionists and independent local unions, declared in their constitution for 1901 that "no local union holding a charter in the Wood, Wire and Metal Lathers Union shall be attached to any other union doing work claimed by our union; and all charters now in existence shall be revoked by the Executive Council after thirty days from date unless such local unions shall sever all connections with rival organizations."<sup>3</sup> The Bricklayers at their convention in 1903 adopted a resolution calling upon all subordinate unions to do everything in their power to force the dual organizations of stonemasons into line.<sup>4</sup> The president of the Stone Cutters reported to the St. Louis Convention in 1904 as follows: "There exist in three of our

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<sup>2</sup> The Lather, January, 1904, p. 7.

<sup>3</sup> Constitution, 1901, art. xvii, sec. 1.

<sup>4</sup> Proceedings, 1903, p. 54.



prominent cities to-day dual unions, namely Chicago, Pittsburgh and Philadelphia. The very existence of these unions is not only an injury to the trade in their immediate vicinities, and a source of annoyance to other union crafts and their employers in the other building trades, but a detriment in general to the prosperity of the general union."<sup>5</sup>

Similarly the president of the Plumbers, in speaking of their trouble with the Steam Fitters, said: "Much valuable time of this convention might be occupied in a recital of the many injustices perpetrated by this International Association of Steam Fitters under the guise of unionism. Our places have been taken in times of strife, employers have been dealt with to the end that dual organizations might be created, and our ranks decimated."<sup>6</sup> The United Brotherhood of Carpenters sought early to prevent the growth of dual unions by providing as follows: "No member of this United Brotherhood can remain in or become a member of more than one local union, or of any other organization of carpenters and joiners, under penalty of expulsion."<sup>7</sup> An indication of the feeling of labor organizations in regard to their jurisdiction and of their opposition to any organization which may prove to be a dual association is found in the jealous watchfulness with which the American Federation of Labor followed the formation of the Building Trades Department, and in the care which its officers took to emphasize the subordination of the Department to the Federation.<sup>8</sup>

A dual union may be defined as an organization which claims the right to maintain itself as a body independent of, and usually rival to, another association controlling the same classes of workmen and operating within the same territory. The term "dual" as applied by one labor organization to

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<sup>5</sup> Stone Cutters' Journal, Supplement, October, 1904, p. 4.

<sup>6</sup> Report of President, in Proceedings, 1908.

<sup>7</sup> Constitution, 1888, art. vi, sec. 7.

<sup>8</sup> Report of Conference of Building Trades Department, 1908, passim.

another connotes always something of illegitimacy or infringement, and it is generally used to designate the association which lacks the support of the American Federation of Labor and the Building Trades Department as the recognized heads of the American labor movement.

Dual local unions occur almost entirely in large towns or cities, primarily on account of the patent difficulty that there are not enough workmen in a small town to support several local unions of the same trade. But there is also another reason. Since the members of a dual association ordinarily cannot travel about very much to seek work, for the reason that their cards will not be accepted by the regular unions and they will not be allowed to work, they cannot long maintain unions except in places sufficiently large to keep them steadily employed. By far the largest number of dual or independent local unions in the building trades have been in such cities as New York, Chicago, Philadelphia, and Boston.<sup>9</sup>

Dual unions, as may be deduced from what has been said above, may be classified with respect to the extent of their dual character—that is, as to how far each union claims jurisdiction over the same territory or trade as is claimed by another organization—as (1) coextensive or completely dual unions, and (2) incompletely dual unions. The word coextensive as used in this sense does not necessarily mean actually but rather potentially coextensive, that is, claiming the same jurisdiction, although not necessarily exercising it.

Two unions are completely dual with regard to each other when both of them assert the right to control identical territory and work. Of such a nature, as has been said, are the two national associations of electrical workers—the Reid and the McNulty unions. The American section of the

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<sup>9</sup>It is a curious fact that dual unions arise and flourish more readily in Great Britain than they do here, despite our greater diversity in population. In 1907 there were in Great Britain five unions of bricklayers and eight unions of masons (The Bricklayer and Mason, August, 1909, p. 175).

Amalgamated Society of Carpenters is a completely dual union with respect to the United Brotherhood of Carpenters. Likewise the International Association of Machinists and the Brotherhood of Machinists are essentially of this class, though the latter claims to be an industrial union.

Dual local unions are sometimes called independent unions, but this title is not strictly accurate, for the term "independent union" is applied properly to unions maintaining a separate existence but not conflicting in their jurisdiction. The various local unions existing during the early history of labor organization in this country, before the formation of the central or national unions, were independent. Such unions had the same trade jurisdiction, but their territorial jurisdictions were clearly defined and did not conflict. With the development of the idea of exclusive control by the national union over territory, the possibility of such organizations practically disappeared. The only independent local unions now are those representing crafts which have no national unions.

As early as 1874 the Bricklayers' National Union was confronted with a complete dual organization, called the Order of United American Bricklayers, which was formed by secession from the National Union and had for its secretary a former secretary of the National Union. At the convention of 1874 it was decided to exchange cards with this dual body, which had its chief strength in and around New York City.<sup>10</sup> Twenty years later we find an entirely different attitude toward dual unions. A branch of this Order of United American Bricklayers had been established in Chicago, and for a number of years the members of this dual union had refused to permit the members of the National Union to work except upon the payment of a large initiation fee.<sup>11</sup> At the convention of the National Union

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<sup>10</sup> Proceedings, 1874, p. 30.

<sup>11</sup> During the rush of work preceding the World's Fair, this Chicago union accumulated a fund of over \$90,000, chiefly from exorbitant initiation fees, all of which, it was claimed, was embezzled or dissipated in a year or two (Proceedings, 1895, p. 14).

in 1895 it was decided to establish a regular local union in Chicago and to drive out the dual union. The latter offered to compromise by admitting members of the National Union on travelling cards and the payment of a ten-dollar initiation fee, in return for which it desired to have exclusive jurisdiction over Chicago and the right to work in any other territory upon payment of a similar initiation fee. This compromise was refused, and a branch of the national union was established there during the following year.

An example of the coextensive or completely dual union is found among the sheet metal workers. In 1902 an organization was formed in Pittsburgh, called the Sheet Metal Workers' National Alliance, which was made up of local unions in Pittsburgh, Philadelphia, New York, Brooklyn, and Chicago. Previous to this time the New York local union had always maintained an independent existence, but the other local unions were seceders from the Sheet Metal Workers' International Association. This dual national association was absorbed by the International Association during the following year.<sup>12</sup> Another such dual organization of the Sheet Metal Workers was the United Metal Workers' International Union, whose charter the American Federation of Labor finally revoked.<sup>13</sup>

The Knights of Labor was in a sense a completely dual organization to all trade unions, for it sought to unite all workers in one great union. It consequently aroused the opposition of the unions, and a meeting was held in Philadelphia in 1886 to draw up a protest against it and to formulate plans for opposing its activity. Twenty-two trade unions were represented and fourteen others endorsed their position. The secretary of the Bricklayers submitted a number of questions to the local unions of his organization as to the activities of the Knights. The answers showed that the Knights of Labor was a dual organization in that

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<sup>12</sup> Amalgamated Sheet Metal Workers' Journal, April, 1903, p. 94.

<sup>13</sup> *Ibid.*, July, 1903, p. 163.



it aimed to secure jurisdiction over bricklayers regardless of whether they were members of the union or not, and in every community regardless of whether there was a local union there or not. According to these replies, this dual association was a harbor for suspended, fined, or recreant members of the Bricklayers.<sup>14</sup>

Similarly, the Industrial Workers of the World is a dual union with respect to all craft unions. The Brotherhood of Carpenters recognizes this, for in reply to the question, asked by members of a carpenters' local union in Oklahoma, as to whether their members could also join the Industrial Workers of the World, the executive board decided adversely on the ground that the Industrial Workers of the World is a dual organization with respect to the Brotherhood of Carpenters.<sup>15</sup>

With the growth of power and the increase in the size of national unions, dual associations of the kind we have been describing—that is, coextensive in jurisdiction claims—tend to disappear. At present, when consolidation and centralization have gone far in the organization of labor, dual unions are mainly of the class we have described as incompletely dual. By an incompletely dual union we mean one which claims jurisdiction over only a part of the territory or a part of the trade which another union claims to control, the latter organization being conceded some of its jurisdiction claims. Thus the United Association of Plumbers and the International Association of Steam Fitters are dual unions in so far as the Plumbers charter local unions of steam fitters or admit steam fitters into membership in local unions of plumbers. There is practically no controversy

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<sup>14</sup> Proceedings, 1887, p. 70. The Carpenters were also opposed to their members joining the Knights of Labor, and in 1888 the secretary of the union pointed out many evils resulting from the formation of dual carpenters' organizations by the Knights of Labor. He complained that these carpenters "offered to work longer hours for smaller wages, when our members were struggling to maintain union rules" (Proceedings, 1888, pp. 18-19).

<sup>15</sup> Proceedings, 1906, p. 221.



between these two unions as to the exact demarcation between the trades of plumbing and steam fitting. In fact, at the hearing before the executive committee of the American Federation of Labor in 1899 both unions agreed that plumbing and steam fitting are separate trades, and there was a fairly general agreement as to what work was embraced in each trade. The difficulty is that the Plumbers claim jurisdiction over the two trades of plumbing and steam fitting. They have local unions of steam fitters under their jurisdiction, and the Steam Fitters insist that all such branches ought to affiliate with them. On the other hand, the Plumbers claim that, since the interests of the whole pipe-fitting industry are identical, the Steam Fitters should amalgamate with them. Efforts have been made to bring about more peaceful relations between these dual bodies through the acceptance of a working agreement; but the Steam Fitters will not agree to a permanent settlement which does not recognize them as having sole control over all steam fitters, while the Plumbers will accept no plan of settlement which is not based upon the absorption of the steam fitters by their union.

Many jurisdictional conflicts have occurred between the Bricklayers and the Operative Plasterers because of dual unionism. In the reports of the president and the secretary of the Bricklayers for 1902, 1903, 1904, and 1905 considerable space is devoted to a discussion of the frequent disputes between these two unions, which are partially dual to each other. Plastering has always been closely associated with bricklaying and stonemasonry, and it is customary in a small community to find the same men doing the three kinds of work. Hence, the Bricklayers from the beginning have admitted plasterers to membership in their subordinate unions in the smaller cities and have maintained that this was the only satisfactory way to organize this class of workmen, since in these places the number of those who devoted themselves exclusively to plastering was too small

to support a separate organization.<sup>16</sup> Frequent conflicts occurred on account of this policy, and many futile attempts were made to draw up an agreement.

Friction has usually arisen because the employers, located in cities like New York, Chicago, Boston, and Philadelphia, where there are branches of the Operative Plasterers, have taken contracts in territory where the local plasterers were members of a branch of the Bricklayers, and have carried into this jurisdiction members of the Operative Plasterers. The result is that the bricklayers and masons refuse to work on the building unless the plasterers affiliated with them are employed, and thus the job is tied up. A strike of this sort, involving carpenters, hod carriers, and bricklayers, lasted for several months in Hartford, Connecticut, and cost the various unions, as well as the employers, large sums of money. In his report for 1902 the secretary of the Bricklayers said that during the previous year the union had had a great deal of trouble because the members of the Operative Plasterers' Union came into the jurisdiction of their own plasterers and refused to affiliate. At Tarrytown, as the result of a difficulty of this kind, a firm which did a great deal of work was put on the "unfair" list, and thus the unions of New York and vicinity suffered a serious loss of work.<sup>17</sup> It was also said that a strike in which a New Jersey local union was engaged for more than a year had been greatly prolonged because members of the Operative Plasterers' Union took the places of the strikers.<sup>18</sup> An agreement was drawn up between these dual organizations in February, 1911, which it was hoped would put an end to these difficulties.<sup>19</sup>

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<sup>16</sup> Secretary Dobson of the Bricklayers said in 1905 that his union has never chartered an exclusive plasterers' local union, and that it takes plasterers into its other unions only when they are so few in number that they could not maintain a local union (Report of the Secretary, December, 1905, p. 347).

<sup>17</sup> Annual Report of the Secretary, 1902, p. 320.

<sup>18</sup> Annual Report of the Secretary, 1903, p. 435.

<sup>19</sup> This agreement was brought about largely through the efforts of Mr. Otto M. Eidlitz of the Mason Builders' Association of New

The history of the Bricklayers also records much friction with another dual association, the Stone Masons' International Union. Just as in the case of the plasterers, the Bricklayers' Union declared that much better results could be obtained by the stonemasons if they were members of the Bricklayers and Masons' International Union; and, in fact, they always had more of such members than had the exclusive union of masons. The Stone Masons' International Union was an incompletely dual organization with respect to the Bricklayers, as it claimed jurisdiction over only a part of the workmen included in the former.

The dual union of stonemasons, sometimes called the Jones Union, was organized by George Jones of Pittsburgh, who sought to persuade the masons to secede in a body from the Bricklayers. Only four local unions withdrew, however—those at Syracuse, Pittsburgh, St. Louis, and Baltimore—and they met in Baltimore in 1890 and formed the Stone Masons' International Union. The members of the Bricklayers' Union were instructed not to recognize in any way as union men the members of this dual organization. The secretary of the Bricklayers said, "There is not room for both organizations," and it was decided to send deputies

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York City; it provided (1) that cards shall be interchanged whenever both organizations have local unions; (2) that the support to be given in the interest of either organization in localities where the Bricklayers' Union controls plastering shall be determined by the executive boards of both associations; (3) that the Bricklayers' Union shall concede to the Operative Plasterers the sole right to establish local unions composed exclusively of plasterers; (4) that in localities where the Bricklayers have local unions composed of the three trades, the plasterers may by a two-thirds vote (excluding the bricklayers and masons from such vote) withdraw and form a local union exclusively of plasterers; (5) that the subcontracting of plastering by any bona fide employer shall not be opposed; . . . (7) that if in any city where there is a local union composed of the three trades, there are three or less than three plasterers who are members and there are at least five resident plasterers who are not members, the Operative Plasterers shall be conceded the right to establish a local union (The Bricklayer and Mason, February, 1911, p. 30).

into every city where this union had established itself to organize rival unions affiliated with the Bricklayers.<sup>20</sup> This was done, and the dual union gradually disintegrated.<sup>21</sup> While it existed, however, it entailed upon employers and the "legitimate" union great inconvenience and the expenditure of large sums of money.

No union of building workmen has had more trouble on account of dual unionism than the Hod Carriers and Building Laborers. This is due largely to the fact that it is an organization made up of unskilled men. Lacking the definite characteristics which the possession of skill would furnish, the building laborers may be grouped in a great number of ways according to the kind of labor they perform. Thus, in New York the men who were employed chiefly in excavating were granted a charter by the American Federation of Labor and became an incompletely dual union to the Hod Carriers; in 1907 a resolution was adopted, calling upon the American Federation of Labor to order this excavators' union to amalgamate with the Hod Carriers,<sup>22</sup> and two years later it was decided that such work came properly under the jurisdiction of the Hod Carriers.<sup>23</sup> The jurisdiction of this union was also attacked by another dual union, called the International Laborers' Union, which sought to control only other unskilled laborers and made no claim to authority over the hod carriers. There were many bitter disputes between the two organizations for several years, and Critchlow, the secretary of the International Laborers' Union, sought to obtain a charter

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<sup>20</sup> Annual Report of the Secretary, 1902, p. 316.

<sup>21</sup> The Bricklayers claim that the stonemasons cannot organize advantageously as a separate union since in most places it is necessary for a bricklayer or a stonemason to do both kinds of work. They also claim that on account of the facility of transferring and obtaining work in different places, even those who do mason work exclusively prefer to belong to the Bricklayers (Arbitration Proceedings, Pittsburgh, 1903).

<sup>22</sup> Official Journal [Hod Carriers and Building Laborers], November, 1907, p. 33.

<sup>23</sup> *Ibid.*, October, 1909, p. 199.



from the American Federation of Labor but failed, and this dual association also went out of existence.<sup>24</sup>

Another dual union which flourished among the laborers for several years and claimed jurisdiction over only a part of the work controlled by the Hod Carriers and Building Laborers' Union was the International Building Laborers' Protective Union. This association survived longest in New England, where its local unions were composed mainly of Italians, and its officers were said to have appealed to race feeling to prevent the workmen from going over to the legitimate organization.<sup>25</sup> Still another conflict which has caused much trouble is that between the Cement Workers' Union and the Hod Carriers and Building Laborers' Union. That this is regarded as a case of partial or limited dual unionism rather than as a demarcation dispute is shown by the comment of the executive council of the Building Trades Department in making its decision on the dispute between these two unions. It was said by it that charters had been granted to two organizations, one of which claimed all cement work, while the other claimed about seventy per cent of it,—a fact which, as the executive council said, "would seem to indicate that a dual form of organization exists within this Department on the work in question."<sup>26</sup>

The secretary of the United Brotherhood of Carpenters said in 1904 that efforts had been made during the preceding two years to organize as separate unions the locomotive woodworkers, the agricultural woodworkers, the railway bridge builders, the millwrights, the shinglers, the dock, wharf, and bridge builders, the metal ceiling and wood workers, and the carpenters' helpers, but the protests of the Brotherhood to the American Federation of Labor had prevented their being chartered.<sup>27</sup>

Even the National Building Trades Council, despite its

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<sup>24</sup> Official Journal [Hod Carriers and Building Laborers], May, 1906, p. 2 ff.

<sup>25</sup> *Ibid.*, July, 1907, p. 7.

<sup>26</sup> Proceedings, Building Trades Department, 1909, p. 27.

<sup>27</sup> Proceedings, 1904, p. 68.



differences with the American Federation of Labor, was careful to say when it was formed, "It should be distinctly understood that a local building trades council is not and should never become dual to central bodies of the American Federation of Labor or any other labor organization."<sup>28</sup> When at the formation of the Building Trades Department the question of establishing state branches of the Department was under discussion, Vice-President Duncan, of the American Federation of Labor, was much concerned lest the field of authority of that body as represented by its state federations be infringed upon. He opposed the creation of state councils by the Building Trades Department on the ground that it "would tend to divide authority and would create a dual power in those matters that state federations should exercise."<sup>29</sup>

The foregoing illustrations of dual unions have all been of associations of national or nominally national extent, but dual unions may also be local in jurisdiction. In this class are the great numbers of seceded or suspended branches of the various national unions, the type usually thought of when dual unions are referred to, which claim jurisdiction over the identical trades controlled by the corresponding national unions but confine themselves to a single locality. It is probable that the history of every national labor union would furnish examples of this type, and we shall later examine some of them more closely, but we may properly at this point justify this distinction of a subclass within the class of incompletely dual unions by reference to a few cases.

The organ of the Marble Workers announced in 1910 that the National Cutters and Setters' Union, the Empire Association, and the Progressive Association of Marble Workers, all of which were dual unions whose jurisdiction was confined to New York City, had amalgamated with the

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<sup>28</sup> Pamphlet concerning Building Trades Council, p. 11.

<sup>29</sup> Report of Conference of Building Trades Department, 1908, p. 27.

Marble Workers, and that there were now no dual unions of marble workers.<sup>30</sup> The president of the Slate and Tile Roofers' Union reported to the convention of 1904 that there was a dual union asserting jurisdiction only over Boston, which was known as the Roofers' Protective Union and which claimed control over all kinds of roofing in that city. He said that he had offered to give it a charter in the Slate and Tile Roofers' Union if it would reduce its jurisdiction claims to include only slate and tile roofing, but this the dual association refused to do.<sup>31</sup>

The Wood, Wire and Metal Lathers have had to contend at various times with dual organizations in the three branches of the trade in New York City. In 1903 trouble arose there because the Building Trades Employers' Association refused to employ any wire lathers who were not members of the New York Iron Furring and Metallic Lathing Union, a purely local body which claimed jurisdiction within a radius of twenty-five miles of New York. The local union at Paterson, New Jersey, which was within this radius, joined forces with the legitimate New York union in fighting this dual association, with the result that an amalgamation was finally brought about and the dual union disappeared. At the same time another dual organization in the same city was disposed of by an agreement between the regular local union of wood lathers and the Independent Wood Lathers' Union of New York.<sup>32</sup>

A great deal of time and attention has been expended during the past few years by the American Federation of Labor and the Building Trades Department in an effort to bring about an effective national union among the hod carriers and building laborers. Many dual local unions existed in various parts of the country, some of which had never been part of the national union, while others had seceded from it. The Federation used its influence to force

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<sup>30</sup> The Marble Worker, October, 1910, p. 253.

<sup>31</sup> Proceedings, 1904, p. 10.

<sup>32</sup> The Lather, February, 1904, pp. 12, 13.

all of these local unions to affiliate with the Hod Carriers, and considerable progress has been made toward the accomplishment of this purpose. It was announced in 1906 that the recognized union had chartered eight of the twenty-two dual associations which had existed in New York City.<sup>33</sup>

It is a curious fact that many of the Hod Carriers' dual-union troubles have occurred on account of the chartering of local unions by the American Federation of Labor. In unorganized communities and in districts where there are not sufficient men of each craft to form local branches of their corresponding national unions the American Federation of Labor organizes mixed local unions, known as federal labor unions, which are made up of workmen engaged at various trades. Many of these organizations have had hod carriers and building laborers enrolled as members, and are reluctant to give them up to the local unions of their own craft when these are established. The secretary of the Hod Carriers reported in 1904 that during the year there had been frequent controversies with federal labor unions chartered by the American Federation of Labor because these unions refused to concede jurisdiction over building laborers to the national union. On one occasion, the secretary said, he had been accused by an organizer of the Federation of Labor of being the founder of a "scab" union when he established a branch of the national union, and on many occasions the members of these dual bodies worked for lower wages than the members of the legitimate unions were demanding.<sup>34</sup>

The Hod Carriers being an organization of unskilled workmen, its members are very largely immigrants of various nationalities. This has been one cause of the formation of dual local unions. In Toledo such an organization was established by Polish laborers; in Buffalo there

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<sup>33</sup> Official Journal [Hod Carriers and Building Laborers], March, 1907, p. 15.

<sup>34</sup> *Ibid.*, March, 1905, p. 56.

were unions of Polish, Italian, and English-speaking workmen; and in a few localities the attempt was made to establish dual unions made up of negroes.<sup>35</sup>

The Stone Cutters have likewise had many conflicts arising from the formation of dual unions whose jurisdiction was limited to particular localities. A peculiar contest arose in May, 1902, between the national union of stone cutters and the New York union of stone cutters which was unaffiliated with the national union. The New York union decided to close its books against outsiders and to refuse to accept the cards of any of the branches of the national association. Work was plentiful in the city, and all the local men were working overtime and receiving high wages. The national union decided that unless the cards of its members were accepted and they were permitted to work, its local branches throughout the country would refuse to accept New York cards, and, further, the national union would proceed to establish a new local union in New York and make the members of the dual union pay a fine of eighty dollars each as a prerequisite for admission.<sup>36</sup> The local branch in Salt Lake City complained in 1903 that its members were thrown out of employment because a local dual union agreed to work at a lower rate of pay. A member of the executive board succeeded, after two weeks effort, in ending the dispute by persuading most of the dual unionists to join the local branch at a reduced initiation fee.<sup>37</sup> In 1905 a settlement of a long-standing dispute was also effected in Philadelphia between a dual local union and the legitimate branch of the national union.<sup>38</sup> Additional examples of dual unions claiming only part of the territory of recognized national unions might be cited from all the other building-trades unions.<sup>39</sup>

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<sup>35</sup> Official Journal [Hod Carriers and Building Laborers], July, 1906, p. 13.

<sup>36</sup> Stone Cutters' Journal, July, 1902, pp. 5, 7.

<sup>37</sup> Ibid., July, 1903, p. 6.

<sup>38</sup> Ibid., October, 1905, p. 3.

<sup>39</sup> The secretary of the Brotherhood of Carpenters reported in



Dual unions, classified according to their origin, fall into three groups: (1) those associations which became "dual" by reason of their failure to join in the formation of the "legitimate" union; (2) those arising from suspension or secession from an existing national union; and (3) those due to the introduction of new processes, new materials, new forms of the division of labor, and machinery.

The first class was naturally much more numerous during the early history of labor organization in this country than it is now, for with the tendency toward consolidation into one national union and the strengthening of that union most of the independent unions have been amalgamated into one association. The Steam Fitters may properly be regarded as falling in this class, since the Plumbers and the Steam Fitters were organized about the same time. The Operative Plasterers and the Amalgamated Society of Carpenters may also defend their right to separate existence by an appeal to their age.

A similar situation existed among the stone cutters for some years during the early history of the present recognized national union. The Journeymen Stone Cutters' Association of North America exercised control over the trade mainly in the Middle West, though it had a few branches in other parts of the country. The Eastern Association of Stone Cutters was made up of local unions situated in the eastern section of the country. For a few years both of these unions claimed national jurisdiction. It was suggested that to prevent disputes as to jurisdiction a certain territory should be defined for each. A further suggestion was made that each refuse to receive local unions seceding from the other.<sup>40</sup> The Eastern Association adopted these

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1898 that a number of local dual unions had amalgamated with the national union during the year. Among these were the Associated Carpenters of Detroit, the New Haven branch of the United Order of Carpenters, the Knights of Labor Carpenters of Chicago, three House Framers' unions of Brooklyn, the Cabinet Makers' Union of Brooklyn, and the Independent Carpenters' Union of Newark (Proceedings, 1898, p. 31).

<sup>40</sup> Stone Cutters' Journal, November, 1890, p. 2.

proposals during the following year, and declared that its jurisdiction extended over the Eastern and Middle Atlantic States and the District of Columbia, and that it would not exchange cards with any other union of stone cutters in this territory.<sup>41</sup> This did not settle the matter, for each association sought to establish branches in the jurisdiction of the other, and disputes occurred intermittently until the Eastern Association was finally absorbed by the Journeymen Stone Cutters' Union.<sup>42</sup>

By far the largest number of dual unions are of the second class: those arising through secession or suspension from a previously existing organization. They may thus be created by either a forced or a voluntary breaking away from the original body. Local unions may be and frequently are suspended by their national union for violation of its laws or for failure to obey an order issued by the national organization. Probably the majority of such suspensions occur because of the failure on the part of local unions to pay their indebtedness to their national associations. The suspended local union, if it is located in a small town and if the national union is a strong one, usually disbands or seeks reinstatement, for unless there is sufficient work in the community to keep the men employed pretty continuously, they will have to seek work in other sections, and this they will find almost impossible to secure as long as they are outside of the national union. In a larger community, where there is work enough to maintain the men at home, the suspension of the local union may result in the formation of a dual body, which may exist for a number of years and be a source of annoyance and expense to the national union. For this reason the suspension of a subordinate union is rarely resorted to in a weak national association, and even in a strong union only as a last resort or upon great provocation. Often, indeed, the mere threat of suspension is sufficient to bring about compliance with the

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<sup>41</sup> Stone Cutters' Journal, January, 1891, p. 7.

<sup>42</sup> *Ibid.*, March, 1893, p. 11.

wishes of the national body, for this is a severe penalty, especially when, added to the losses and difficulties which the members of such a branch ordinarily suffer, there is involved (as, for instance, in the Brotherhood of Carpenters) the suspension of all the members of such a union from national union benefits.<sup>43</sup>

As early as 1857 the New York local union of stone cutters, which was one of the organizers of the national union, was suspended because it was heavily indebted to the national union and refused to pay. The other branches of the national union were instructed to compel every member of this suspended union who might come into their jurisdiction to pay an initiation fee of one dollar and his share of the indebtedness of the New York branch before being permitted to work.<sup>44</sup> During the following year the Chicago local union was likewise suspended because it failed to pay its dues to the national organization.<sup>45</sup>

One of the New York local unions of the Bricklayers was suspended in 1902 because it refused to live up to an agreement which the national union had made with the contractors for the Rapid Transit Tunnel. After a few months it consented to comply with this agreement and was reinstated.<sup>46</sup> Again, in 1905 the Bricklayers' Union threatened to suspend all of its New York branches unless they should comply with its rules in regard to fireproof tiling. A few of them did obey these rules, but others continued wilfully to violate them, and the executive board therefore suspended thirteen local unions.<sup>47</sup>

The separation of a branch or a number of branches from the national union may be occasioned also by secession. Two forms of secession may be distinguished: one in which the local union as a whole withdraws from the national

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<sup>43</sup> Constitution, 1911, p. 43.

<sup>44</sup> Stone Cutters' Circular, September, 1857, p. 4.

<sup>45</sup> *Ibid.*, March, 1858, p. 4.

<sup>46</sup> Annual Report of the Secretary, 1902, p. 350.

<sup>47</sup> Annual Report of the President, December, 1905, p. 1 ff.

union, and the other in which a local union splits into two factions, one of which withdraws from the national organization. The causes of the secession may be as numerous and varied as those which give rise to quarrels between individuals. Secretary McHugh of the Stone Cutters recently said: "Rivals of the old, well-established organizations of the country spring into existence from a variety of causes, chief among which is the irrational or mercenary member, who would further his own interests to the detriment of the union cause."<sup>48</sup>

Secession is justified usually on the ground of the right to local autonomy. It is claimed that since the national unions are voluntary associations and are established through the efforts and at the will of the local unions, the latter have a right to withdraw at any time they desire. This is of course analogous to the old doctrine of state's rights, and is regarded by the national unions as dangerous and unsound teaching. In the arbitration proceedings between the Bricklayers and the Stone Masons, the latter composed of unions which had seceded from the Bricklayers, the representative of the Bricklayers argued against the right of secession as follows: "Shall it be the right of any number of unreasonable and dissatisfied members of any labor organization to form a union and enter the field of usefulness of that association and there establish and maintain a rival union with the assent and moral support of organized labor? It is one thing to maintain that it is a man's inalienable right to do as he chooses, . . . but it is quite another thing to ask organized labor to sanction a principle which appeals most strongly to non-unionism, which subverts all power of discipline . . . and means the weakening or destruction of organized labor."<sup>49</sup>

Secessions of local unions naturally occur with greatest frequency in weak and inefficient national unions. In the early history of many associations now powerful such seces-

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<sup>48</sup> Stone Cutters' Journal, June, 1906, p. 2.

<sup>49</sup> Arbitration Proceedings, Pittsburgh, 1903.



sions were not uncommon. Indeed, little attempt was made to force the return of the seceders. Even in well-established unions secessions en masse of particular sections of the organization which have become dissatisfied with the national union for some reason, real or fancied, sometimes occur. The Electrical Workers have had a long and costly jurisdictional dispute because one section, mainly the outside electrical workmen, led by Reid, seceded from the national organization. The outside workmen get less pay than do the inside electricians, and because this difference persisted and seemed very marked, the outside men came to believe that the union, dominated by the inside workmen, was merely "using" them to improve conditions for the inside electricians.

The trouble culminated when this faction, under the leadership of Reid, failed to prevent the election of President McNulty, and thus failed to gain control of the union. They then elected their own officers and seceded. Each set of officers, with their supporters, insisted that they represented the legitimate organization of electrical workers, and the conflict received the attention for several years of the American Federation of Labor and the Building Trades Department in their efforts to bring the warring sections together. Great bitterness of feeling was manifested, and work was continually interrupted because some city federations recognized one union while others recognized its rival. Court proceedings were instituted to obtain possession of books or property claimed by both sides; bank balances were tied up, and efforts at organization hampered. There was also a heavy loss of wages on account of interruptions to work. The electrical workers were not alone in these losses, as they extended to all the building trades. The American Federation of Labor has recognized the McNulty union as the legitimate one, and the Reid dual union has lost much of its power.

The secession of the local union of stone cutters at St. Louis in 1893 is a good example of the secession of an entire

local union. This branch, on account of some dissatisfaction with the national union, withdrew and decided to maintain an independent existence; but the national association soon after organized a new local branch and enrolled some of the secessionists, thus greatly weakening the power of the old branch. There was continual quarrelling between the two rival unions until the dual organization was taken over entirely by the regular branch.<sup>50</sup> The branch of the Lathers at Oakland, California, seceded as a body because it was opposed to the death-benefit feature of the national union, and it gave the further reason that it desired to affiliate with a dual union of lathers in San Francisco.<sup>51</sup> In 1901 the New York union of the Lathers withdrew because of several objections to the practices of the parent body, but mainly on account of the special grievance that two other local unions had been chartered by the national union within the territory over which it desired jurisdiction.<sup>52</sup>

The Stone Masons' International Union, described earlier in this chapter as an incompletely dual union to the Bricklayers, originated in 1890 in the secession of the Pittsburgh branch from the Bricklayers. The reason given for withdrawal was that the national organization had failed to endorse the local strike of the masons and had refused to allow the strikers the usual strike benefits. After the establishment of the dual organization, conditions were so unsatisfactory in Pittsburgh that the employers demanded arbitration of the dispute between the rival local unions, and finally in 1903 a board of arbitration was constituted and

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<sup>50</sup> Stone Cutters' Journal, December, 1893, p. 7.

<sup>51</sup> The Lather, March, 1902, p. 9.

<sup>52</sup> *Ibid.*, January, 1902, p. 4. A peculiar situation arose in New York when the local union affiliated with the national organization of lathers was denied representation in the New York Building Trades Council, a body affiliated with the American Federation of Labor, on the ground that this local union was composed of seceders from the independent or dual union of lathers (*ibid.*, March, 1903, p. 5).

hearings were held. It was decided that the local union of the dual association should affiliate with the Bricklayers, while retaining local control over stonemasonry, and the branches which had been established by the Bricklayers after the secession were ordered to consolidate with this newly established branch.<sup>53</sup>

The Hod Carriers and Building Laborers have had many difficulties of this nature. One of the organizers reported to the convention of the union that during March, 1907, two or three seceding local unions had consolidated with the Building Laborers' International Protective Union, and had formed the Building Laborers' Union of New England. The formation of these associations, he declared, was largely due to the machinations of employers.<sup>54</sup>

Sometimes recognized bodies of organized workmen, such as city federations or local building trades councils, have encouraged dual unionism. In November, 1898, the local union of the Plumbers, together with several branches of the Bricklayers, withdrew from the Building Trades Council in Milwaukee because they objected to paying to the council the quarterly per capita tax of twenty-five cents. The Milwaukee Council then organized local unions to take the place of these seceders, and sought later, without success, to get a charter for the dual union of plumbers from the National Building Trades Council. The matter was finally settled by a reduction in the tax and the return of the seceding local unions to the council.<sup>55</sup>

The second form of secession is that in which only a part of the local union withdraws. While most of the questions coming before the local unions for decision are settled by a majority vote, in the matter of maintaining the existence of a branch union nearly all of the organizations specify only a small number of persons as necessary to obtain and to keep a charter. This latter precaution is adopted largely to pre-

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<sup>53</sup> Arbitration Proceedings, Pittsburgh, 1903.

<sup>54</sup> Official Journal [Hod Carriers and Building Laborers], November, 1907, p. 102.

<sup>55</sup> Plumbers' Journal, February, 1899, p. 11.

vent a minority from being forced out of the national union against their wishes simply because the majority votes to secede. Thus the Lathers provide that "in event of any local union deciding by majority vote to withdraw from the International Union, the minority, if five members or more, shall retain possession of the charter and supplies; shall be commended to all central bodies as the only legitimate organization; and shall receive the support of the International Union in accordance with the provisions of the constitution."<sup>56</sup>

The withdrawal of part of a local union while the other part remains loyal is practically always the result of factional quarrels within the union, and these factional quarrels are frequently due to the influence of employers. In 1858 part of the Washington branch seceded from the national union of Stone Cutters and formed a dual association because they were dissatisfied with the conduct of affairs in the local union. The members who remained loyal to the branch maintained that the secession was inspired and aided by one of the employers for whom most of the secessionists worked.<sup>57</sup> Secretary McHugh of the Stone Cutters claims that nearly every such dual union in his trade, if traced back to its origin, will be found to have been due to the efforts of an employer during a strike. Always at such a time there are some strikers who are anxious to go back to work, and if the employer and his foreman are sufficiently skillful they can spread discontent and doubt among the unionists until two factions gradually develop, one desiring to return to work, the other opposing this plan. It is not difficult to widen the breach, and if the antagonism between the factions becomes intense, one section will secede, form a separate organization, and resume work. If the seceders are numerous enough, the

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<sup>56</sup> Constitution, 1902, art. ix, sec. 14. The Jersey City branch of the Lathers announced its withdrawal from the national association by a majority vote (The Lather, March, 1902, p. 9).

<sup>57</sup> Stone Cutters' Journal, January, 1858, p. 3.



failure of the strike will result, and the dual union, for a time at least, will control the majority of the union shops in the city.<sup>58</sup>

The third group of dual unions, classified by origin, is made up of those which come into existence through a further division in a trade, through the use of new materials, or through the introduction of machinery by which skilled work is reduced to unskilled. Here the problems of dual unionism and demarcation disputes impinge upon each other. There is a close connection between the origin of dual unionism of this kind and the origin of a large number of the demarcation disputes. If a new form of division of labor brings into existence an entirely new body of workmen, that is, workmen who are not specialized in any other craft, and if this work is also claimed as part of its trade by an existing union, we have a case of dual unionism. If, on the other hand, a new process is claimed as part of their work by both of two existing unions, we have a demarcation dispute. Obviously in many cases the distinction is unimportant. A few illustrations will make clear the manner in which new processes or new forms of the division of labor may give rise to dual unions.

When the bricklayers have completed the work of erecting a wall, certain finishing processes must be performed, for the wall will be daubed with mortar and here and there will be found places where the cement has partly crumbled out between the stone or brick. Hence the wall must be washed and the cement touched up or "pointed." This work is rather tedious and unpleasant, and requires skill but little removed from that of the ordinary laborer. The employers are therefore desirous of having the work done by

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<sup>58</sup> Interview, Secretary McHugh, June 17, 1911. The convention of the Building Trades Department in 1908 adopted a resolution calling upon all affiliated bodies to aid the Stone Cutters' Association in every way in its fight upon a dual union known as the National Stonecutters' Association, which, it was claimed, was organized by the employers and made up of seceders from the legitimate union (Proceedings, 1908, p. 51).

laborers rather than by bricklayers for the obvious reason that it will be cheaper, and the Bricklayers in many localities formerly did not object to the arrangement, for they were not eager to do this disagreeable work. Gradually a class of men grew up who did this kind of work exclusively, and after a time they came to regard it as their trade. In some places the Bricklayers, claiming that the work of pointing and cleaning walls is a part of the bricklayers' trade, objected to this specialization, but in a number of large cities the claims of the pointers were not disputed. When, however, as a result of this acquiescence, local unions of the tuck pointers were chartered by the American Federation of Labor, the Bricklayers made such strenuous objection to the creation of this incompletely dual union that the Federation recalled the charters it had already issued. This action left the pointers entirely without effective organization, for they could have no recognition by local federations as a legitimate union, nor would their local unions be admitted by the Bricklayers since their members were neither bricklayers nor stonemasons.

When the Spring City, Pennsylvania, branch of the Bricklayers, composed of bricklayers, masons, and plasterers, in 1904 submitted its working code to the executive board for approval, it was found that it had sought to cover as much ground as possible and had included in its provisions cement and concrete work of all kinds. The executive board, however, refused to ratify the code until it was made clear that the local union did not intend to admit to membership as "exclusive" cement workmen the unskilled laborers who had been performing parts of this work. The president reminded the local union that it was contrary to the union laws to admit to membership men engaged only in cement work. Members might be bricklayers and cement workers, or masons and cement workers, but none could be admitted who were able to do nothing but cement work.<sup>59</sup>

At first sight this appears to be an indefensible policy, for

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<sup>59</sup> Annual Report of the President, 1904, p. 136.

it would appear that since these men were to be employed upon the only kind of work for which they were trained, and since the Bricklayers' Union, which claimed this work, had these men in its organization, it would be a matter of indifference that the cement workers knew nothing about bricklaying or masonry. Undoubtedly, however, such regulations tend to discourage any further subdivision of the trade that might later give rise to a demand for separate organization. If the Bricklayers could retain all new processes as parts of the trades of bricklaying and masonry, the association would have little trouble with dual unionism.<sup>60</sup> This has been their policy throughout, and the union has steadily resisted the specialization of any part of its work. Economically this policy seems to be wrong, for it stands in the way of progress as represented by a more minute division of labor and specialization of tasks. What it lacks in economic and ethical characteristics, however, it makes up in the eyes of the union in practicability and adaptability to trade-union ends, and, like many other policies of labor organizations, its chief ground of justification lies in the fact that it attains the result desired.

The blending of demarcation disputes with conflicts of dual unionism is seen in the much-discussed controversy between the Steam Fitters and the Plumbers. While the

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<sup>60</sup> In 1905 the secretary of the Bricklayers exhorted the subordinate unions to oppose any further division of their trade, and called attention to the fact that a failure to enforce the union's classification of work in the following directions had caused a number of conflicts to arise in various departments of the trade: (1) in stone and brick pointing; (2) in the setting of stone by stone setters and stone cutters; (3) in the laying of conduits by handy laborers; (4) in the building of brick cisterns by cistern builders; (5) in the training of exclusive stack builders, by permitting boys to be apprenticed exclusively to such work; (6) in fire-brick work, also furnace and boiler work done in the mills; (7) in the acquiring of the right, by handy laborers, to place cement work in position in buildings without the supervision of the bricklayer, and the finishing of cement floors (Report of the Secretary, December, 1905, p. 332).

difficulty between these two unions is a matter of dual unionism, the problem in all likelihood would not so long have resisted attempts at its solution if a contest over trade jurisdiction were not involved in it. It is the belief of the Steam Fitters that, while the nominal purpose of the Plumbers is to get rid of dual unionism by bringing all the members of the pipe-fitting industry into one organization, their real purpose in seeking to consolidate these associations is gradually to obliterate trade lines by usurping the work of the steam fitters. The Steam Fitters regard the constant activity of the Plumbers in establishing rival associations of steam fitters, with the object of forcing all steam fitters into the Plumbers' Union, as an attempt to steal their trade. If the Steam Fitters felt assured that they could amalgamate with the Plumbers and still retain steam fitters' work for steam fitters, it is likely that a plan of amalgamation could be adopted without much difficulty. But they are convinced that union with the Plumbers, even though nominal trade autonomy be granted, marks the trade for ultimate absorption.

This fear is not unwarranted. Delegate Garrett, of the Steam Fitters, in discussing this question at the session of the Building Trades Department in 1909, said: "But those steamfitters [in the Plumbers' Union] are continually complaining about their condition. They tell us they are walking the streets while the plumber does their work. The plumber is continually encroaching upon our trade . . . they [steam fitters] cannot get the work because the plumbers are in the majority." At the same time Delegate Leonard, of the Plumbers, also showed by his remarks that the Steam Fitters have good reason to fear that their trade would become merely a subdivision of plumbers' work if they consented to amalgamation. He said: "Our trade embraces everything in the pipe fitting industry. We leave it to the different localities if they want to separate themselves and go into the various specialties of our trade . . . You can go into the places where we have mixed locals, and



notwithstanding the fact that they are mixed, the men work at what they are best fitted for, if that is the rule of the locality, without drawing rigid lines of demarcation."<sup>61</sup>

The introduction of machinery is an important cause of dual union disputes. A machine may be introduced which performs part of the work previously included under one trade, or it may perform part of the work of several trades. The union whose work is thus reduced usually claims jurisdiction over the machine operators. It also not infrequently happens that the operators wish to organize separately. In that event a dual-union dispute arises. In the building trades certain machines have been introduced in the stone, granite, and wood-working trades. In the case of the Granite Cutters the union has held jurisdiction over the machines. In the cutting of granite trouble arose frequently when the employers sought to use "lumpers"—handy men, or laborers—on surfacing machines.<sup>62</sup> The Granite Cutters claimed jurisdiction over cutting, dressing, carving, and polishing granite, whether done by hand or machine, and the sharpening of granite-cutting tools. Secretary Duncan said, "We do not stand in the way of improved machinery, but hold that all granite cutting machines shall be operated by journeymen members of our union."<sup>63</sup> To prevent the trespass of these machine operators upon the work of the hand granite cutters, the constitution of 1897 provided for the admission of such machine cutters upon the same conditions as the handicraft men, but the former could not go from machine work to hand work unless they served the usual apprenticeship at granite cutting.<sup>64</sup>

The Stone Cutters have faced the same problem but less successfully. The branches have frequently struck against the introduction of the planer into their territory or against the use of stone which had been cut elsewhere by machinery.

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<sup>61</sup> Proceedings, Building Trades Department, 1909, p. 92.

<sup>62</sup> Granite Cutters' Journal, August, 1906, p. 2.

<sup>63</sup> *Ibid.*, October, 1903, p. 5.

<sup>64</sup> Constitution, 1897, sec. 73.

In 1896, after having engaged in a strike, the Chicago local union reported that thereafter stone-cutting machines were to be operated by members of the union, and were to be used only eight hours a day.<sup>65</sup> In 1905 the national union enacted a rule requiring that "all planers within the jurisdiction shall be operated by members of this organization."<sup>66</sup> In spite of this regulation, the greater part of the planer men remain outside the Stone Cutters' Association, and most of the branches make no attempt to enforce the rule. The issue between these dual unions of the planer men and the Stone Cutters has never become acute because the policy of the union has been vacillating.

The struggle of the Carpenters against the Wood Workers has been the most important of the dual-union disputes arising from the introduction of machinery. This dispute arose from the gradual transference to mills of a large part of the work formerly done by carpenters on or around a building. The Carpenters for some years have waged incessant warfare for the control over this work, and at present (1913) have driven the Wood Workers from the field.

Every large city in the country has been the scene, at one time or another, of bitter conflicts over jurisdiction between dual unions. The long and costly quarrel in Denver between the United Brotherhood of Carpenters and the Amalgamated Society of Carpenters, and the one in Boston arising from the conflict between the Steam Fitters and the Plumbers, are referred to elsewhere in this study. In Milwaukee the Brotherhood of Carpenters instituted a boycott against one of the big brewing companies because it was employing members of the Amalgamated Woodworkers' Union.<sup>67</sup> In St. Louis the Carpenters threatened to boycott all merchants who should patronize concerns employing members of the Woodworkers' Union.<sup>68</sup>

A great deal of trouble was caused in New York by dual

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<sup>65</sup> Granite Cutters' Journal, April, 1896, p. 2.

<sup>66</sup> Constitution, 1905.

<sup>67</sup> International Wood Worker, April, 1905, p. 112.

<sup>68</sup> Ibid., May, 1906, p. 149.

unionism among the structural iron workers. This difficulty arose out of a division in the local union, one branch of which was led by the notorious Sam Parks and the other by Robert Neidig. Parks's faction was suspended, but was later reinstated. The employers then organized the Independent Housesmiths' Union of New York, and made an exclusive agreement with it. Parks was sent to prison for grafting, and efforts were afterwards made to have this local Housesmiths' Union consolidate with the New York branch of the Structural Iron Workers. The executive council of the American Federation of Labor, the national officers of the Structural Iron Workers, and committees of various central bodies sought for several months to bring about amalgamation but without success, until finally Neidig succeeded in effecting a settlement.<sup>69</sup>

Secretary Dobson of the Bricklayers reported in 1903 that a great deal of energy and about three thousand dollars in money had been spent during the year in fighting the dual unions of stonemasons. In Pittsburgh all the labor unions of the city supported the dual unions of masons, and for a time a lockout involving ten thousand men existed. Public sentiment and the newspapers opposed the Bricklayers, but finally arbitration was forced; as a result the six local unions of stonemasons in Pittsburgh were ordered to affiliate with the legitimate organization, and they did so.<sup>70</sup> In fighting a dual union of bricklayers in San Francisco the Bricklayers sent to the field of conflict a special representative who opened an employment bureau, made agreements with certain contractors, and used every effort to fill the city with members of the recognized association.<sup>71</sup>

The number and importance of dual-union disputes diminishes with the centralization which is constantly taking place in labor organizations since there is a constant tendency to strengthen the control of the national union over

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<sup>69</sup> J. R. Commons, "The New York Building Trades," in *Quarterly Journal of Economics*, vol. xviii, p. 432.

<sup>70</sup> Annual Report of the Secretary, 1903, p. 429.

<sup>71</sup> The Bricklayer and Mason, April, 1900, p. 5.

its branches.<sup>72</sup> Another check on the local unions in the building trades is the formation of intermediate federated associations between the national union and the local union. Where several local unions exist in the same community a central organization is formed. The local unions in a State are not infrequently organized into a state association. There are also in process of development interunion associations, such as building-trades councils and local federations of labor, which throw their influence in most cases against dual unionism.<sup>73</sup>

This tendency to full control by the national union resembles the development which has been going on in our political organization. There were first the separate and independent States; then a federal association created by the States, to which each surrendered some of its authority; and after that a gradual enlargement of the power of the central government, with a corresponding loss of independence and power by the States. As the trade unions pass through a similar evolution, dual unions will gradually tend to be eliminated. This conclusion applies especially to that class of dual associations usually spoken of as independent local unions; on the other hand the tendency to decrease in this direction may be to some extent offset by an increase in those dual unions caused by a further division of labor, by the use of new materials, or by the introduction of machinery.

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<sup>72</sup> Secretary Dobson, in his annual report of December, 1905, said that the authority of the national union over its local branches must be extended and emphasized lest each subordinate union, in passing laws for its own interest, prejudice the welfare of all the others.

<sup>73</sup> See G. E. Barnett, "The Dominance of the National Labor Union in American Labor Organization," in *Quarterly Journal of Economics*, vol. xxvii, no. 3.



## CHAPTER IV

### DEMARCATION DISPUTES

The jurisdictional disputes of trade unions, to take a new point of view, may be classified into (1) those disputes which arise within the trade which the union represents and (2) those disputes which manifest themselves in the external relations of different trades. Each of these groups of disputes is also subdivided, so that we have, within the trade, questions of jurisdiction arising between a local union and the national union, between two national unions in the same trade, or between two or more local unions of the same national organization. The intertrade jurisdiction problems divide into difficulties growing out of the claims of a specialized class of workmen to part of the work claimed by another trade—a class of difficulties which has already been discussed—and contentions between two or more organizations as to which body of workmen shall have control over a certain line of work which is only a part of the work claimed by either union. The last are known as demarcation or, in a peculiar sense, trade-jurisdiction disputes, and it is with this class of disputes that the present chapter is concerned. The discussion of the frequency of demarcation disputes, the estimate of their evil results both to the unions themselves and to the public, and the search for possible remedies will be deferred to later chapters. At present we are engaged only in making an analysis of such controversies for the purpose of determining their causes.

During the earlier history of trade unionism, when the tendency toward specialization had not set in so strongly and labor associations were not so numerous, men did any work that they were competent to perform. Of course, most men were limited by their ability or skill to the particular branch or trade which they had learned and to such work as was very closely related to it, but there was rarely

opposition on the part of other men if one man sought occasionally to do certain work outside of his usual employment. Now, however, when trades tend to be more and more divided, the workman can scarcely move outside of his own narrow line of work without trespassing upon the field claimed by another union. This evolution can be visualized if one contrasts the division of labor in rural communities or small towns with that in cities. In the former, the plumber will install not only the water, bath, and toilet systems, but he will also put on the tin roofing and the spouting and will set up the heating system. In the city each of these constitutes the work of a separate craft. The country mason not only cuts stone of any kind, but he places it in the wall, and in many cases he sets brick also. In the city there are marble cutters, stone cutters, and granite cutters, and these are distinct from the stonemasons and the bricklayers. Such variations in the division of labor are matters of everyday experience, so they need not be dwelt upon at length. The history of the Bricklayers in their relation to the work of plastering will serve as a typical example of this evolution.

In former times nearly all bricklayers were plasterers as well, and one of the earliest signs of possible trouble with another union over trade jurisdiction appeared when the president of the Bricklayers in his report to the convention in 1868 called attention to the fact that a large number of their members worked at both bricklaying and plastering, while in the Plasterers' Union about one fifth of the members also did both. Four local unions whose members did both bricklaying and plastering were affiliated with both national unions.<sup>1</sup> Today, especially in large towns or cities, it is not very common to find bricklayers doing plastering, or vice versa. Notwithstanding the fact that the trades are still considered as very closely allied, that the Bricklayers have jurisdiction over a great many plasterers, and that a number of local unions of plasterers are

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<sup>1</sup> Proceedings, 1868, p. 26.

affiliated with the Bricklayers, bricklaying and plastering are considered as two distinct trades. Even where the workmen are both under the same national union, as with the Bricklayers, a man cannot change from one class of work to the other unless he demonstrates that he has learned the other trade and obtains a card of membership in that branch of work.

The word "demarcation" is used by trade unions in the same sense as delimitation, to denote the marking off of the bounds within which a man who follows a certain trade may legitimately claim the right to work. Phrases of almost parallel significance are "trade jurisdiction" and "the right to a trade," while the same idea is suggested in the phrase "overlapping trades." This definition assumes that there are limits to the work included in each trade, that these boundaries may be determined with more or less definiteness, and that the lines of division are just and reasonable ones. Under the present plan of labor organization—that is, organization by trades or industries—the assumption that there are limits to the extent of each trade is a necessary one. The second assumption, that the boundaries of a trade may be definitely determined, is abundantly justified by the countless instances of men of different unions working harmoniously on the same piece of work in trades very closely allied. The third assumption in the definition emphasizes the obvious, since in every dispute arising from overlapping trades each claimant to the work bases his demands upon what he maintains is the reasonableness and justice of the matter.

As has already been pointed out, each union claims the exclusive right for its members to work at the trade over which it claims jurisdiction. Practically all unions try to force men who work at the trade over which they claim jurisdiction to join their organization, and they do this on the ground that the men are working at a trade which belongs to the union.<sup>2</sup> The Lathers go so far as to provide

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<sup>2</sup> See above, p. 41 ff.

for the fining of persons who refuse to join the union when requested to do so, and they take measures to enforce the fine.<sup>3</sup> It has also been pointed out that this right of exclusion is exercised against other unionists as well as against non-unionists.

Even within the same national union, where the membership is composed of workmen of several trades, the work of each trade is rigidly confined to the workmen of that trade. The Bricklayers, for instance, maintain a line of distinction between the work of the three crafts under their jurisdiction, and a member who is admitted as a workman in one line can draw a travelling card only for that line, unless he can prove that he is efficient in one of the other trades. Thus in Oklahoma a plasterer, who had drawn a card for that work, sought to redeposit it as a stonemason, but this was refused until he could show that he was a proficient mason as well as plasterer.<sup>4</sup>

If the trades controlled by the different unions were widely dissimilar, as, for instance, stone cutting and painting, there would be no occasion for demarcation disputes, but when two trades use the same or similar implements, as do bricklayers and plasterers, or differ only slightly from each other in the skill required, as is the case with stone cutters and granite cutters, it is not surprising to find differences of opinion in regard to the lines of division between them. But why should there be objection on the part of one union to allowing a member of another union occasionally to do part of its work? Why should not each union look with equanimity upon the overlapping of other trades, feeling certain at the same time that similar transgressions on the part of its members will also be condoned? This would seem to be the least troublesome attitude to take. There are very definite reasons, however, which impel unions to oppose every trespass upon their jurisdiction, even to the extent of physical assault, which may even be fatal to the intruders, as

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<sup>3</sup> Constitution, 1905, art. viii, sec. 14.

<sup>4</sup> Report of the President, 1902, p. 165.



was the case in Chicago in the dispute between the Plumbers and the Steam Fitters.

The first, and possibly the chief, reason for this is that each union feels that at any given time there is a definitely limited amount of work to be done in its trade, and therefore, if another union does some of this work, the amount left for its members to do is correspondingly reduced. The same view is the basis of one of the most frequent arguments in favor of the shorter work day, namely, that reducing the number of working hours will prolong the work.<sup>5</sup> Here the purpose is to prolong the work by limiting the number of men who are permitted to do it. The wage-fund theory has long since lost its position of authority among economists, but it still maintains its prestige among the trade unionists.

The idea of limited demand for labor is present in every trade. The secretary of the Cleveland branch of the Stone Cutters complained some years ago that although there was a great deal of building going on, the stone cutters were not getting their share because of the use of sawed marble and terra cotta.<sup>6</sup> In Philadelphia the Allied Trades Council refused to allow any other trades to work with the Bricklayers because that union refused to recognize the right of the clippers and finishers, who belonged to the Pressers' and Finishers' Union, to do the terra cotta work. The Bricklayers claimed jurisdiction over all cutting and setting of terra cotta, since "terra cotta is a clay production of the same nature as brick; it is a product of the kiln just as a brick is." They pointed out as a justification of this claim that the demand for bricklayers to lay bricks is reduced by the use of terra cotta. On one building in Philadelphia, they said, it required eighteen hundred pieces of terra

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<sup>5</sup> In the constitution of the Plumbers, as amended at Cleveland in 1898, the demand of the union for an eight-hour work day and Saturday half holiday is justified on the ground that "the plumbing business throughout the country is insufficient to furnish employment to more than fifty or seventy-five per cent. of the journeymen."

<sup>6</sup> Stone Cutters' Journal, May, 1892, p. 7.

cotta to go once around, and the whole building was to be faced in terra cotta. To quote from the secretary of the Bricklayers: "This immense job is all terra cotta on the outside, and on the inside there is not a brick to be laid; it is all backed up with cement. The wood cribbing necessary to do this is set up by a gang of laborers with a boss laborer. Then along come laborers with wheelbarrows full of cement and another gang stands ready to shovel it in. Not a mechanic is employed. Just think, where once it would have taken millions of bricks, a substitute consisting of a steel skeleton, terra cotta for the front and cement for the backing, takes their place, and the bricklayer's work is done by the laborer and the terra cotta worker."<sup>7</sup> As illustrating the same point of view held by a union acting on the offensive we find the branch of the Stone Cutters in Birmingham, Alabama, reporting that they were setting stone—work claimed by the Masons—and remarking that it was fortunate they could do both stone cutting and masonry, as otherwise they would not have very regular employment.<sup>8</sup>

A second important reason for insisting that each union keep to its own trade is found in the adherence of the unions to the doctrine of "vested interest," which in a sense is a corollary of the first reason. The full statement of this doctrine would run somewhat as follows: There is but a limited amount of work to be done by each trade, and therefore all the work pertaining to a trade should be left to those who have a vested interest in or right to that trade. The members of a union feel that, having devoted years to the acquirement of skill in a certain trade, and having spent energy and perhaps money in improving the conditions of work in that trade, they have a certain accumulation or investment in it which justifies them in resisting any attempt made by an outsider to encroach upon it.<sup>9</sup> This is claimed

<sup>7</sup> Report of the Secretary, December, 1901, p. 313.

<sup>8</sup> Stone Cutters' Journal, December, 1902, p. 10.

<sup>9</sup> "The journeyman's skilled labor is his capital and this property

by laboring men to be the position taken by physicians or lawyers, who strive to protect the vested interest they have in their professions by requiring examinations or by setting up other standards which must be met before the candidate is allowed to engage in practice.

The Slate and Tile Roofers, for instance, when the Sheet Metal Workers objected to their doing the tinning and copper work in connection with roofing, claimed that since they had been doing this work for fifty years they were entitled to regard it as part of their trade.<sup>10</sup> A rather novel example of the application of the doctrine of vested interest, and at the same time a pathetic illustration of the way in which men struggle unavailingly against the impersonal and unfeeling readjustments which are continually taking place in economic life in response to the demands of society as a whole, is shown by the attitude of the Pittsburgh branch of the Bricklayers toward the use of concrete. In 1903 the members of this branch addressed a letter to the builders of the city, appealing to them not to infringe on their "vested rights as citizens of the Commonwealth." They protested against the use of concrete and tile in place of brickwork, and further expressed disapproval of wire, metal, and concrete systems of fireproofing.<sup>11</sup> The secretary of the Wood, Wire and Metal Lathers urged the members of his union to demand jurisdiction over all lathing, and said that plasterers in some sections, notably Cincinnati and Wilkesbarre, were

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is as sacred as any other. The Shipwrights along the Clyde declare that the employer has no right to give away, nor any other laborer the right to take away, the work of another artisan" (Sidney and Beatrice Webb, *Industrial Democracy*, vol. ii, p. 514).

<sup>10</sup> Proceedings, 1906, p. 6.

<sup>11</sup> Report of the President, 1903, p. 51. In Philadelphia the Bricklayers made a similar appeal in defence of their vested interests (The Bricklayer and Mason, August, 1902, p. 5). In Annapolis, while erecting one of the Naval Academy buildings, the Bricklayers struck on the job because in putting up one of the inside walls concrete was being used instead of brick (Report of the President, 1903, p. 8).

doing lathing, and were claiming a right to the trade because they had always done their own lathing.<sup>12</sup>

A third cause for the objection of one union to an extension of jurisdiction by another union is a feeling of jealousy between them, which inspires them to quarrel bitterly over work which belongs to one no more than to the other and to which in many cases neither can offer any reasonable claim. The time of the convention of the Building Trades Council in 1902 was largely taken up with jurisdictional quarrels of this nature.<sup>13</sup> The Electrical Workers and the Plumbers disputed over the fitting of pipe for wires; the Steam Fitters and the Plumbers over sprinkler fitting; the Mill Woodworkers, the Stair Builders, and the Amalgamated Carpenters over "hatchet and saw" work. The jurisdiction claims of the Boiler Makers and of the Iron Shipbuilders, which one delegate said included everything but the building of Waterbury watches, were also discussed.<sup>14</sup> This same jealousy of the growth of another union was manifested at the Sheet Metal Workers' convention in 1903 in the adoption of a resolution protesting against the glazing of metal sash by painters, on the ground that the sheet metal workers had first introduced metal sash.<sup>15</sup>

A fourth ground for the opposition of unions to aggressions on their jurisdiction—the claim of superior competence—is one which is frequently advanced by unionists, but the sincerity of which is open to question. The union says in effect, "We do not object to trespassing on our work if the trespasser is competent to do the work." It may be presumed, however, that if a union had no other objections to infringement it would not oppose it on this ground, since the union would naturally allow the employer to judge of

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<sup>12</sup> The Lather, February, 1902, p. 2.

<sup>13</sup> Proceedings, 1902, passim.

<sup>14</sup> Amalgamated Sheet Metal Workers' Journal, February, 1902, p. 33.

<sup>15</sup> *Ibid.*, September, 1903, p. 205.



the competence of his employees and to suffer if they were incompetent.

At the convention of the Stone Cutters in 1892 a resolution was adopted demanding that masons and others who were not practical stone cutters be prohibited from cutting stone.<sup>16</sup> The same argument was used by the United Brotherhood of Carpenters in New York in a dispute with the Sheet Metal Workers as to which union was to control the erection of hollow metal doors and trim. The Carpenters of course acknowledged that the material was sheet metal and that the Sheet Metal Workers were competent to manufacture it, but claimed that they were not competent to erect it.<sup>17</sup> In cutting and fitting eighteen thousand sheets of plate glass in metal sash in the erection of the Belvedere Hotel in Baltimore a bitter and costly dispute occurred between the Brotherhood of Painters and the Sheet Metal Workers in which each union supported its claims to jurisdiction, among other reasons, on the ground of the incompetency of its rival to do the work.

Another reason for insistence on the demarcation of trades arises in the difference in the wages commanded by different trades. It is obvious that, other things being equal, an employer will buy his labor as cheaply as possible. Whenever he can get the members of a union with a lower scale of wages to do part of the work belonging to the more highly paid craft, he will seek to do so. There is always, therefore, a tendency for a low-wage trade to take over parts of the work of a more highly paid trade. The only defence against this that the unions possess is to oppose any encroachment by other unions upon their trade jurisdiction. In justification of a strike on the part of the Granite Cutters in Philadelphia against permitting the masons to do certain work on a building of the University of Pennsylvania, the Granite Cutters said: "The work is not within the masons' proper limits. The masons get less pay, and could, if we

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<sup>16</sup> Stone Cutters' Journal, January, 1892, p. 7.

<sup>17</sup> Amalgamated Sheet Metal Workers' Journal, April, 1909, p. 127.

were disposed to permit such innovations, take away much of our work."<sup>18</sup> The same argument is often pushed to the extreme point of justifying the extension of trade jurisdiction over new kinds of work which displace work hitherto done by highly paid workmen. In 1903 Secretary Dobson of the Bricklayers, in arguing for the control of cement work by the Bricklayers, said: "The protection against encroachments on our trade classification . . . is a very important matter, . . . and eternal vigilance is required . . . to maintain our present claims, and at the same time, to reach out for more as new substitutes come along. There are certain kinds of cement work that take the place of brick and stone masonry and must be controlled by us."<sup>19</sup>

A final reason for the opposition to trade aggression is found in the fear that any overlapping will result in the training in a part of the trade of a number of men whom the employers can use to replace the union men in the event of a strike. There have been occasions in the history of nearly all unions that have had jurisdictional disputes over the boundaries of their trade when the places of members of one union have been taken during a strike by members of another union who had grown familiar with certain of the border-line features of the trade through the failure of the first union to maintain at all times its complete jurisdiction.

In Jamestown, New York, the Dahlstrom Sheet Metal Company had a plant whose workmen were members of the Sheet Metal Workers' Union. The company also erected its material in New York City. When Judge Gaynor decided that the erection of metal trim belonged to the Carpenters, the sheet metal workers in the factory at Jamestown struck to force the Dahlstrom Company to employ only sheet metal workers in their construction work in New York. While these men were on strike, the Carpenters offered to make an agreement with the company to supply

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<sup>18</sup> Granite Cutters' Journal, August, 1885, p. 8.

<sup>19</sup> Report of the Secretary, 1903, p. 436.

men to manufacture and to erect the metal work. This agreement was made, and the Jamestown local union of the Sheet Metal Workers' Union, coerced and frightened by the threat that both the manufacture and the erection of metal trim was to be given to the Carpenters, joined that union, thus bringing the strike to an end. When the Sheet Metal Workers protested against this action, the Carpenters offered to turn these factory men back to them if they would agree not to call strikes against the Brotherhood of Carpenters when its members were erecting the material.<sup>20</sup>

Demarcation controversies, no matter how varied their origin may seem to be or how different the attendant circumstances, all arise from one of a few causes or from a combination of these. Such disputes can be traced to (1) changes in industrial methods, (2) the introduction of machinery, (3) the introduction of new materials, or (4) aggression, that is, the desire of the union to expand and grow.

Disputes arising from changing methods in industry fall into several classes as they are caused by the introduction of new forms of the division of labor, or by variations among different localities in the manner of executing work, or by changes in the work awarded to certain classes of contractors. Illustrations of the manner in which each of these changes in industrial methods may produce a demarcation dispute will be given.

Changes in industry manifest themselves chiefly in new forms of the division of labor. These occur so rapidly and so continuously that it is impossible for any labor organization to readjust its jurisdiction in accordance with each new division. A union which does work that was once part of the work of another craft is almost certain to have demarcation disputes with the older association. Thus, the Wood, Wire and Metal Lathers indicted the Plasterers and the United Brotherhood of Carpenters before a convention of the American Federation of Labor because these two

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<sup>20</sup> Proceedings, Building Trades Department, 1909, p. 82 ff.

organizations claimed the right to put on lath.<sup>21</sup> Not more than a generation or two ago the trade of masonry was regarded as including the cutting as well as the setting of stone, but at present in nearly all sections of the country this work is divided into two trades. The Granite Cutters and the Stone Cutters have continually had trouble with the masons belonging to the Bricklayers and Masons because the latter persisted in disregarding the division between the work of stone cutting and that of stone setting. During 1886 the local union of the Granite Cutters at Amsterdam, New York, had a long dispute with the Masons who were cutting granite for foundations which would appear above ground, such as those for bay windows.<sup>22</sup> A strike affecting two hundred granite cutters occurred in Philadelphia during August, 1885. A contractor, repairing the stone work on some of the buildings of the University of Pennsylvania, put two masons at work cutting and trimming the stone. The Granite Cutters who worked for this same contractor threatened to strike on all his jobs on which they were working unless he would withdraw these masons, or stone setters, and put granite cutters in their places. This he refused to do, claiming that such work had always been done by masons, and when his granite cutters struck, all the employers in the city locked out the union.<sup>23</sup> On the other hand, the Masons not infrequently engage in a demarcation dispute with the Stone Cutters because the latter set stone as well as cut it. This was the cause of a strike in Pittsburgh in 1903. In Washington during 1904 a very complicated situation came about, involving the Granite Cutters, the Stone Cutters, and the Masons, because of the divisions and subdivisions of labor in the cutting and setting of stone. The Masons claimed the right to cut stone for certain uses, no matter what its material or hardness, and to set all stone. The Granite Cutters made no claim to

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<sup>21</sup> The Lather, December, 1902, p. 10.

<sup>22</sup> Granite Cutters' Journal, December, 1886, p. 4.

<sup>23</sup> *Ibid.*, August, 1885, p. 8.



setting, but they demanded the exclusive right to cut all granite, while the Stone Cutters maintained their right to cut all soft stone and also to set it. The dispute was finally settled by arbitration.<sup>24</sup>

An excellent example of the way in which a new division of labor leads to jurisdictional disputes is furnished by the frequent and bitter quarrels which have raged about the construction and installation of elevators in Chicago. This work has been claimed in whole or in part by Elevator Constructors, Machinists, Electricians, Millwrights, Plumbers, Ornamental Iron Workers, and Structural Iron Workers. The whole work was formerly done by the Elevator Constructors, but when they struck for an increase in wages in Chicago, the Machinists took their places and have since claimed part of the work. The Electricians now claim the electrical work in connection with elevators, the Millwrights claim part of the work, and the Steam Fitters and the Plumbers both dispute with the Elevator Constructors for the hydraulic work.

Differences in the form of the division of labor in different communities also give rise to numerous disputes. The new method may be introduced by an employer coming into the section from another district and bringing with him the classification of his former establishment, or it may be brought in by workmen who travel from one place to the other. However introduced, if it causes any considerable realignment, disputes are bound to arise. After many disagreements between the Sheet Metal Workers and the Bridge and Structural Iron Workers because of different customs in different communities in the erection of steel sheeting, it was agreed that the organization which then had admitted possession of the work in any locality should remain undisturbed, but in those districts where the work was in dispute the union receiving the highest rate of wages and the best working conditions should have the work.<sup>25</sup>

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<sup>24</sup> Report of the President, Bricklayers and Masons, 1904, p. 4 ff.

<sup>25</sup> Amalgamated Sheet Metal Workers' Journal, December, 1909, p. 502.

The Granite Cutters protested at their convention in 1896 against the action of the Masons in preventing the granite cutters of Chester and Pittsfield, Massachusetts, from cutting stone jambs, door sills, and corners unless they should become members of the local union.<sup>26</sup> In a great jurisdictional dispute in Philadelphia during 1905 conditions were reversed, and the masons were the aggrieved party because the Granite Cutters claimed the right to set granite in that community.<sup>27</sup>

The national or international unions must of course have uniform claims to trade jurisdiction throughout their territory, and they cannot modify these in harmony with the customs in each locality. It is quite common, when a national union brings one of its local unions to account for permitting certain violations of the trade jurisdiction of the national union, to hear the members of the local union reply that they were merely following the custom of their community.

Convenience frequently leads to the awarding of contracts or the execution of them in such a manner as to result in demarcation disputes. Not infrequently a building contractor finds it expedient to sublet what from the standpoint of the union are several distinct kinds of work to the same subcontractor, who will seek to use the same group of men through all stages of his work. The convenience of this arrangement is often offered as justification for the trespasses of one union upon the jurisdiction of other unions. In the dispute over the glazing of metal sash in the Belvedere Hotel, Baltimore, already mentioned, the Sheet Metal Workers claimed that they ought to do this work because the contractor who took the contract to put up skylights and metal sash in a building had of necessity to include in his contract the glazing.<sup>28</sup> In this case, however, the Brother-

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<sup>26</sup> Proceedings, 1896, p. 75.

<sup>27</sup> Report of the Officers, Bricklayers and Masons, December, 1905, p. 165.

<sup>28</sup> Amalgamated Sheet Metal Workers' Journal, November, 1903, p. 265.

hood of Painters and Decorators, of which the glaziers are members, was able to point out that the contract for glazing was let separately and was awarded to a painting contractor. When conflicts have occurred over this work in Chicago, the sheet metal contractors have insisted that it is preferable for their men when working on skylights and windows to place the glass.<sup>29</sup>

Demarcation disputes are not often directly due to the introduction of machinery. They may arise, of course, through a dispute between the union of machine operators and the handicraftsmen as to whether certain work can properly be done on the machine, but a union strong enough to draw a fine jurisdictional line against machine work would probably be strong enough to keep machines out of the trade. In 1901 the men who ran the planers in New York, who were organized in a union independent of the Stone Cutters, complained that the Stone Cutters were doing work which properly belonged to the machine men.<sup>30</sup> Ordinarily, however, where the autonomy of the machine union has once been recognized there is no difficulty in drawing a line of demarcation.

There is another less tangible aspect of the introduction of machinery in its relation to jurisdiction. Any extended use of machinery always brings about a certain standardization of the product, and this tends to bring into use, for setting up or placing the product, a class of workmen who need only a small degree of manual dexterity instead of a complete knowledge of the trade.<sup>31</sup> These relatively un-

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<sup>29</sup> Report on Trade Jurisdiction Disputes in Chicago, 1912. By Building Employers' Association.

<sup>30</sup> Stone Cutters' Journal, March, 1901, p. 6.

<sup>31</sup> The great increase in the use of machinery and the resultant necessary assembling of machines and men in one place—the shop—has greatly reduced the amount of work done on the job. This tends toward the substitution of unskilled workmen both on the job and in the shop. In the latter the division of labor, the use of machinery, and the repetition of uniform tasks make unnecessary a knowledge of any particular trade, while on the job special skill is also rendered unnecessary by the fact that the chief work is the

skilled workmen tend to displace the skilled mechanics, and wherever these two classes meet there will be a conflict of jurisdiction. Since the manufacture of standard parts and joints for plumbing the amount of skill necessary to work at the plumbing trade has steadily decreased. Some of the most ornate and beautiful examples of plastering, which formerly required almost the skill of an artist to produce, are now made up in factories in the shape of strips or squares on a back of burlap or canvas, and they can be placed in buildings almost as well by laborers as by skilled workmen. This whole tendency toward standardization, which is the accompaniment and the necessary aim of the introduction of machinery, offers a fruitful source for trade disputes not only between skilled and unskilled workmen, but more often between men of nearly equal skill, though in different trades. For example, the introduction of certain standard forms for decorative plastering has caused trouble, on the one hand between the Plasterers and the Carpenters, and on the other between the Plasterers and the Painters and Decorators.

So numerous are the disputes growing out of the introduction of new materials that it might well be maintained that if no more new materials were introduced into the construction of buildings the unions in the building trades would gradually reach an adjustment of their claims which would almost entirely eliminate demarcation disputes. There is a general correspondence in the attitude of trade unions toward new materials coming into the trade and their attitude toward machinery. If the use of the materials threatens to displace the members of the union, the attitude of the union is in many respects the same as where

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assembling of materials which have already been prepared in the factory or mill. Of course the trades being displaced object, and disputes as to jurisdiction arise. This change from skilled to unskilled work also makes it unnecessary for a workman to serve an apprenticeship. This removes the chief foundation on which claims to jurisdiction are built.



machinery is introduced. Moreover, the methods of opposing the use of the new materials are analogous to those used in opposing the introduction of machinery. If, on the contrary, the use of the new materials does not displace the members of the craft, or if their use adds to the amount of work the trade can claim, the new materials will be welcomed. The Bricklayers encouraged the use of fireproof tiling, but opposed the use of concrete. One method of discouraging the use of concrete was to insist that the work should be done by bricklayers, with the result that concrete work was made more expensive than brick or stone. They have steadily tried to discourage its use by claiming that it is unsafe, and their official journal and proceedings are full of references to collapsed concrete buildings. They appeal to the officials in charge of public works to use materials controlled by them, and on new private construction they exert whatever influence they can to secure the same result.

Out of the great number of jurisdictional conflicts which are caused by the members of one trade working on materials claimed to be under the control of another it will be possible to consider only a few typical examples. The Journeymen Stone Cutters in 1901 had trouble in Pittsburgh with the Bricklayers concerning the cutting of terra cotta, which the Bricklayers claimed because, as they said, they had jurisdiction over everything made of clay.<sup>82</sup>

The Bricklayers are particularly exposed to jurisdictional troubles because the union includes the three trades of bricklaying, plastering, and masonry, each of which works with a separate material. Disputes arose in Boston and Philadelphia during 1902 over the question of the right to put up plaster block partition. This work was claimed by the Operative Plasterers as plastering, and by the Bricklayers as part of bricklaying. The blocks are manufactured ready to set up, but in preparing the bed and the cross joints plasterers' tools are used. The Bricklayers, how-

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<sup>82</sup> Stone Cutters' Journal, March, 1901, p. 16.

ever, claimed this "as well as any other substitute that takes the place of brick and tile." An effort was made by the Bricklayers to get the manufacturers of the plaster blocks to agree to allow the work to be directed only by bricklayers, but this failed, for the manufacturers were engaged also in the sale of stucco-hair and cement, and therefore were unwilling to discriminate against the Plasterers, who might boycott their other goods. The Bricklayers were therefore forced to use other means of securing jurisdiction. In Philadelphia the Operative Plasterers refused to plaster a building where plaster block partitions were to be used unless they were allowed also to put up the plaster block. On the other hand, the stonemasons, who are in the same national union as the bricklayers, refused to do any more work on the building unless the plaster block work should be given to the Bricklayers. It was finally so awarded, and the Operative Plasterers then quit work on the building. The president of the Bricklayers brought in plasterers from their branch in Atlantic City, and they completed the plastering.<sup>33</sup>

The new and rapidly increasing use of hollow tile and block arching for fireproofing caused considerable trouble for the Bricklayers, and their president continually urged the local unions to secure exclusive control of this new work as it came into use. During 1905, disputes with laborers' organizations over such work occurred chiefly in New York, Buffalo, Philadelphia, Pittsburgh, and Louisville.<sup>34</sup> The increasing use of concrete absorbed a great deal of the union's attention, as this development has threatened to replace bricklayers by ordinary laborers who could mix and shovel in concrete.<sup>35</sup> A committee on con-

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<sup>33</sup> Secretary's Report to the Bricklayers' Union, 1902, p. 361.

<sup>34</sup> Annual Report of the Secretary, December, 1905, p. 391.

<sup>35</sup> Report of the President, December, 1903, p. 4. The president approved the attitude of the Pittsburgh union, which claimed all concrete work for bricklayers, and urged that such concrete be shoveled into place with "small sugar scoops," so as to make its use more expensive than brick and stone.

crete has been an almost perennial affair in the conventions of the Bricklayers. The use of exterior tile veneer in the construction of buildings in San Francisco caused a dispute during the latter part of 1907 between the Bricklayers and the Tile Layers, in which the Bricklayers claimed jurisdiction over all exterior tile work.<sup>36</sup>

The Sheet Metal Workers' Union has had many jurisdictional struggles caused by the introduction of new materials. Its continued dispute with the United Brotherhood of Carpenters is perhaps the most important. Almost every issue of the official organ of the Sheet Metal Workers during 1909, 1910, and 1911 makes some mention of controversies with the Carpenters, who had flatly refused to comply with the decision of the Tampa Convention of the American Federation of Labor which conceded the manufacture and erection of hollow metal doors and trim to the Sheet Metal Workers. The Carpenters claim this work, as has been said, on the ground that it takes the place of work formerly done by them and has been fast supplanting wood work in large buildings.<sup>37</sup> The Sheet Metal Workers have also had frequent and bitter disputes with the Painters over the glazing of metal sash. The former contend that the glass must be capped and soldered with Sheet Metal Workers' materials and therefore should be under their trade jurisdiction. The manufacture, erection, and installation of metal furniture has caused a number of demarcation quarrels between the Sheet Metal Workers and the Structural Iron Workers, with the decision by the Building Trades Department in favor of the former.<sup>38</sup>

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<sup>36</sup> The Bricklayer and Mason, July, 1899, p. 1.

<sup>37</sup> In Chicago, during 1912, this conflict in jurisdiction caused trouble in work on the Jewish Temple and the Insurance Exchange Building. One contractor was erecting both buildings, and the Carpenters threatened that if the work in dispute on the Temple should be given to the Sheet Metal Workers, they would tie up work on the Exchange Building. The Sheet Metal Workers threatened that if it was awarded to the Carpenters, they would refuse to erect the sheet metal work on the Exchange Building.

<sup>38</sup> Amalgamated Sheet Metal Workers' Journal, March, 1909, p. 95.

The Composition Roofers, Damp and Waterproof Workers have had disputes with the Painters over the question of applying a waterproofing solution to the walls of buildings. During 1906 the Slate and Tile Roofers were driven off a building in Boston by the Bricklayers, who claimed the work. The material was known as Promenade Tile Roofing, and it was claimed by the Bricklayers on the ground that it was made of clay and that they had jurisdiction over all clay products. It was also claimed by the Ceramic, Mosaic and Encaustic Tile Layers because the material was the same as that of which some tiled floors are made.<sup>39</sup>

Probably no union has experienced more difficulty on account of opposing claims to the materials it uses than the Wood, Wire and Metal Lathers. The introduction of every new form of lathing material has meant a jurisdictional contest. The work of putting up wire and metallic lath, which is one of the basic claims of the union, has also been claimed by the Structural Iron Workers and the Sheet Metal Workers.<sup>40</sup> In the matter of putting on plaster board the Lathers have had to contend with the United Brotherhood of Carpenters.<sup>41</sup> At the convention of the National Building Trades Council the Brotherhood of Carpenters sought to have passed a resolution declaring that channel iron studding and bracket work were gradually taking the place of wood studding, and that therefore such work belonged to them or, in localities where they had no branches, to the Structural Iron Workers.<sup>42</sup> This resolution was defeated and the work awarded to the Lathers. In the erection of the World's Fair Buildings at St. Louis a dispute of considerable magnitude and long duration occurred between the Brotherhood of Carpenters and the Lathers over the putting on of Burkett Lath, the work finally being awarded

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<sup>39</sup> Proceedings, Slate and Tile Roofers' Union, 1906, p. 6.

<sup>40</sup> The Lather, February, 1902, p. 2.

<sup>41</sup> *Ibid.*, September, 1903, p. 22.

<sup>42</sup> *Ibid.*, May, 1906, p. 22.



to the Lathers.<sup>43</sup> Besides the foregoing, the Lathers have had demarcation disputes with the Sheet Metal Workers in regard to putting up metal studding to hold lath; with the Structural Iron Workers over the erection of light iron furring, brackets, clips, hangers, and steel corner guards or beads, and with the same union over the placing of the iron rods for reinforced concrete and over the installing of the metal netting used for fireproofing and concrete flooring.

A final cause of demarcation disputes is the spirit of aggression coming from the desire on the part of a union to grow and expand. In the pursuit of this ambition a union will attempt to obtain work which is claimed by another and usually a weaker association. It can scarcely be doubted that many of the claims to jurisdiction over work put forward on other grounds have their real basis in the ambition of the union officials. It is not often that this desire to take over the work of another union is expressed so frankly as it was by one of the branches of the Stone Cutters. It was proposed by this branch that, since disputes were constantly occurring between the stone cutters and the masons, and since the introduction of machinery was likely to displace many stone cutters, stone cutter apprentices should be taught to set stone, so that in case of dispute or scarcity of work in their own trade they could do the work of masons.<sup>44</sup> The Bricklayers in Scranton became involved in a dispute with the Structural Iron Workers because the Bricklayers claimed the right to place iron girders in position when the work required only a few pieces,—“odds and ends,” as they called them.<sup>45</sup> In 1911 the Bricklayers were much aroused over the tendency of the Cement Workers to enlarge their jurisdiction by claims to set cement and tile blocks, cement floors, artificial stone, and all plastering work in which cement is used.<sup>46</sup>

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<sup>43</sup> The Lather, July, 1903, p. 26.

<sup>44</sup> Stone Cutters' Journal, September, 1902, p. 9.

<sup>45</sup> Report of the President, 1903, p. 7.

<sup>46</sup> The Bricklayer and Mason, August, 1911, p. 1.

At the Sheet Metal Workers' convention in 1904 a resolution was adopted urging the executive board to endeavor to consolidate the Slate and Tile Roofers with their organization, and to provide that in localities where there are not sufficient men to form a separate local union of slate and tile roofers they be compelled to join the local union of sheet metal workers.<sup>47</sup> The president of the Sheet Metal Workers in his report to one of the conventions,<sup>48</sup> after emphasizing the necessity of defending their established trade jurisdiction, said, "There is a very apparent disposition, shown by a number of trades, to broaden their trade jurisdiction lines, and in so doing they show no hesitancy in encroaching upon the jurisdiction of others." The Granite Cutters gave expression to the same spirit of aggression by inserting in their constitution of 1909 the following clause: "Branches reserve the right to set all stone cut by members of our International Association if so desired."<sup>49</sup>

The members of the Baltimore local association of the Lathers sought to extend their jurisdiction at the expense of the Carpenters when in 1904 they struck to enforce their claim to wood centering, which the Carpenters had been doing. The president of their national union, however, notified them that such work belonged to the Carpenters and that their charter would be revoked unless they returned to work.<sup>50</sup> In 1905 the secretary of the Lathers suggested that the name of the organization be changed from the Wood, Wire and Metal Lathers' International Union to Lathers' International Union, on the ground that the latter title was expansive and might be made to cover more work.<sup>51</sup> A few months later at the Toronto convention,

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<sup>47</sup> Proceedings, 1904, p. 240.

<sup>48</sup> Amalgamated Sheet Metal Workers' Journal, October, 1908, p. 375.

<sup>49</sup> Constitution, 1909, sec. 141.

<sup>50</sup> The Lather, September, 1904, p. 13.

<sup>51</sup> Ibid., May, 1906, p. 21.

in speaking of the jurisdictional claims of the union, he said: "In this respect we differ from nearly every other building trades organization. We do not endeavor to push out our authority over work not plainly in line with that which our craft should control. . . . We are not continually adding to our jurisdiction claims."<sup>52</sup>

While hardly rising to the importance of being classified as a cause of jurisdictional disputes, the trade-union politician and grafter, who preys alike upon unionists and employers, is an element in preventing the settlement of such disputes. This individual is in the labor movement for his personal profit, and his most successful operations are made possible by conflicts between unions over the problems of jurisdiction. By playing off one organization against the other and by urging an aggression here or there, he divides the labor camp into hostile parties, so that conditions are ripe for sympathetic strikes—the usual weapon adopted by unions to enforce their claims to work in dispute. With this as a club, he forces employers, hurrying to complete a contract, to stand and deliver, or, if a strike has been inaugurated, it can be ended in many cases only by a satisfactory payment to the labor politician. More than any other part of the trade-union world the building-trades unions have suffered from this type of local labor leader, and the explanation lies largely in the greater prevalence of jurisdictional disputes in that group.

It was said above that if all changes in industry were to cease, demarcation disputes would become few in number. There are, however, certain disputes which may be said to have their origin in the difficulty of distinguishing with any degree of precision the exact line of demarcation between two trades. It is conceivable that such disputes might ultimately be settled, but they persist for such long periods that they may almost be regarded from the standpoint of origin as a separate class. Granite Cutters and

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<sup>52</sup> The Lather, October, 1906, p. 18.

Stone Cutters work on material so similar that the two organizations could scarcely avoid dispute. The stone cutters work upon softer material than do the granite cutters, but it is frequently hard to tell where to draw the line of division. At one time, in order to settle a dispute, the stone in question was sent to the Smithsonian Institution for analysis to determine whether it was a hard or a soft stone. The records of the two unions are full of jurisdictional quarrels caused by the question of the materials used. One of the branches of the Stone Cutters reported that it had been having a good deal of trouble with the blue-stone cutters and was trying to get them to join their branch,<sup>53</sup> while the Washington branch of the Stone Cutters fined some granite cutters for working on marble, which they said belonged to the stone cutters.<sup>54</sup>

In determining jurisdiction there appears also to be great difficulty in applying the criterion of the tool used. A very large part of the disputes of the Granite Cutters grow out of their insistence on the use of certain tools as a distinctive characteristic of the trade. In the erection of the Washington monument at Washington in 1883 a dispute occurred between the Granite Cutters and the Stone Cutters because the engineer in charge of the work transferred some of the granite cutters to marble cutting. The Stone Cutters claimed that the Granite Cutters had no right to use the mallet, but that they themselves had every right to use the bush-hammer.<sup>55</sup> In every constitution and every statement of jurisdiction claims the Granite Cutters demand all cutting and carving of stone in which granite cutters' tools are used. In the constitution of 1905 an expansion of claims is shown when jurisdiction is asserted not only over all work in which granite cutting tools are used, but also over granite cutting machines "and the making up, sharpening or dressing said tools either by hand or machine."<sup>56</sup> During 1910

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<sup>53</sup> Stone Cutters' Journal, August, 1897, p. 9.

<sup>54</sup> *Ibid.*, March, 1901, p. 9.

<sup>55</sup> Granite Cutters' Journal, October, 1883, p. 5.

<sup>56</sup> Constitution, 1905, sec. 3.



Secretary Duncan called attention to the numerous disputes which were occurring between the Granite Cutters' Union and the Pavers and Rammers over the question of cutting and trimming stone for street work. These disputes occurred especially in New York and San Francisco, but everywhere the claim of the Granite Cutters was based on the same ground, that is, the exclusive right to cut all stone, whether used for paving or building, upon which granite cutters' tools are used.<sup>57</sup>

The Slate and Tile Roofers, because of contentions with the Sheet Metal Workers, decided to omit the shears or snips from the emblems of their craft, and to claim only such metal work in connection with slate and tile roofing as required no soldering.<sup>58</sup> The practice of the Stone Cutters is similar to that of the Granite Cutters except that the former claim control over tools used for cutting soft stone, whereas the latter's jurisdiction applies to hard stone. The mallet, mash hammer, and chisel are regarded as peculiarly stone cutters' tools, while the use of the stone pick is discouraged, as it is not regarded as belonging to stone cutters.

Secretary Dobson of the Bricklayers and Masons, in commenting on a long jurisdictional dispute between the Stone Masons and the Granite Cutters in Philadelphia, said that the controversy was waged not only over the right to do certain work, but also over the right to use certain tools. This latter demand he considered to be carrying things too far, and said that as long as each man observed the proper demarcation of his trade there ought to be no restriction as to the tools he wished to use.<sup>59</sup> A similar dispute occurred in Boston in 1904 between the Sheet Metal Workers and the Plumbers because members of the latter association were using sheet metal workers' tools in their work.<sup>60</sup>

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<sup>57</sup> Granite Cutters' Journal, October, 1910, p. 4.

<sup>58</sup> Proceedings, 1903, p. 10.

<sup>59</sup> Annual Report, December, 1905, p. 335.

<sup>60</sup> Proceedings, Sheet Metal Workers, 1904, p. 236.

## CHAPTER V

### THE COST OF JURISDICTIONAL DISPUTES

Having noticed the characteristics and the causes of jurisdictional disputes, we shall now seek to obtain some adequate conception of the evil results of these controversies. The actual money cost of jurisdictional conflicts, considerable as it is, is almost insignificant as compared with the less ponderable but none the less real costs to the unions and the public. The treatment divides itself conveniently into (1) a general consideration of the evils involved, and (2) an examination of the specific costs (a) to the unions themselves, (b) to the employer, and (c) to society.

To one who studies the history of trade-union development or observes the present activities of the unions, one of the most obtrusive facts is the frequent and almost interminable disputes between different organizations or between different branches of the same organization over the question of jurisdiction in one form or another. An examination of the records for the past twenty years of the American Federation of Labor, into which as a sort of melting pot the contending parties pour their quarrels with the hope that, by the addition of the elements of conference and agreement, peace will result, shows the great frequency and bitterness of these disputes as well as the necessity for overcoming them if labor is to attain really effective combination.

As was pointed out earlier in this study, conflicts over jurisdiction may be expected to arise chiefly when labor organizations are numerous, when trades are much subdivided, and when changes in materials and methods are occurring rapidly. We expect, therefore, to find in the building trades of the present day, where these conditions are present in the greatest degree, numerous and bitter con-

flicts. But such controversies are not limited to recent years<sup>1</sup> or to the building trades. Sidney and Beatrice Webb include all English organized labor when they say, "It is no exaggeration to say that to competition between overlapping unions is to be attributed nine-tenths of the ineffectiveness of the Trade Union World."<sup>2</sup>

The convention proceedings of the American Federation of Labor each year contain extensive references by the president or the executive council to the prevalence of jurisdictional disputes. In his report to the convention in 1903, for instance, President Gompers called attention to the grave dangers which confronted the organization by reason of the many jurisdictional disputes. Many efforts, he said, had been made to settle them by arbitration and agreement, but the unions frequently refused to accept the awards of an arbitrator, and insisted on their own narrow interpretation of jurisdiction. He pointed out that during the year there were requests from unions for the revocation of no less than thirty charters of international unions. Some unions which had no jurisdiction troubles had deliberately put themselves in the way of them by extending their claims to jurisdiction for no better reason than that other organizations had extended theirs.<sup>3</sup> At the same convention the executive council of the Federation reported as follows: "The Executive Council regrets to state that much of its time has been unavoidably taken up with the settlement or

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<sup>1</sup> In some of our earliest records of industry are found these disputes as to demarcation of trades. Thus, "the quarrels raged so fiercely between the London cordwainers and the 'cobblers from beyond sea' that the King in 1395 commanded John Fresshe . . . 'that it should be determined what of right should belong to one party and the other.'" It was then decided "that no person who meddles with old shoes, shall meddle with new shoes to sell." This did not settle the matter, however, so that it was followed a few years later by an order apportioning the work, and giving to the cobbler "the clouting of old boots and old shoes with new leather upon the old soles, before or behind" (Webb, vol. ii, p. 511).

<sup>2</sup> Vol. i, p. 121.

<sup>3</sup> Proceedings, 1903, p. 18.

attempted settlement of jurisdiction disputes. Despite the fact that your body in convention assembled has repeatedly declared for peace between the unions, and has advocated the submission of all matters in dispute to the arbitrament of third parties, the jurisdictional disputes seem to grow in number and in intensity . . . The Executive Council feels called upon to issue to the unions composing this body a solemn note of warning as to the dangers which lie in the continuance of jurisdiction disputes. Many of the unions appear to be more engrossed in the problem of securing new adherents from unions already existing, or to extend the work of their members at the expense of other organizations, than they are in resisting the aggressions of employers, or securing higher wages, shorter hours, and better conditions of work."<sup>4</sup>

In spite of the exhortations of President Gompers and the warnings of the executive council, disputes continued to arise with unabated frequency. In 1908, during the eleven days in which the convention of the Federation was in session, there were nineteen cases of jurisdictional disputes under consideration.<sup>5</sup> To each of these disputes

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<sup>4</sup> Proceedings, 1903, p. 76. Among the conflicts considered by the executive council in this one year were: dual unions among the Sheet Metal Workers; Team Drivers v. Teamsters; Iron Molders v. Coremakers; dual unions among the Upholsterers; Metal Mechanics v. Plumbers; Ladies Garment Workers v. Laundry Workers; Laundry Workers v. United Garment Workers; Brewery Workers v. Engineers and Firemen; Sheet Metal Workers v. Painters; United Brotherhood v. Amalgamated Carpenters; Blacksmiths v. Allied Metal Mechanics; Plumbers v. Steamfitters; Metal Mechanics v. Metal Workers and Machinists; Carpenters v. Woodworkers; Brewery Workers v. Teamsters; Longshoremen v. Seamen; Wood, Wire and Metal Lathers v. Carpenters; Silk Workers v. Textile Workers; Bakers v. Teamsters and v. Retail Clerks; Teamsters v. Brotherhood of Railway Expressmen; United Mineral Mine Workers v. National Association of Blast Furnace Workers and Smelters; Railroad Telegraphers v. Street and Electric Railway Employees; and Blacksmiths v. United Mine Workers (Proceedings, 1903, p. 76 ff.).

<sup>5</sup> Proceedings, 1908, *passim*.



there were at least two parties. This makes the number of unions involved at least thirty-eight, and when one further thinks of the number of members in these thirty-eight unions, some idea will be afforded of the extent to which the labor world is disrupted and agitated by such disputes. In addition, it should be kept in mind that the jurisdiction disputes considered by the convention or by the executive council of the American Federation of Labor do not represent more than a fractional part of such difficulties, for only those disputes which have attained the dignity of national importance—that is, of being discussed by the national officials of the two contending unions—are considered by the Federation. Besides these there are almost countless controversies over jurisdiction. Each national union has from a dozen to several hundred local unions under its authority; each one of these thousands of subordinate unions is likely at some time to have its trade infringed upon by a branch of another national union, and these disputes may be and frequently are settled locally and so do not become an issue between the national unions. Moreover, there are many jurisdictional disputes between branches of the same national union which are settled without recourse to the American Federation of Labor. The national unions also ordinarily dispose of local dual unions without recourse to the Federation.<sup>6</sup>

The American Federation of Labor was relieved of some of the burden involved in the consideration of jurisdictional disputes by the formation in 1908 of the Building Trades Department, to which all matters affecting particularly the building trades are referred. Since, as has been noted, the building trades offer the most fertile field for jurisdiction

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<sup>6</sup> The president of the Lathers, in an address to the convention of that union in 1908, called attention to the frequency and gravity of jurisdictional disputes in which the union was involved, and said, "I have appeared before different communities at least twenty times during the past year to fight off encroachments upon our jurisdiction claims" (Proceedings, 1908, p. 6).

difficulties, the establishment of the Department has resulted in the transfer of the greater part of these disputes to it, though the Federation as a kind of appellate court still passes upon many contests in which building-trades unions are participants. The records of the Building Trades Department show no diminution in the number of jurisdictional disputes. The delegates sent by the Plumbers to the convention of the Department in 1909 reported that the time of the convention was taken up mainly by jurisdictional controversies, and they added, "The situation is getting to be a critical one throughout the entire country and with all the building trades."<sup>7</sup> Some twenty jurisdictional disputes were considered by the convention of 1910,<sup>8</sup> and in 1912 eighteen disputes were referred to committees.<sup>9</sup> In addition, a number of disagreements which had developed from jurisdictional difficulties were discussed.

Besides their great number, there is another aspect of jurisdictional disputes which must be considered in any appraisal of the cost of such conflicts. This is the bitterness, hostility, and enmity which they arouse between the participants. Even when the dispute is only of short duration there is certain to be some bitterness left and some soreness felt, and in those cases where the quarrel extends over a number of years, as in the jurisdictional conflicts between the Plumbers and the Steam Fitters and between the United Brotherhood of Carpenters and the Sheet Metal Workers, the members of one union are likely to come to look upon the members of the other organization as their natural enemies. At the convention of 1902 of the American Federation of Labor, President Gompers said: "Beyond doubt the greatest problem, the danger which above all others threatens not only the success, but the very existence of the American Federation of Labor, is the question of

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<sup>7</sup> Plumbers, Gas and Steam Fitters' Official Journal, November, 1909, p. 4.

<sup>8</sup> Proceedings, Building Trades Department, 1910.

<sup>9</sup> Proceedings, Building Trades Department, 1912.

jurisdiction. I am firmly convinced that unless our affiliated national and international unions radically and soon change their course, we shall at no distant day be in the midst of an internecine contest unparalleled in any era of the industrial world, aye, not even when workmen of different trades were arrayed against each other, behind barricades in the streets over the question of trade against trade. I submit that it is untenable and intolerable for an organization to attempt to ride rough shod over and trample under foot the rights and jurisdiction of a trade, . . . which is already covered by an existing organization."<sup>10</sup> The bitterness engendered by the long controversy between the United Brotherhood of Carpenters and the Amalgamated Woodworkers was so great that these unions declared firms "unfair" which employed members of the opposing union, even when full union conditions of employment prevailed.<sup>11</sup>

From this depressing general view of the results of jurisdictional disputes<sup>12</sup> let us turn to a consideration of the cost specifically chargeable to such disputes, first of all to the unions themselves. These costs may be grouped under three headings: (a) loss of money, (b) impairment of organization, and (c) the creation of hostile public opinion.

It will of course be impossible to give the actual monetary loss sustained by the various unions by reason of jurisdictional disputes, since this loss is composed of many different elements, such as loss of wages, strike benefits, and cost of

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<sup>10</sup> The Steam Fitter, April, 1903, p. 2.

<sup>11</sup> Proceedings, American Federation of Labor, 1906, p. 73.

<sup>12</sup> President Gompers, in his report to the convention of 1905 of the American Federation of Labor, managed to find a slight element of advantage in the existence of jurisdictional disputes. He said: "None will dispute the fact that with you I deeply deplore the jurisdictional controversies, and particularly when they assume an acute and often bitter antagonistic attitude; but that they have developed a high order of intelligence in discussion among our unionists, keen perception in industrial jurisprudence, is a fact which all observers must admit. That these acquirements and attainments will be of vast advantage in the administration and judgment of industrial affairs, no thinker dare gainsay" (Proceedings, 1905, p. 23).

agents of the union. Not only is money spent in maintaining the organization during the trouble, but also in building it up again after the conflict is over. The greater number of such expenditures are undifferentiated in the accounts of the union, and indeed are impossible of any precise separate measurement, but from such stray facts and official comments as we have, it is clear that the amount of money spent by the building-trades unions upon jurisdictional controversies, directly and indirectly, represents one of the largest items in their budgets. For instance, the expense must have been very heavy not only to the Steam Fitters but to other unions as well when the Steam Fitters were on strike during the first six or seven months of 1910 to gain control of the pipe-fitting industry in New York.<sup>13</sup> A consciousness of the heavy cost of jurisdictional difficulties is shown in the following statement of President Short, made at the session of the Building Trades Department in 1911: "The jurisdictional disputes which have become the bane of our lives must end, and the only way this enormous loss of money to our membership can be ended is by loyalty to this Department."<sup>14</sup> The president of the Hod Carriers' and Building Laborers' Union said in 1908 that their local union in Chicago had recently been "drawn into one of those cursed jurisdictional fights between the Carpenters and the Electricians, which put five hundred of our men upon the street for five weeks . . . Instead of wasting our strength, time and money in fighting one another, we should devote it to organizing the unorganized."<sup>15</sup>

A more definite statement of the money cost to the unions is found in the report of the United Association of Plumbers to the Building Trades Department that in Toronto their members had been locked out by the employers on account

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<sup>13</sup> Interview, Business Agent Moore of the Baltimore Plumbers, November 8, 1910.

<sup>14</sup> Proceedings, Building Trades Department, 1911, p. 35.

<sup>15</sup> Official Journal [Hod Carriers and Building Laborers], August, 1907, p. 3.



of the dispute with the Steam Fitters, and that the union had spent about fifty-three thousand dollars in the fight. In spite of this, the Steam Fitters had established there a local union composed mainly of members of the Plumbers' Association who were in arrears with their dues.<sup>16</sup> The Elevator Constructors had a serious and costly dispute with the Machinists in Chicago over the installation of pumps connected with hydraulic elevators. A strike resulted which lasted for more than two years, during which most of the elevator men in the city were out of work, while members of the Machinists and other unions supplied their places with the Otis Elevator Company. Finally, on May 1, 1911, the Elevator Constructors as the result of an agreement went back to work, and the Machinists were displaced. From that time on, the Elevator Constructors were treated as "scabs" by the Machinists; they were beaten and even killed, so that the union was forced to hire detectives to protect its members and to convict the "sluggers." This difficulty alone cost the union thousands of dollars.<sup>17</sup> The losses in wages due to disputes are not often estimated by trade-union officials, but we occasionally come across such estimates. For instance, in 1910 the secretary of the Bricklayers said: "Our disputes with the Operative Plasterers' Union during the past year have taken thousands of dollars out of our International treasury for the purpose of protecting our interests. The loss in wages to our own members has amounted to at least \$300,000. The losses to our employers have been up in the thousands also. . . . In several instances the writ of injunction has been brought into play for the purpose of restraining unions involved in trade disputes and unless the unions . . . provide some

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<sup>16</sup> Proceedings, Building Trades Department, 1908, p. 51.

<sup>17</sup> Interview, General Secretary Young of the Elevator Constructors, June 29, 1911. Mr. Young estimates that the Elevator Constructors, with about 2000 members, have spent in less than ten years \$75,000 in defending themselves and their trade from the aggressions of other trade unions.

means of eliminating jurisdictional warfare, it is only a question of time when the legislatures of our country will be called upon to pass laws that will penalize labor unionists who indulge in such struggles."<sup>18</sup>

In the examples which have been cited the attempt was made to give some indication of the money cost in each case to only one of the parties engaged in the quarrel. It is obvious that the total cost must be much greater than this, since there is always at least one other union directly connected with the dispute, which must likewise expend a large sum of money to preserve what it regards as its rights. In addition many unions, whose wage loss must be taken into account, may be forced out on strike in sympathy with one or the other of the principals.

Furthermore, there is a large though indeterminable cost to all organized labor in the increasing difficulty of organization and the loss in solidarity growing out of these conflicts. These evil results, which are less susceptible to measurement, have been grouped under the head of weakness in organization. As was said before, any contest between two or more unions over the possession of a trade or a territory, however brief its duration, is certain to cause some enmity and discord between the members of the unions, and when the dispute is prolonged this lack of unity and harmony is much accentuated. Members of rival unions, instead of feeling that sympathy for each other which must underlie all cooperation, hear with rejoicing the news that disaster has overtaken their opponents, and in many cases they contribute to this outcome in every possible manner. The employer of the members of one organization is approached by members of the rival union who offer to work for a lower wage scale than he is paying,<sup>19</sup> or they may

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<sup>18</sup> The Bricklayer and Mason, February, 1911, p. 1.

<sup>19</sup> "Collective bargaining becomes impracticable when different societies are proposing new regulations on overtime inconsistent with each other, and when rival organizations, each claiming to represent the same section of the trade, are putting forward divergent

boycott his product and put him on the "unfair" list, or they may persuade other unions to refuse to work for him as long as he employs their opponents. They may send their agents to disrupt local unions affiliated with the rival association and to procure their reaffiliation with their own association, and may finally reach the lowest point of union degradation by "scabbing" on their rival union when it is engaged in a strike for the purpose of obtaining higher wages or improved working conditions. As the result of jurisdictional controversies, local unions frequently refuse obedience to their national officers, local building trades councils seat and unseat delegates regardless of the commands of the national Building Trades Department, and the city federations defy the American Federation of Labor. This condition of anarchy, due to jurisdictional quarrels, is one of the greatest weaknesses and gravest dangers in the labor movement.

Incidents showing the disorganizing influence of jurisdictional disputes are very numerous, and only a few of the more prominent will be sketched here. During 1912 the United Brotherhood of Carpenters, which had been suspended from the Building Trades Department for its refusal to obey the decision of the Department in regard to its dispute with the Sheet Metal Workers and had just been reinstated, was embroiled again in New York. The Sheet Metal Workers were locked out by their employers, and it was charged that the Carpenters were taking their places. President Short of the Building Trades Department said: "Charges are made . . . that the Carpenters were helping the contractors to break up the local union of the Sheet Metal Workers; even going so far as to say that the Carpenters were erecting metal cornice work."<sup>20</sup> Whether or not these charges were true, the result was that the local union of the Sheet Metal Workers was destroyed.

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claims as to the methods and rate of remuneration" (Webb, vol. i, p. 131).

<sup>20</sup> Proceedings, Building Trades Department, 1912, p. 27.

After the suspension of the Steam Fitters from the Building Trades Department and the American Federation of Labor, a multitude of difficulties occurred. In Boston, in compliance with the order of the Building Trades Department and the American Federation of Labor that the Steam Fitters should not be recognized as a legitimate organization, the Building Trades Council notified the George A. Fuller Company, which was erecting the Copley Plaza Hotel and several other buildings, that the steam fitters who held membership with the Plumbers must be employed instead of members of the International Association of Steam Fitters, and a strike of the building trades was called to enforce this demand. The Fuller Company agreed, and put to work the steam fitters belonging to the Plumbers' Association. Some of the most important building-trades unions—the United Brotherhood of Carpenters, the Operative Plasterers, the Bricklayers, and the Plasterers' Laborers—were not affiliated with the Boston Building Trades Council; these organizations now demanded the discharge of the steam fitters belonging to the Plumbers, and struck to enforce their demand. Secretary Spencer of the Building Trades Department was called to Boston, and after a number of conferences all the trades decided to return to work provided no steam fitters whatever were employed.

This condition of affairs had lasted for only a short time when the members of the Steam Fitters' Association were again put to work, and once more all the unions affiliated with the Building Trades Council were ordered to strike. This strike involved about five hundred men. The Structural Iron Workers, who were members of the Council, at first refused to strike and declared their intention to remain neutral, but a few days later they withdrew their men from the buildings which the Fuller Company was erecting. However, the unions outside of the Building Trades Council continued the work, and their numbers were increased by tile layers brought from New York who went to work on these buildings. In desperation the Boston Council asked



President Short of the Building Trades Department and President Ryan of the Structural Iron Workers to come immediately to the city to help to straighten out the difficulties. A few days later President McNulty of the Electrical Workers was requested to come to hold his men in line, for they were about to call off their strike against the Fuller Company. The company now forced the fighting, and, together with five subcontractors, obtained injunctions to prevent interference with the trades working on their buildings. In the meantime additional tile layers from New York went to work on the jobs, and the Asbestos Workers withdrew from the Council and returned to work. A threatened fine of two hundred dollars, however, brought them back into line with the Council.

A new difficulty now arose. The Painters' local union, before the calling of the general strike against the Fuller Company, had demanded higher wages from Marshall, a painting contractor. Marshall, in addition to his other work, also had the contract for painting the Fuller buildings, and when the general strike was ordered, the Painters had four men at work on the Plaza building. These they agreed to withdraw provided the Building Trades Council would agree to make no settlement with the Fuller Company unless Marshall should consent to the advance in wages. Now, however, Marshall, at the instance of the Fuller Company, agreed to accede to the Painters' demands, and, defying the Building Trades Council, the Painters went back to work. For this they were fined five hundred dollars by the Council, but they continued at work. A number of the Asbestos Workers also returned to work in defiance of the orders of their organization.

President Gompers was asked to notify the Central Labor Union of Boston that the local union of the International Association of Steam Fitters was not entitled to a seat in that body, and he was requested to take charge of the situation, either personally or by representative. It was hoped that a meeting of all of the officers of the building-

trades unions might solve the problems confronting the trade. In the meantime, the local union of the Bridge and Structural Iron Workers withdrew from the Building Trades Council. More tile layers and some sheet metal workers were brought from New York; the Electrical Workers returned to work, and shortly afterwards withdrew from the Council. A conference attended by President Short of the Building Trades Department was finally held. A reorganization of the local council was decided upon, and, while all the other trades were merely notified that such a reorganization would take place, the Carpenters were given a special invitation to participate. Unmoved by this tribute to their importance, the Carpenters replied that when the International Association of Steam Fitters and the Bricklayers were seated in the Council they would consider reaffiliation. The Plasterers also decided to have no part in the new council. Of those unions which did attend the meeting, the Painters, the Iron Workers, and the Electrical Workers refused to strike to force the employment of the steam fitters enrolled in the Plumbers' union.<sup>21</sup>

The disorganizing effect of jurisdictional disputes was responsible for the downfall of the New York Board of Delegates.<sup>22</sup> The dispute which wrecked the Board was one of dual unionism. The Brotherhood of Carpenters demanded the dissolution of the New York branch of the Amalgamated Society of Carpenters; upon the refusal of the Board of Delegates to require this, the Brotherhood of Carpenters withdrew from the Board, and its members struck against every builder who refused to employ their men exclusively. The Board took the side of the Amalgamated Society of Carpenters, and the United Brotherhood then decided to fight the Board. Accordingly ten thousand carpenters struck, tying up a large part of the work in the city. Taking advantage of the situation and seeking to control the whole building industry, the building-material

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<sup>21</sup> Proceedings, Building Trades Department, 1912, p. 32 ff.

<sup>22</sup> Commons, p. 415.

drivers, with the support of the Board, struck to obtain control over the supply of building material. To meet this attack the association of dealers in building material shut down every yard and plant in the city, thus bringing to a stop the supply of building material and throwing out of work seventy thousand men for four weeks. A division in the Board of Delegates resulted. The representatives of the unions of skilled trades in the Board, who were in a majority, voted to revoke the endorsement of the Teamsters, and the material yards were thrown open. But during this interval the builders had formed one strong central association, and they now declared a lock-out. After a week's idleness, they suggested to the unions a plan of arbitration which was finally adopted.<sup>23</sup>

If we turn our attention as far west as Denver, we find during 1909 another impressive illustration of the havoc wrought by jurisdictional controversies. Here again the trouble started between the two unions of carpenters. A large part of the Denver local branch of the Amalgamated Society of Carpenters joined the local union of the Brotherhood, and the Amalgamated Society was denied representation in the Denver Building Trades Council. The National Building Trades Department ordered that their delegation be seated, but in the meantime it had been agreed that a carpenters' district council should be formed from all local unions of carpenters to elect delegates to the Building Trades Council. This was done; when, however, all the delegates elected were found to be members of the United Brotherhood, the Amalgamated branch withdrew and elected its own delegates, who were seated despite the protests of the local union of the United Brotherhood. This union then withdrew from the Council.

In order to drive them back into line, the Council put into

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<sup>23</sup> "The unfortunate struggles in the Borough of Manhattan and Kings . . . during 1903 . . . amounted almost to a calamity, and it will take years to eradicate the disastrous results" (Proceedings, United Brotherhood of Carpenters, 1904, p. 209).

effect the card system, that is, a regulation that no trade affiliated with the Building Trades Council should be permitted to work on a building with any mechanic who did not hold a working card issued by the Council. Since the local union of the Brotherhood of Carpenters did not belong to the Council, its members did not carry such cards. A series of strikes against the Brotherhood men was inaugurated which involved all affiliated organizations and caused great loss and inconvenience to owners and builders. Finally, a general strike was declared against the Brotherhood of Carpenters, and to settle this the Building Trades Department sent Vice-President Smith of the Painters to Denver. A truce was signed pending arbitration of the difficulty, but the arbitration proceedings failed. President Kirby and Vice-President McSorley of the Building Trades Department and President McNulty of the Electrical Workers tried in vain to harmonize the factions. The spirit of disruption spread to all the building-trades unions, and finally, months after the beginning of the trouble, the executive council of the Building Trades Department took up the matter and suggested a plan of settlement. This was rejected, and the officials of the Brotherhood were then ordered to meet the officials of the Building Trades Department to show cause why their union should not be suspended from the Department. The meeting was held and a local agreement at last reached. Commenting on this difficulty, President Kirby said, "The result of the fight has been the almost complete disorganization of one of the best organized cities in the United States, and a condition created that has held us up to ridicule throughout the country."<sup>24</sup>

The enmity engendered by jurisdictional disputes sometimes, as has already been said, leads the members of one union to take the places of the members of a rival association which is on strike. In May, 1909, the Elevator Constructors of Chicago demanded an increase in wages, their

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<sup>24</sup> Proceedings, Building Trades Department, 1909, pp. 11, 33 ff.



principal employers being the Otis Elevator Company. This increase was refused, and when they went on strike the company made an agreement with the machinists, electrical workers, steam fitters' helpers, ornamental iron workers, and building laborers, and parcelled out the work formerly done by the Elevator Constructors among these different trades. There was then a long and bitter fight, and in spite of the efforts of President Kirby the various unions concerned refused to withdraw their men and give up the work. The president of the Building Trades Department in his report to the convention said, "There exists in the city of Chicago an agreement signed by seven different organizations to do the work of an organization whose members were on strike," and he characterized this as "the most damnable attack that ever came to my knowledge."<sup>25</sup>

Chicago also furnished an illustration of the effect of jurisdictional disputes in leading to violence between unions.<sup>26</sup> The International Association of Steam Fitters having been suspended from the Building Trades Department, the Chicago Building Trades Council in 1911 decided to aid the Plumbers in establishing a local branch of steam fitters. Trouble began immediately. Two of the trades unaffiliated with the local council took the side of the Steam Fitters, and several included in the Council also aided them in every way possible. If a contractor employed the Steam Fitters to do the steam fitting, the trades loyal to the Council would refuse to work for him; if on the other hand he employed the Plumbers, the organizations friendly to the Steam Fitters would strike. It was thus made impossible to have work done, no matter what the contractor or owner was willing to do, and work on a large number of buildings was at a standstill for many months. The feeling between the hostile unions was intensely bitter. It was openly charged that thugs were hired by union men

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<sup>25</sup> Proceedings, Building Trades Department, 1909, pp. 12, 71.

<sup>26</sup> Proceedings, Building Trades Department, 1911, p. 37.

to assault other union men, and three of the most prominent local officials of the Plumbers were arrested on the charge of conspiracy to kill. A local agreement was finally reached which put an end to this warfare.

By this evidence, which might be greatly extended, we are forced to the conclusion that the effect of jurisdictional conflicts in producing weakness in the organization of labor is a far greater evil than the mere waste of money entailed by such conflicts. Treasurer Lennon of the American Federation of Labor said in his report to the convention of 1903, "To me the danger of our movement lies in the divisions existing in the trade unions themselves, and those divisions are very largely over the questions of jurisdiction."<sup>27</sup>

We must now note still another item in the cost of this internecine strife, that is, the alienation of public sympathy from the trade unions. One does not ordinarily realize how important an element in the success of organized labor is the sympathy and cooperation of the public, but if he stops to consider merely those cases which have come under his own observation he will recall that those strikes or other labor movements which have received the moral support of the community have almost uniformly been successful, while those which have lacked this support were with few exceptions failures. The efforts made by both employers and unionists to enlist public sympathy in their cause furnish additional evidence that anything that tends to alienate public sympathy is an extremely expensive indulgence. There can be no doubt that jurisdictional disputes provide one of the prime reasons for much of the widespread public criticism of trade unionism.

That part of the community unconnected with organized labor which has been designated as the public is not sufficiently well informed as to the facts underlying jurisdictional conflicts to determine in any given case whether the

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<sup>27</sup> Proceedings, 1903, p. 60.

contest between the unions is one involving an important, even at times a vital, principle or whether it is merely due to inconsiderate and selfish aggression.<sup>28</sup> What the uninitiated see is that here are certain groups of men, nominally banded together to obtain desirable conditions of employment and to promote the welfare of themselves and their fellow-men, but actually waging war upon each other and causing inconvenience and financial loss to the community and to employers against whom they have no grievance. Not only the unions actually involved, but the whole labor movement is thus discredited.

The opinion is often given both in the daily press and in the organs of the unions that jurisdictional disputes and the outrages not infrequently resulting therefrom are responsible for much of the opposition to the unions. In April, 1903, when the officers of one of two rival associations of sheet metal workers in Chicago were lured to the rooms of the other local union and an attempt was made to murder them, all the Chicago newspapers laid stress on the injury done to the cause of unionism.<sup>29</sup> In the report of the Committee on Adjustment, which considered all the disputes brought before the convention of 1911 of the Building Trades Department, it was said: "The inconvenience to which we put him [the employer] because of the strikes we have with each other over our own disputes . . . and the general disrepute into which we bring ourselves, not only with the employers, but with the public, appeals to us as needing some remedy." One of the delegates added:

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<sup>28</sup> At the convention of the Building Trades Department in 1911 Secretary Duffy of the United Brotherhood of Carpenters said: "It is a shame when we have good friendly owners, builders and architects, who are willing to place in their contracts a provision that union labor only must be employed, and when the building is only half completed have the workers go out and strike. The public does not understand it, and it seems nobody understands it but ourselves. All the public see is that there is a job going up under union conditions and it is struck" (Proceedings, 1911, p. 27).

<sup>29</sup> Amalgamated Sheet Metal Workers' Journal, May, 1903, p. 94.

“ Even if we simply announce to the public tomorrow morning that this Department has taken a step in the direction of trying to eliminate strikes in which our employment is not involved, in which there is no question of hours of employment, wages or conditions of employment, the mere declaration will more than repay us for the time and energy spent on the question.”<sup>30</sup>

The unions are by no means the only sufferers from jurisdictional disputes. A heavy loss not infrequently falls on the employer of the workmen. Building on a large scale is no longer done, as formerly, under the direction of the owner and the supervision of a boss carpenter. The owner now obtains bids upon the specifications of his architect and gives out a single contract for the whole work, the completion of which according to specifications is guaranteed by the deposit of a bond or other security. The general contractor in turn sublets the various portions of the work to a masonry contractor, a painting contractor, a heating contractor, an electrical contractor, and so forth, and secures himself also by requiring the deposit of indemnity bonds. Nearly all general contractors and many subcontractors are required by their agreements to have their work finished within a specified time under penalty of a fine for each day beyond this time. On the other hand, a bonus is frequently allowed if the work is completed within a certain minimum time. Besides these direct financial inducements, there are other reasons why it is profitable for employers in the building trades to complete their work as rapidly as possible. They have large amounts of capital tied up in expenditures for wages and materials, and therefore every day of delay on a partially completed building represents a considerable cost for interest. Furthermore, since the profitableness of the business does not depend upon a single contract but upon many of them, the speed with which each building operation is finished and another begun, or, in other

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<sup>30</sup> Proceedings, Building Trades Department, 1911, p. 119.



words, the rapidity of the "turn over," is a very important element in the builder's economy. On all of these accounts the delays caused by jurisdictional disputes are sources of loss to employers, against most of which they have no protection. Some contracts now contain a clause providing that delays due to labor troubles shall not operate against the contractor. These clauses can, however, protect the contractor only against fines, and offer no protection against the losses from other sources noted above.<sup>31</sup>

The gravity of the losses occasioned to contractors by jurisdictional disputes is recognized by many unionists. Secretary Spencer of the Building Trades Department said: "Unfortunately there has never been an attempt exerted heretofore to adjust amicably jurisdiction claims, and the policy of tying up the building in order to secure a temporary gain over one union, whose members have seen fit to claim certain work that may or may not be controlled by the other union, has been recklessly followed. In this, the contractors and owners involved have complained bitterly and properly that such disputes should be settled among ourselves without drawing them into them to be abused by one or cursed by the other disputant. . . . It is not properly within the province of organized labor to assume a position that will militate against the progress of the building business as an industry."<sup>32</sup> In announcing in November, 1906, that an agreement had been signed between the Operative Plasterers and the Bricklayers, thus bringing to an end a conflict which had begun in 1868, the editor of the Bricklayers and Masons' journal said: "The agreement

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<sup>31</sup> Professor Commons, in his study of the New York Building Trades, comments on the New York jurisdictional disputes as follows: "Building construction was continually interrupted, not on account of lockouts, low wages, or even employment of non-union men, but on account of fights between the unions. The friendly employer who hired only union men, along with the unfriendly employer, was used as a club to hit the opposing union. And the friendly employer suffered more than the other" (p. 409).

<sup>32</sup> Prospectus of the Building Trades Department.

removes from the trade union movement a jurisdictional dispute that has involved the building industry for over thirty years, and which has not only been a source of great loss to the journeymen, financially, but has caused most vexatious delays in building operations, and consequent financial loss to employers and to the building public, the latter being innocent parties to the trouble and perfectly helpless in providing a remedy for its correction."<sup>33</sup>

A striking illustration of the difficulties encountered by the employer when unionists fall out over the question of jurisdiction is found in the circumstances attending the erection of the Marshall Field and Company building in Chicago in 1906. It was decided by the builders to put in for cleaning purposes a new compressed air device which included two pipes running side by side, one carrying hot and the other cold water. These pipes ended in a sort of scrubbing-brush, and the compressed air drew the water back off the floor and into a waste pipe. The Plumbers succeeded in getting the contract to install this system, and had got as far as the fifth floor of the seven-story building when the Steam Fitters struck. When it appeared that no agreement could be reached, the owners, who wanted to hurry the completion of the building, announced that they would remove all cause for dispute by tearing out the cleaning system. This was not satisfactory to the Plumbers, who threatened to strike. Meanwhile the Steam Fitters had returned to work, but without any helpers, for the local union of steam fitters' helpers had withdrawn its members when the Plumbers made their demands. Because the steam fitters were not using helpers, the latter organization succeeded in getting several other trades to strike in sympathy with them, and work on the building was again tied up. Finally the matter was submitted to arbitration and work was resumed. By these successive disputes a two-million-dollar job was delayed for days on account of an original

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<sup>33</sup> The Bricklayer and Mason, November, 1906, p. 1.

dispute over eight hundred dollars worth of work, although the piping in question was only one one-hundredth or one per cent of all the piping in the building.<sup>34</sup>

A great deal of trouble and loss was caused to the builders of Chicago by the Machinery Movers, who claimed the exclusive right to deliver all machinery inside of buildings and in many cases also to set it up. This organization caused considerable delay in the construction of the Harris Trust Building, and in a period of less than a year was responsible for no less than fifty separate strikes during which the work of employers was delayed.<sup>35</sup>

Secretary Boyd, of the St. Louis builders' association, in his monthly letter for March, 1912, called the attention of employers to the hostile relations existing between the Steam Fitters and the Plumbers and to the fact that their dispute had caused the suspension of work in Chicago for many months and had cost the contractors many thousands of dollars. He said: "It is truly unfortunate that the conflict that seems imminent cannot be avoided in St. Louis, as there can be no doubt that the building business, which shows signs of more activity this season than it has for several years, will be very seriously injured."<sup>36</sup> That his fears were justified was proved by the developments of the next few months. In his monthly report for May, 1912, Mr. Boyd said: "The expected happened when the mechanics on the Laclede Gas Company's new building went on strike because International Association Steamfitters were employed on the building. Since then twenty-one jobs have been reported to this office as having been interfered with on the same account, mainly by the plumber and gas fitter quitting work. . . . The Hughes Heating Company, who have the heating contract, were requested by the general contractor to take the steam fitters off the building

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<sup>34</sup> The Steam Fitter, January, 1907, p. 19.

<sup>35</sup> Report on Jurisdictional Disputes in Chicago, 1912.

<sup>36</sup> Monthly letter, March, 1912, of Secretary Boyd of the Building Industries Association of St. Louis.

in order that the other trades might proceed. The Hughes Company were notified by the Steam Fitters' Union that if the men were taken off, every job they had in or out of the city would be struck, consequently they refused to comply with the demand of the general contractor, whereupon the police were called, and they prevented the steam fitters from going to work on the building. . . . In view of this situation, the Heat and Power Contractors, at their last meeting, decided that every member of this organization should stand upon his right to complete the work for which he had contracted, and if interfered with by the general contractor or the owner, legal proceedings should be invoked to protect his rights."

Delay and annoyance are not the only evils suffered by employers from interunion disputes. They are sometimes compelled to tear out work that has been placed by one union and to allow another union claiming the work to replace it. An effort of this sort was made in July, 1905, when all the brick work on the Wanamaker store building in Philadelphia was stopped because certain concrete work was being done by laborers. This work in concrete was under the direction of the Roebing Construction Company and consisted merely in filling in concrete as a backing for terra cotta cornices. The local bricklayers insisted that the work which had already been done should be torn out, and that the Bricklayers be paid for all the time they lost while being on strike to enforce their claim. The work of the contractors was delayed for several weeks and a number of conferences were held, one of which was attended by the architects, the various contractors, and the local and national representatives of the unions. The local bricklayers were finally ordered by the national officers to return to work, and were not allowed to collect from the Construction Company for their lost time.<sup>37</sup> Occasionally, in order to get the work done, the employers must pay one group of men for actually performing the work and, at the same time, pay

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<sup>37</sup> Annual Report of Officers, December, 1905, p. 134.



another group belonging to a different union as if they had done it, thus paying twice for the same piece of work.<sup>38</sup>

We must also take some account of the jurisdictional dispute from the point of view of society as a whole. Of course, every loss which falls upon the unions themselves, as well as those which fall upon the employers, is a loss to society inasmuch as the term "society" includes all persons,—unionists, non-unionists, and employers. But, just as it was found that in certain cases jurisdictional conflicts entail costs which fall especially upon the unions or the employers, so now it is proposed to take cognizance of that part of the cost which seems to fall peculiarly upon society as a whole. Regarded from this point of view, jurisdictional disputes may be indicted on four counts: (1) They waste both labor and capital; (2) they make it impracticable in many cases to use improved appliances and cheaper materials; (3) they are responsible for hesitancy in undertaking and increased expense in prosecuting building, to the detriment of the building industry; (4) finally, where the disputes are long continued they are responsible for that whole train of evil results which follows upon idleness and poverty.

It has been said before that the delay in the construction of buildings due to jurisdictional contests results in a considerable loss of interest on the capital thus tied up. This,

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<sup>38</sup> In Chicago the placing of opera chairs has been made the subject of dispute between the Carpenters and the Ornamental Iron Setters, with the general result that when the chairs are placed on wooden floors, the work is given to the Carpenters, and when placed on cement floors, to the Iron Setters. However, in a theater building erected during 1911 the Carpenters were given the work of placing the chairs on a cement floor, and the Ornamental Iron Setters therefore struck the job. In order to have the building ready on the date specified in his contract, the employer hired a group of men sufficient to do the work from each union, and while one of these groups placed the chairs, the other sat watching, and each was paid its usual wage scale for the time consumed (Interview, Secretary of Building Employers' Association, Chicago, July, 1912).

while being directly a loss to the owner or contractor, is, in just as important a sense, a loss to society, for this capital, which is thus rendered practically idle, could be used productively if the work were completed as rapidly as possible and the capital released for other purposes. Essentially the same thing is true in regard to labor. Each day's labor lost by every person involved in a jurisdictional dispute is so much productive power lost by society, as well as a direct wage loss to the persons thus rendered idle.

One of the most tangible results of jurisdictional disputes is that builders are frequently compelled to forego the use of improved appliances, cheaper materials, and more efficient methods because they cannot get the unions to agree as to which of them is to use the new device or control the new material. Thus, in Chicago automatic stokers were being built and used until the disputes over this work between the Machinists, the Millwrights, and the Structural Iron Workers became so frequent and so bitter that the construction was either delayed or abandoned.<sup>39</sup> It will be recalled that in the construction of the Marshall Field and Company building, referred to previously, it was proposed as a solution of the difficulty to tear out the vacuum cleaning system. Such abandonment or delay in the use of the most economical methods of production is a loss to society. The amount of this loss due to the delayed or the comparatively limited adoption of cement, sheet-metal trim, doors, and furniture, fireproofing materials, and vacuum cleaning systems, caused by quarrels between various groups of workmen as to which group should control the work or the material, is enormous.

On account of these difficulties and uncertainties, the whole building industry moves more sluggishly, and society is compelled to pay for its building construction a price increased sufficiently to maintain, as it were, an insurance fund against the possible delays and expenses due to juris-

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<sup>39</sup> Report on Jurisdictional Disputes, 1912.

dictional controversies. Thus the industry is retarded mainly by those who ought to be its chief friends. That this state of affairs is realized and deprecated by the unions themselves is shown by the following statement in the report of the executive council of the Building Trades Department in 1912: "If we of the building trades were alone involved in the settlement of these disputes, we could afford to continue our discussion of them even though it may sometimes result in conflict, but the cause for most concern lies in the fact that we occupy perhaps the minor position in this embarrassing situation. At all events we have no moral or ethical right to embroil the contractor and owner of the building under construction. . . . In every avenue of trade and commerce the aim is to encourage a greater field of activity, to increase the volume of business year after year. By the same token it should be our purpose to stimulate greater activity in building erection. Our talents and capabilities should be devoted in large measure to attain this end, for such a termination of our united endeavors would simply mean more continuous employment for the members of our several organizations. That is to say, if we can demonstrate our ability to settle trade grievances among ourselves, without involving the architect, owner, and contractor, we will immediately inspire confidence in the mind of the investing public, with a resultant stimulus in building operations."<sup>40</sup>

Finally, every large interunion dispute, if long continued, brings with it to some of the participants poverty and the results of poverty. As long as the result of a jurisdictional dispute is the loss of only a few days' work, we may properly charge the loss to the workman; but if unemployment is prolonged, we have results which become an affair of society's, since poverty and the reduction of social status which follows poverty are matters which concern the community as a whole. Sidney and Beatrice Webb rightly stress this

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<sup>40</sup> Proceedings, Building Trades Department, 1912, p. 85.

loss as one of the most important consequences of jurisdictional disputes. In describing the jurisdictional disputes in the English ship-building industry, they say that although this encroachment of trade on trade is often of the most trivial nature, nevertheless it has resulted at times in wars of greatest magnitude. "In the industries of Tyneside within a space of thirty-five months, there were thirty-five weeks in which one or other of the four most important sections of workmen in the staple industry of the district absolutely refused to work. This meant the compulsory idleness of tens of thousands of men, the selling out of households, and the semi-starvation of thousands of families totally unconcerned with the dispute, . . . while it left the unions in a state of weakness from which it will take years to recover."<sup>41</sup>

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<sup>41</sup> Vol. ii, p. 513.



## CHAPTER VI

### REMEDIES FOR JURISDICTIONAL DISPUTES

For the settlement of these conflicts, which prevail so generally and constitute so large a cost to labor and to society as a whole, various plans have been suggested. These may be divided into two general classes as they are remedial or preventive, or, in other words, arrangements which are designed to settle jurisdictional disputes after they have occurred, and those whose purpose it is to prevent their occurrence.

Of the two, the second is the more promising and more important class. As in combating disease, preventive medicine is of more importance than remedial medicine, so in the matter of jurisdictional controversies it would be much more satisfactory and economical to prevent their occurrence than to provide a cure for them when they have arisen. The analogy may even be extended. Just as in the practice of medicine effort has long been expended on the cure of disease, while the science of preventive medicine is of comparatively recent development, so trade unions for many years waited for cases of jurisdictional dispute to manifest themselves before any attention was given the matter, whereas now attention is being centered chiefly upon methods of prevention.

But from the previous discussion of trade jurisdiction in its relation to trade unionism, and from the analysis of the causes of jurisdictional disputes, it must be evident that it is vain to hope that disputes will disappear within any reasonable time. As long as labor is organized in the present manner and as long as new materials and new methods are being introduced into industry, the causes and opportunities for conflict will continue. Hope must lie, therefore, largely in the prospect of removing or mitigating

the evils of such disputes by effecting a change either in the organization of labor or in the attitude of trade unionists. These changes cannot be brought about suddenly, but must result from a gradual evolution, the progress of which can already be detected in various directions.

The difficulty in analyzing any trade-union practice or in forming a judgment concerning any trade-union policy lies in the common error of regarding the trade unionist as a distinct species of man, as actuated by motives different from other men, and as being a member of a social group dissimilar and necessarily opposed to other social groups. Like all other men in economic life, the members of a trade union are impelled by the motive of self-interest. Men unite with one another into local unions not to help other members of society, but to help themselves; these local unions form national and international associations, and these again great industrial federations, all for the purpose of strengthening the position of the individuals within the organization. Moved by this same force, each union strives to enlarge its territory, to obtain more members, and to increase the work over which it has control. Self-interest inspires the closed shop, enforces membership discrimination, and opposes individual liberty in countless ways, and thus furnishes the ground for the charge that labor organizations tend to become tyrannical and dictatorial. The solution of the most difficult problems of trade-union policy, many of which are connected in one way or another with the question of jurisdiction, requires first of all the realization on the part of the unionist that self-interest demands the elimination of these evils.

As has been said, the first stage in the attempt to deal with jurisdictional disputes is characterized by the effort to end these controversies after they have arisen, and naturally the first suggestion for this purpose is that there shall be a conference with a view to an agreement. That a conference between the disputing unions is ordinarily looked upon as the obvious remedy for any jurisdictional dispute is

shown by the following statement of the president of the Stone Cutters: "I have noticed much unnecessary friction between the organizations of the stone cutters, the bricklayers and masons, the granite cutters and the interior marble workers . . . and I believe a conference of the executive boards of the various trades should be had that a line of demarcation or jurisdiction could be established and thus eliminate all friction."<sup>1</sup>

A conference by no means always leads to an agreement. Conferences without end have been held by various unions, some unions having held two or three of them a year in regard to the same dispute, and yet no agreement has been reached and no settlement of the conflict effected. The Steam Fitters and the Plumbers have conferred many times, either voluntarily or in compliance with an order of the American Federation of Labor, but in most cases without any result. At the Louisville convention of the American Federation of Labor in 1900 each of these unions was ordered to appoint a committee of three to meet with a committee of three appointed by the executive council of the Federation, to settle the disputes between them. The meeting was held in May, 1901, in Chicago, but no agreement was reached.<sup>2</sup> The quarrel dragged along in spite of many efforts to settle it, and in 1907, on the recommendation of the adjustment committee, the two unions were again ordered to appoint committees of three persons to meet with President Gompers and to draw up an agreement. This appeared to be an impossible task, and the conference ended without having accomplished anything.<sup>3</sup> To pick out another from the almost countless conferences which have failed to result in agreement, the president of the Sheet Metal Workers reported that a meeting had been held with the Plumbers to settle disputes over the sheet

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<sup>1</sup> Stone Cutters' Journal, July, 1906, p. 4.

<sup>2</sup> The Steam Fitter, March, 1903, p. 5.

<sup>3</sup> Proceedings, American Federation of Labor, 1907, p. 266.

metal and copper work in railroad shops, but that no agreement had resulted.<sup>4</sup>

In those cases where agreements have been reached these range from a mere verbal understanding to a detailed written working agreement. Verbal understandings not infrequently work satisfactorily for a single community and for a short period of time, but they fail where wide application and permanence are desired. The branch of the Stone Cutters at Victoria, British Columbia, reported in 1893 that its members were working on sandstone and granite side by side with the Granite Cutters, and that no trouble arose since all matters in dispute were "talked over" at a joint meeting of the Stone Cutters and the Granite Cutters, held every two weeks.<sup>5</sup> Likewise, the Baltimore branch of the Granite Cutters reported that an understanding had been reached for the settlement of a jurisdictional dispute between local branches of the Granite Cutters and the Stone Masons. These two organizations had been holding joint committee meetings for months.<sup>6</sup> During the Minneapolis convention of the American Federation of Labor a conference of all the stone-working trades was held; this resulted simply in a general understanding, and as a result it was mistakenly thought that all jurisdictional contests between the various branches would be brought to an end.<sup>7</sup>

While many conferences have thus resulted in verbal agreements or understandings, usually a written agreement has been signed by all the parties to the conference. Such instruments vary from brief general statements to formal and detailed documents. During the Pittsburgh convention of the American Federation of Labor, to bring to an end the disputes between the Carpenters and the Woodworkers there was drawn up a brief general agreement which contained the following provisions: (1) that a tem-

<sup>4</sup> Amalgamated Sheet Metal Workers' Journal, January, 1908, p. 3.

<sup>5</sup> Stone Cutters' Journal, September, 1893, p. 4.

<sup>6</sup> Granite Cutters' Journal, March, 1905.

<sup>7</sup> *Ibid.*, December, 1906.



porary trade agreement be entered into to cover all men working in mills and factories; (2) that pending these negotiations, all local unions cease hostilities; and (3) that representatives meet on a specified date to arrange for an agreement, understanding, or amalgamation, as might seem best.<sup>8</sup> An example of the particularity with which these agreements are sometimes drawn is found in the dispute between the Plumbers and the Steam Fitters. This controversy had passed through all stages of attempted adjustment, and was finally referred to the executive council of the American Federation of Labor; this body drew up a working agreement the main provisions of which were as follows: (1) each union to refrain from organizing steam fitters and helpers in localities where the other already had a local branch; (2) each to submit a list of local unions in existence; (3) in places where both had local unions, each to appoint a committee of three which should determine hours and wages and a minimum initiation fee for which a member of either union might be admitted to the other; (4) unorganized localities to be open to organization by the union whose representative first began to organize; (5) a joint committee composed of three from each union and the president of the Building Trades Department to act as a board of arbitrators to settle all grievances between the two bodies; (6) neither organization to allow the formation of local unions or the admittance of men into branches where there was a strike or lockout between the employers and either union; (7) any member of the one union entering territory controlled by the other to join the local union in control of the territory if he wished to work.<sup>9</sup> The Steam Fitters refused to accept this agreement, and organized local unions in Spokane, Salt Lake City, and Syracuse contrary to its provisions.

The weakness of conference and agreement as a remedy for jurisdictional conflicts is that entrance into an agree-

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<sup>8</sup> *The Wood Worker*, December, 1905, p. 364.

<sup>9</sup> *Proceedings, Building Trades Department*, 1909, p. 31.

ment is an optional matter, and its observance is no less optional. There is no effective authority to compel obedience to the terms of the agreement, and frequently they are soon violated by one party or the other, either because the intent of a particular clause is not clear and is subject to various interpretations, or because one of the parties knows or imagines that the other has disregarded certain provisions and therefore feels that it is under no obligation to maintain the agreement.

The second remedy for existing disputes is arbitration. This differs from conference in that the matters in dispute are settled by a third party instead of by the unions involved. The conventions of the American Federation of Labor and those of the Building Trades Department very often act as committees of the whole to arbitrate jurisdictional controversies between their affiliated unions. In fact, one of the chief reasons given for organizing the Building Trades Department was that it would provide an agency for arbitrating jurisdictional conflicts. In the words of Secretary Spencer: "The dream of every officer who has ever carried the responsibility of directing the affairs of an international union has been the establishment of some medium for the adjustment of disputes between trades whose jurisdiction conflicts as the modernizing of building erection advances. The Building Trades Department has been designed to fill the bill, becoming as it does, a clearing house, so to speak, for the adjustment of all trade disputes."<sup>10</sup> At the convention of 1905 of the Structural Building Trades Alliance, the predecessor of the Building Trades Department, a rule was adopted which permitted "organizations having jurisdictional disputes with those now affiliated to be admitted, provided said applicants agree to submit their disputes and abide by the decision rendered by the Alliance."<sup>11</sup>

The usual method is to refer the controversy to a smaller committee for adjustment rather than to have the whole

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<sup>10</sup> Prospectus of the Building Trades Department.

<sup>11</sup> Amalgamated Sheet Metal Workers' Journal, June, 1905, p. 206.

convention act as such a committee. At the convention of the Plumbers in 1908 it was suggested that a national jurisdiction committee, composed of one member from each national union, should be created to have final jurisdiction in all matters of dispute.<sup>12</sup> During the Denver convention of the Building Trades Department the executive council of that body acted as a board of arbitration in an effort to settle the disputes between the Plumbers and the Steam Fitters and between the Hod Carriers and the Cement Workers,<sup>13</sup> while the latest constitution of the Building Trades Department provides for a special arbitration committee to which "all cases of trade disputes between affiliated organizations . . . shall be referred." The committee is "composed of building trades men, one to be elected by each of the contesting parties having the dispute and one by the president of the Building Trades Department. The decision rendered by this board of arbitration shall be binding on all parties concerned and no strike shall be ordered pending a decision of the arbitration board."<sup>14</sup>

In numerous cases resort has been had to the appointment as arbitrator of a member of a union not involved in the controversy. Mr. Rist, a member of the Typographical Union, acted as arbitrator between the Plumbers and the Steam Fitters. Mr. P. J. Downey, a member of the Sheet Metal Workers, served as arbitrator in the dispute between the United Brotherhood of Carpenters and the Wood Workers.<sup>15</sup> Less numerous have been the cases in which a person entirely outside the labor movement has been appointed arbitrator. During the erection of Sears, Roebuck, and Company's building in Chicago, a Boston firm, putting in the pneumatic tubing for a carrier system, hired Steam Fitters to do the work. The Plumbers claimed jurisdiction

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<sup>12</sup> Proceedings, 1908, in Plumbers, Gas Fitters and Steam Fitters' Journal, December, 1908.

<sup>13</sup> Plumbers, Gas Fitters and Steam Fitters' Journal, March, 1909.

<sup>14</sup> Constitution, Building Trades Department, 1912, sec. 39, p. 11.

<sup>15</sup> The Wood Worker, March, 1903.

over such piping, and finally succeeded in tying up the whole job. In order to end the trouble, the dispute was submitted to Judge Bretano, who decided in favor of the Steam Fitters.<sup>16</sup> An attempt was made to end the long and costly dispute between the Brotherhood of Carpenters and the Sheet Metal Workers' Union in New York by referring the matter to Judge W. J. Gaynor, who decided that metal trim and doors should be erected by the Carpenters. During the building of the Northwestern Depot in Chicago the Plasterers withdrew their men from the work because the Marble Workers were setting imitation marble. A committee of the architects, as arbitrators, decided in favor of the Marble Workers.<sup>17</sup> In arbitration proceedings between the Plumbers and the Steam Fitters of New York, the right to the work of installing the thermostatic or heat-regulating apparatus was awarded to the Plumbers by a decision of Honorable Seth Low.<sup>18</sup>

The local building-trades council and the local federation of labor in the locality where a dispute arises frequently serve as arbitrators when the dispute is a purely local one. Secretary Kreyling, of the St. Louis Federation of Labor, thinks that most disputes could be settled locally if the city federations were given authority to make decisions,<sup>19</sup> but since the American Federation of Labor gives them no power to make a final settlement, they usually act only in an advisory capacity. The Chicago Building Trades Council finds one of its chief activities in the work of adjusting jurisdictional disputes, which are settled according to the jurisdiction statements of the Building Trades Department.<sup>20</sup> In 1901 the San Francisco local union of the Sheet Metal Workers reported that their dispute with the Metal Roofers' Union had been settled by the local

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<sup>16</sup> The Steam Fitter, January, 1907, p. 19.

<sup>17</sup> The Marble Worker, July, 1910, p. 168.

<sup>18</sup> Plumbers, Gas Fitters and Steam Fitters' Journal, April, 1899, p. 6.

<sup>19</sup> Interview, Secretary Kreyling, St. Louis, July, 1912.

<sup>20</sup> Interview, Secretary Hanlon, Chicago, July, 1912.



building-trades council as arbitrator.<sup>21</sup> Professor Commons, in his article on the "New York Building Trades," notes the fact that the general arbitration plan, submitted by the employers, provided for a local committee to arbitrate jurisdictional contests and imposed the penalty of suspension for failure to abide by the decision of the arbitrators. Fifteen disputes were thus settled, but the sixteenth wrecked the Board.<sup>22</sup>

As a remedy for jurisdictional disputes, arbitration under any of the foregoing plans is almost uniformly a failure. In the first place, the unions cannot be compelled to abide by the decision of the arbitrator, and even though they agree to be bound, they may soon feel that conditions have arisen which release them from their promise. The American Federation of Labor confesses its lack of coercive power. "The American Federation of Labor has only limited power in the settlement of these disputes. It claims no authority to intervene and any action which it takes is voluntary. . . . It must be realized by all that the question of jurisdiction can not be definitely or authoritatively settled by the American Federation of Labor alone, but that the success of the unions in solving these difficult problems must depend upon their own reasonableness and upon their willingness to make mutual concessions and sacrifices for the good of the whole labor movement."<sup>23</sup>

When the executive council of the American Federation of Labor decided in favor of the Wood Workers as against the United Brotherhood of Carpenters in arbitration proceedings during 1902, the Carpenters refused to accept the decision, and quoted the following resolution, which was adopted at the Louisville convention of the American Federation of Labor, as showing the lack of authority on the part of the Federation: "The American Federation of

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<sup>21</sup> Proceedings of the Amalgamated Sheet Metal Workers, 1901, p. 25.

<sup>22</sup> P. 412.

<sup>23</sup> Proceedings, American Federation of Labor, 1903, p. 76.

Labor shall hereafter refuse to decide questions of jurisdiction involving national or international affiliated bodies unless by consent of the opposing interests and with the understanding that each is willing to accept the decision . . . as a final settlement of the dispute."<sup>24</sup>

Arbitration proceedings fail to end jurisdictional disputes also because of the lack of confidence which the unions feel in the arbitrators. The ever-present doubt as to the fairness and competence of the umpire is not infrequently regarded as justified by the union against which the decision is made. When the arbitrators are non-unionists, they are not likely to have knowledge of or sympathy with all the implications of the jurisdiction claims of the contestants. It was charged by the Sheet Metal Workers that Judge Gaynor, in awarding the erection of hollow metal doors and trim to the Carpenters, showed in the language of his decision a failure to understand the technique of the manufacture and erection of this material. Nor is the disinclination of unionists to submit to fellow-unionists questions which appear to them to be of vital importance in their industrial life ill-founded. The threads of jurisdiction cross and recross the fabric of labor organization in such varied directions that it is almost impossible to find a member of any trade union who does not feel himself in sympathy with one side or the other in every jurisdictional dispute that comes to his notice.

The American Federation of Labor and the Building Trades Department fail as arbitration agencies<sup>25</sup> for the

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<sup>24</sup> Pamphlet on a dispute between Carpenters and Wood Workers, p. 11. The lack of respect in which such arbitration proceedings are held is shown by the fact that even while the arbitration committee on the conflict between the Carpenters and the Wood Workers was holding its sessions in Indianapolis, the representatives of the Carpenters used their spare time between sessions to organize a dual union of wood workers in that city (*The Wood Worker*, August, 1905, p. 240).

<sup>25</sup> S. Blum, "Jurisdictional Disputes Resulting from Structural Differences in American Trade Unions," in *University of California Publications in Economics*, vol. iii, no. 3, pp. 424, 433.

reason that their very existence is too intimately dependent upon the numbers and the contributions of the affiliated unions for them to be absolutely impartial in passing upon disputes in which the size and strength of the contending unions is very dissimilar. A parallel study of the treatment accorded the Steam Fitters in their dispute with the Plumbers and that accorded the Carpenters in their controversies with the Sheet Metal Workers and the Wood Workers will convince any one that it is not without cause that the unions are unwilling to rely for a decision as to their jurisdiction claims upon the justice and impartiality of either the American Federation of Labor or the Building Trades Department.

A third remedy frequently suggested for the settlement of jurisdictional conflicts is simple in conception and certain in curative effect if the unions in conflict could only be persuaded to adopt it. This is amalgamation. Here are two unions fighting each other because both claim jurisdiction over the same territory or the same trade. Let them form one union. Unfortunately for the success of this remedy, the unions generally refuse to adopt it; they will not amalgamate.

At the convention of 1906 of the American Federation of Labor, President Gompers reported that during the past year he had met with committees of Seamen and Longshoremen and of Carpenters and Wood Workers in an effort to settle their conflicts. Amalgamation was suggested in both cases, but was rejected.<sup>26</sup> The Carpenters indeed entered the conference with the statement that "the only working agreement the Brotherhood of Carpenters and Joiners will make with the Woodworkers will be amalgamation,"<sup>27</sup> but the Wood Workers were unwilling to amalgamate. A very unsatisfactory condition, which led to many jurisdictional disputes, existed among the hod carriers and building laborers for several years. There was the "legiti-

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<sup>26</sup> Proceedings, American Federation of Labor, 1906, p. 75.

<sup>27</sup> *The Wood Worker*, February, 1906, p. 43.

mate" Hod Carriers' and Building Laborers' Union, a large seceding local union in Chicago headed by Herman Lillian, and several large independent organizations in San Francisco and other cities.<sup>28</sup> To remedy this condition it was decided to amalgamate all the separate bodies under the guidance of the American Federation of Labor and the Building Trades Department,<sup>29</sup> but the plan failed. Amalgamation has frequently been urged as a remedy for the jurisdictional conflicts occurring between the United Brotherhood of Carpenters and the American branch of the Amalgamated Society of Carpenters. In 1903 committees from both unions met and, with Adolph Strasser as umpire, agreed upon a plan of amalgamation, but this had to be submitted to a referendum vote of the members of both unions, and it failed of acceptance.<sup>30</sup> At various times since then efforts have been made to accomplish this result, but they have uniformly failed, the stumbling block being the difficulty of arranging satisfactory terms upon which the members of the Amalgamated Society might be admitted to the insurance and beneficial features of the United Brotherhood, and at the same time retain such property rights as they might have in similar funds in their own Amalgamated Society.<sup>31</sup> The American Federation of Labor has lately sought to solve the problem by ordering the Amalgamated Society to unite with the Brotherhood of Carpenters.

As was said before, the failure of amalgamation as a remedy for jurisdictional disputes is due to the fact that, except in rare cases, the unions will not adopt it. Amalgamation, as it actually works out, means the swallowing of the smaller organization engaged in the dispute by the larger one. If the Operative Plasterers, for example, should consent to amalgamate with the Bricklayers, or if the Wood Workers should agree to amalgamate with the

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<sup>28</sup> Proceedings, Building Trades Department, 1910, p. 30.

<sup>29</sup> Proceedings, Building Trades Department, 1908, p. 50.

<sup>30</sup> Proceedings, United Brotherhood of Carpenters, 1904, p. 34 ff.

<sup>31</sup> Proceedings, United Brotherhood of Carpenters, 1906, p. 36 ff.



Carpenters, they would lose their identity in that of the larger organization—a form of trade-union suicide not likely to be considered unless the future is absolutely hopeless and continued separate existence an impossibility.

A milder remedy proposed is that described by the phrase "exchange of cards." Under this plan each of two unions with a conflict in jurisdiction—for example, the Granite Cutters and the Stone Cutters—keeps its own members, but if a member of one union is employed upon some work which the other claims to control and presents to the latter association his card showing that he is in good standing in his own union, he will be permitted to work provided he obtains the rate of pay and the other working conditions that the workmen of the union in control of the job have. At the convention of the Plumbers in 1900 a recommendation was made that a committee be appointed to confer with a committee from the Steam Fitters for the purpose of arranging for the exchange of working cards between the two associations.<sup>32</sup> As early as 1890 a resolution was adopted empowering the executive board of the Bricklayers to seek to make an arrangement for an exchange of cards with the Operative Plasterers.<sup>33</sup> That this arrangement failed of permanent establishment is shown by the fact that in 1904 the president of the Bricklayers reported that the Operative Plasterers had agreed to exchange cards, but that the local unions of bricklayers refused.<sup>34</sup>

The plan for an exchange of cards is frequently proposed but rarely adopted. When one union agrees with another to exchange cards, it means that the first union has granted the other the privilege of working unmolested upon that which it maintains is its own field of jurisdiction. True, it gets in exchange a like privilege from the second union, but if the members of one of the organizations are

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<sup>32</sup> Proceedings, 1900, in Plumbers, Gas Fitters and Steam Fitters' Journal, August, 1900, p. 9.

<sup>33</sup> Proceedings, Bricklayers and Masons, 1890, p. 93.

<sup>34</sup> Annual Report of the President, 1904, p. 5.

likely to secure most of the disputed work, the other union will be unwilling or at any rate reluctant to enter into such an arrangement. Moreover, the view that trade jurisdiction is a right militates strongly against a purely compromise measure like the exchange of cards.

This objection is partly eliminated by another remedy proposed, that is, to compel workmen engaged upon disputed tasks to become members of both unions claiming the work in question. This plan was used to some extent to bring to an end disputes between the Stone Cutters and the Bricklayers in Washington. Men who were competent to do stone cutting and stone setting joined both unions, paying initiation fees and dues to each, and were then permitted to work at either trade.<sup>35</sup> A dispute between the Sheet Metal Workers and the Slate and Tile Roofers was settled by having the members of the Sheet Metal Workers take out membership cards in the Slate and Tile Roofers' Union when they wanted to do the particular work involved in the dispute.<sup>36</sup> In Denver the Slate and Tile Roofers had an agreement with the Composition Roofers that members of the former should be permitted to join the latter without paying any initiation fee, though they would afterwards have to pay the regular dues.<sup>37</sup>

The chief defect of this plan is that it is too expensive for the workman to pay dues, and in some cases initiation fees, to two unions, merely to acquire the right to do occasional work outside of his own immediate trade. A second defect is that some unions are reluctant to admit to membership any workman, however competent he may be, who has not complied with their apprenticeship requirements.

Besides the specific objections noted to the various remedies, there remains the general criticism that the application of any of these remedies involves vexatious and often serious

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<sup>35</sup> Interview, Secretary McHugh of the Stone Cutters, June, 1911.

<sup>36</sup> Amalgamated Sheet Metal Workers' Journal, May, 1908, p. 183.

<sup>37</sup> Proceedings, Slate and Tile Roofers, 1906, p. 14.

delays. According to the rules of the Building Trades Department, neither the Department nor its executive council can consider a dispute unless the two unions have first held a conference and tried to settle it. Frequently the executive council refers it back again to the unions to try to settle, and again it may be returned to the council, and then be referred by them to the following convention of the Building Trades Department, which may be some months distant. In the meantime the work may be tied up, or the men to whom the work belongs, or to whom it is finally awarded, may be idle; when the decision is finally given in their favor, they may find the work completed.

In Vancouver a dispute arose between the Stone Cutters and the Granite Cutters over the control of "Haddington Island stone." After repeated efforts to have the conflict adjusted, the local union of Stone Cutters complained of the delay. "We are amazed," they said, "that the matter has been delayed till the end of August, as we have men walking the streets. . . . It is a simple matter to decide whether material is stone or granite. . . . The matter has been before the Building Trades Department for the last fourteen weeks, and we think a decision should be rendered immediately." This did not hurry the settlement, however, for President Short of the Department failed to bring about an agreement when he visited the locality, and referred the matter to the Building Trades Department convention, held the latter part of November. The convention made no definite decision, merely recommending that the two unions work in harmony, and that where granite cutters' tools were used the work should be done by Granite Cutters, and where stone cutters' tools were used it should be done by Stone Cutters. The specific question involved was left unsettled, and was referred to a conference of the stone trades, for which no date was set.<sup>38</sup>

From this review of the various remedies for jurisdic-

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<sup>38</sup> Proceedings, Building Trades Department, 1912, pp. 45, 137.

tional contests, the general conclusion may be safely reached that although each of them has been successful in a few isolated cases, none of them nor all of them together are of general availability.

We turn now to the consideration of the possibility of finding one or more preventives of jurisdictional disputes. This search will disclose certain positive measures either actually in force or suggested, which are designed to prevent jurisdictional conflicts or to lessen the evils involved. Moreover—and this is even more important—it will be found also that there are certain developments and tendencies within the ranks of labor itself which promise eventually to reduce the evils of jurisdictional controversies.

One of the earliest steps in the direction of the prevention of disputes was the sensible requirement of the American Federation of Labor<sup>39</sup> that the jurisdiction claims of the various affiliated unions be listed in full and filed at its office. The National Building Trades Council, which followed the same plan, made the following optimistic prophecy: "The system of jurisdictional statement of work, as enforced by the National Building Trades Council, will bring about a cessation of internecine strife among building trades."<sup>40</sup> The Building Trades Department requires that "each affiliated organization shall be required to submit a written statement covering the extent and character of its trade jurisdiction, and when allowed by the executive council and approved by the general convention, no encroachment by other trades will be countenanced or tolerated."<sup>41</sup> A new application of this idea was the insertion of

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<sup>39</sup> The Steam Fitter, March, 1903, p. 5.

<sup>40</sup> Pamphlet on National Building Trades Council, p. 8.

<sup>41</sup> Constitution, 1909, sec. 28, p. 9. The next section provides the machinery for final registration of work: "On receipt of a claim of jurisdiction, the Secretary-Treasurer shall send a copy of the same to affiliated organizations. Should a conflict in jurisdiction occur, the parties in interest shall hold a joint conference within ninety days, and endeavor to adjust their differences, and if no adjustment has been reached within the prescribed time, the dis-



a clause defining the work of each craft as part of an agreement of the Sheet Metal Workers with the International and Great Northern Railroad Company in regard to wages and hours.<sup>42</sup> The importance of a clear and full statement of jurisdiction claims was discussed in an earlier chapter,<sup>43</sup> and while it is needless to say that the mere registration of such claims will not prevent all disputes, nevertheless it is certain that such official record has prevented many conflicts from arising.

Another preventive measure suggested is to have all labor organizations agree that they will under no circumstances participate in sympathetic strikes arising over jurisdiction conflicts. If this plan were adopted, disputes would not be avoided, but the evils flowing from them would be very largely eliminated. If sympathetic strikes could be avoided, employers would not care very much if union men quarreled among themselves. Accordingly they seek at every opportunity to have the unionists agree that they will not indulge in such movements. At a conference held in March, 1903, between the National Association of Marble Dealers and the International Association of Marble Workers a working agreement was drawn up in which it was declared that no sympathetic strikes or lockouts should occur.<sup>44</sup> The contractor for the Emerson Building, Baltimore, in giving out the work, tried to get the various trades to sign an agreement saying that they would not go out on sympathetic strikes.<sup>45</sup> It is curious to notice that some opposition to the use of the sympathetic strike comes also from the Building Trades Department. The reason for this is that such strikes are likely to disrupt the local councils of the De-

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puted points shall be referred to the next convention of this Department for a decision, and their award shall be binding upon all affiliated organizations."

<sup>42</sup> Amalgamated Sheet Metal Workers' Journal, March, 1910, p. 88.

<sup>43</sup> Chapter II.

<sup>44</sup> Pamphlet dealing with the Conference, p. 2.

<sup>45</sup> Oral statement made at meeting of Baltimore Federation of Labor, December 14, 1910.

partment. Thus President Kirby of the Building Trades Department said in 1909: "While we can not for one moment surrender our right to take sympathetic action where a sister organization is in peril, yet oftentimes Building Trades Councils are prone to hasty action unnecessarily, on the theory that quick work must be done, otherwise the job may be completed. Admitting that on small buildings this may be true, I am of the opinion that it would be better to complete the job on which any contention may arise . . . than to endanger the existence of the Council."<sup>46</sup>

Undoubtedly, if sympathetic strikes could be eliminated, the great weapon by which jurisdictional strife is made most damaging would be destroyed, and a long step would be taken in the direction of preventing such contests. But while unionists in general might look with favor upon the abstract proposition of eliminating sympathetic strikes as a weapon in jurisdictional disputes, most of them would pause before consenting to give up for their own association the right to call a sympathetic strike. The situation is analogous to that existing in regard to the scheme of international disarmament: nearly all nations are nominally in favor of the plan, but none of them will be the first to disarm.

Another plan which employers sometimes advocate as a preventive for such controversies is that trade lines be disregarded and they be permitted to hire for each task the men who can do it best.<sup>47</sup> This, however, amounts merely to a request on the part of employers that trade unionists shall cease to quarrel over jurisdiction. Besides resting upon the erroneous assumption that the men in a particular trade are not, in most cases, more competent to perform the work pertaining to that trade than men outside of the trade, this scheme fails because trade unionists will not allow trade lines to be disregarded. If they should consent to this, there would be nothing to prevent the employer from

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<sup>46</sup> Proceedings, 1909, p. 9.

<sup>47</sup> Webb, vol. ii, p. 519.

gradually displacing his more highly paid men by men earning lower wages, and collective bargaining would be impossible.

Sidney and Beatrice Webb suggest a preventive measure in their "Industrial Democracy." This is based upon a federation of trades which amounts to limited industrial unionism.<sup>48</sup> Such a form of organization having been accomplished, "it is admitted that, within the limits of a single trade and a single union, it is for the employer, and the employer alone, to decide which individual workman he will engage, and upon which particular jobs he will employ him. What each trade union asks is that the recognized standard rate for the particular work in question shall be maintained and defended against possible encroachment. If the same conception were extended to the whole group of allied trades, any employer might be left free, within the wide circle of the federated unions, to employ whichever man he pleased on the disputed process, so long as he paid him the standard rate agreed upon for the particular task. The federated trade unions, instead of vainly trying to settle to which trade a task rightfully belongs, should, in fact, confine themselves to determining in consultation with the associated employers, at what rate it should be paid for. . . . Once the special rate for the disputed process was authoritatively determined, the individual employer might engage any workman he pleased at that rate. . . . The trade unionists, on the other hand, would secure their fundamental principle of maintaining the standard rate."<sup>49</sup>

This plan assumes that jurisdictional disputes are caused by differences in wages between unions which seek to do the same piece of work, and that if a definite rate for each

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<sup>48</sup> "The solution of the problem is to be found in a form of organization which secures Home Rule [or autonomy] for any group possessing interests divergent from those of the industry as a whole, whilst at the same time maintaining effective combination throughout the entire industry for the promotion of the interests which are common to all the sections" (vol. i, p. 123).

<sup>49</sup> *Ibid.*, vol. ii, p. 523 ff.



task is established there will be no conflict. But jurisdictional contests are not caused merely by differences in wages. They are caused by the efforts of two or more unions to gain for their own members control over the work in question. In the case of two organizations whose standard rates are approximately the same the remedy proposed may be said already to exist, yet the disputes between them continue. For example, the standard wage of the Carpenters and of the Sheet Metal Workers differs very slightly, and in some sections not at all, nevertheless there is continual quarreling between them as to which union is entitled to the work of erecting metal trim. The same thing is true of the Steam Fitters and the Plumbers and of the Granite Cutters and the Stone Cutters. A union has two main purposes: to keep its members employed as regularly as possible, and to have them remunerated at the highest possible rate while they are working.

This proposal would not meet the objection on the part of the union that all trespassers on its jurisdiction are taking away just so much work from its members. Imagine an employer, about to hire men to put up hollow metal doors, going to the office of the Carpenters and saying, "I am going to employ Sheet Metal Workers to do this work, but I know you will not object, since I am paying them at the same rate at which I would pay your men!" Or let us suppose that all the workmen in the building industry were organized into a building workmen's union, and that after a series of conferences the standard rate for each craft were established. Then let us assume the sudden introduction of concrete for building purposes. A standard rate for this new work must be established, but obviously, since the work of mixing and filling in concrete is mainly unskilled labor, the rate agreed upon cannot be much higher than that for unskilled labor. However, this material, since it displaces brick and stone for building purposes, gives to a low-wage group among the building workmen a great deal of work which was formerly done by a very high-wage group. Of



course, society will profit in the long run by this substitution of cheaper material, but for the generation of bricklayers and masons displaced entirely or compelled to work for this lower wage the innovation is an evil to be vigorously resisted. Each workman seeks first of all his own steady employment, and will oppose any scheme that makes it easy to dislodge him.

Were it only a matter of maintaining or raising the rate of pay for a particular class of work, there ought never to be any jurisdictional disputes between unions getting different rates of pay, for as soon as a piece of work came into dispute, the union getting the lower rate, if it were intent upon having such labor paid for at as high a rate as possible, would immediately withdraw in favor of the men receiving the higher pay, and there would be no dispute. Under such a scheme a strong union like the Carpenters, whose members obtain a higher rate of pay than prevails in some of the other building trades, might push out its lines of jurisdiction to encompass all those crafts whose members receive smaller compensation. The latter could logically offer no resistance. If the wage scale were again gradually advanced so that it exceeded the rate paid in a few other unions in the building industry, new raids could be made upon the jurisdiction of these more poorly paid unions. Even though in many jurisdictional conflicts the participants are working under different standard rates, this fact does not deter the men getting the smaller rate from opposing with all their strength the aggressions of the more highly paid workmen. Therefore, it is clear that any plan for eliminating jurisdictional disputes must provide not only for the maintenance of the standard rate, but also for the awarding to each group of workmen of the same tasks to which they have been accustomed, or an equivalent.

While the measures proposed, both remedial and preventive, offer little prospect of any great immediate reduction in the evils of jurisdictional disputes, the future is not without promise that the evils of jurisdictional controversies

will be much lessened by certain developments and tendencies within the unions themselves. The first of these is the strengthening of the national union.<sup>50</sup> As was shown earlier,<sup>51</sup> there is a tendency toward the strengthening of the national union as against all subordinate or minor forms of organization. The organizing of the men in a trade is done now mainly by organizers attached to the central office; new local unions are created by charter from the national union; wage scales, agreements, strikes, and local rules are subject to the scrutiny and approval of the national officers. Heretofore, jurisdictional disputes have been increased in number and rendered more difficult of settlement because of the interference therein of local building-trades councils and city federations. Such local associations have ordered sympathetic strikes to enforce the jurisdiction claim of one union as against another, and these have involved, at one time or another, local branches of all the building trades. Furthermore, in their attempts to adjust these demarcation conflicts according to local conditions, the local councils have rendered decisions which varied widely from place to place and which the national unions of the trades involved were not willing to sanction. This lack of uniformity has, in the past, been very confusing. The tendency now is to take these matters entirely out of the hands of the local councils and bring them under the control of the national unions.

The central labor organizations in various localities have also augmented jurisdictional disputes by the creation of dual unions, but since its organization the Building Trades Department has sought, through the national unions affiliated with it, to bring such pressure to bear on these local federations as to prevent them from recognizing in any manner a dual association. The national unions in the building trades have not yet developed sufficient control

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<sup>50</sup> It will be remembered that the term "national union" is used throughout this monograph to cover also those associations which style themselves "international unions."

<sup>51</sup> Chapter I.

over their local branches to make these efforts always successful, but the tendency is toward greater central control. The dominance of the national union is expressly recognized by the Building Trades Department and by the American Federation of Labor. The constitution of the latter provides as follows: "No central labor union, or any other central body of delegates, shall admit to or retain in their councils delegates from any local organization that owes its allegiance to any other body, national or international, hostile to any affiliated organization, or that has been suspended or expelled by, or is not connected with, a national or international organization of their trade herein affiliated, under penalty of having their charter revoked." This rule, while not fully effective, does undoubtedly aid the national unions in preventing the organization of dual unions.<sup>52</sup> The centralization of the national union in itself operates to prevent the formation and growth of independent or dual unions in the same trade or territory, and, at the same time, this position of dominance, by tending toward a clear and uniform statement of jurisdiction claims, diminishes demarcation disputes.

Another development which promises to restrict the number and the evil effects of interunion quarrels is the tendency toward industrial unionism. This tendency, however, will be retarded by the same obstacles which were discussed in connection with the Webb plan. Any form of industrial union, to be effective in preventing jurisdictional disputes, must to a great extent eliminate trade lines, and therefore as long as unions insist on drawing rigid lines of jurisdiction for the purpose of retaining for their own particular group all of a certain class of work, we cannot expect industrial unionism to make much progress. But there is evidence that this attitude of the trade unionists

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<sup>52</sup> For an elaborate discussion of the pressure thus exerted against dual unions, see G. E. Barnett, "The Dominance of the National Labor Union in American Labor Organization," in *Quarterly Journal of Economics*, vol. xxvii, no. 3.



is changing, and therefore we may look for this trend toward the industrial union to continue. By the industrial union we do not mean such a form of organization as the Industrial Workers of the World seek to bring about, but an industrial unionism based on pragmatic considerations. It is becoming evident that the labor organization of the future will be partly trade union and partly industrial union. In some cases the organization will be a limited form of industrial union, under which, within the industry, trade lines will be more or less definitely marked. In other cases there will be an entire elimination of craft distinctions. Since, however, the change will come about as a result of development, the form will probably be a compromise between the two forms of organization.

The American Federation of Labor, founded on the creed that organization should be effected according to trade, early took a stand against industrialism. President Gompers, at the convention of 1903 of the Federation of Labor, said: "The attempt to force the trade unions into what has been termed industrial organization is perversive of the history of the labor movement, runs counter to the best conceptions of the toilers' interests now, and is sure to lead to the confusion which precedes dissolution and disruption. . . . It is time . . . to stem the tide of expansion madness. . . . The advocates of the so-called industrial union urge that an effective strike can only be conducted when all workmen, regardless of trade or occupation, are affected. But this theory is easily disproved by an examination of the history of strikes."<sup>53</sup> Though this opposition has never disappeared, the Federation as represented by its officers has reluctantly gone along with the sweep of the tide. At the Scranton convention a committee, composed of Messrs. Gompers, Duncan, Mitchell, Mulholland, and Hughes, reported as follows: "Your special committee appointed to consider the question of the autonomy of the trade unions, beg leave to say

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<sup>53</sup> Proceedings, 1903, p. 19.



that it is our judgment the future success, permanency and safety of the American Federation of Labor, as well as the trade unions themselves, depend upon the recognition and application of the principle of autonomy, consistent with the varying phases and transactions in industry."<sup>54</sup> The committee then recommended that in those industries which are isolated from thickly populated centers and in which most of the separate trades represent only a small proportion of the total number engaged in the industry, jurisdiction be exercised over all the trades by the paramount organization.

In attempting to determine so intangible a thing as the tendency of an institution one can rarely base an opinion upon categorical statement or direct evidence, but must lay hold of straws. Such a clue is found in an incident of the convention of 1909 of the Marble Workers which suggests a tendency toward limited industrialism or a closer affiliation of closely related trades. President Gompers, addressing the delegates, said: "I do hope that the time is not far distant when the men engaged in the stone trades will become one powerful organization. If not a complete amalgamation, there should be an identity of interest and a thorough understanding, in which one organization would assist the other." President Evans of the Stone Cutters also spoke in the same vein, and these sentiments were approved by President Price of the Marble Workers and by the convention.<sup>55</sup> In 1907 the president of the Marble Workers reported having attended in Buffalo a conference between the Stone Cutters, Granite Cutters, Marble Workers, and Bricklayers for the purpose of drawing up agreements between the various trades.<sup>56</sup>

When the jurisdictional controversy between the Brewery Workmen on the one hand and the Engineers, Firemen, Machinists, Teamsters, and so forth, on the other was

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<sup>54</sup> Proceedings, 1904, p. 36, and appendix.

<sup>55</sup> The Marble Worker, June, 1909, p. 124.

<sup>56</sup> Ibid., February, 1907, p. 6.

before the convention of the Federation,<sup>57</sup> it was decided that the interests of these various workmen would be best promoted by having one general union. When the same question came up with regard to the membership in the Mine Workers of the blacksmiths and firemen about the mines, a committee of the Federation said: "In rendering a decision on this resolution, we must reaffirm our adherence to the broader conception of trade autonomy, already expressed, as applied to such cases, and in the light of . . . the necessity for solidarity among the laborers employed in and about the mines, we are of the opinion that jurisdiction over the blacksmiths and firemen employed about the mines should be vested in the United Mine Workers of America." The Plumbers' Association, in its claim to cover the whole pipe-fitting industry, is a limited industrial union. The United Brotherhood of Carpenters is rapidly becoming an industrial union.

It was the policy of the Knights of Labor to sink the individuality of the various trades in local associations including all workmen. Under the system of organization originally fostered and represented by the American Federation of Labor the pendulum swung to the other extreme. Under this plan trade groups are divided and subdivided until, as in some of the building-trades unions, each division of labor is organized as a separate union. Just as the older system was too comprehensive and too unwieldy to meet satisfactorily the needs of the individual workman, so the later form of organization has been both too complex and too minute to bring about such unity of action and harmony of feeling as is necessary to produce the best results, not only for the unionists themselves, but for society as a whole.

Signs are not wanting to prove that the pendulum has already started on its return swing. What other interpretation can be placed on the admission to the American Federation of Labor of such industrial unions as the United Mine Workers and the Western Federation of Miners, in which

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<sup>57</sup> Proceedings, 1900, pp. 185, 192.

trade lines are obliterated, and of the Brewery Workmen, an industrial association with a certain regard for craft lines, and on the attempts to consolidate the carpenters' and wood workers' organizations, and to bring about an amalgamation of all the pipe-fitting trades? The Federation apparently is rapidly shifting its position. It has admitted industrial unions, though its president and other officials have frequently declared themselves in opposition to the principle of industrial unionism, and it has permitted the growth of the Building Trades and Metal Trades Departments.

This unmistakable trend toward industrialism<sup>58</sup> or, at least, toward a closer federation of trades seems to forecast a great reduction in the number of demarcation disputes, and ultimately their possible elimination. As a result of the formation of industrial unions, lines of division between specialized trades will be broken down. When this has come about, there will be few disputes over the right to a trade, and these will be internal.

Trade unionists themselves expect much, in the way of preventing jurisdictional controversies, from a gradual change in the attitude of the workmen toward each other. Secretary Brandt of the Wood, Wire and Metal Lathers' Union, while not an advocate of industrial unionism, believes that the growth of a more friendly feeling among the unions will gradually eliminate disputes.<sup>59</sup> Treasurer Lennon of the American Federation of Labor said at the convention of 1903 of the Federation: "Time, which settles all questions, will settle this one of jurisdiction, and the workers of our continent will in time discover where their interests will be best served, and they will decide finally to what jurisdiction they belong. . . . Time, coupled with forbearance and patience, it appears to me, are the only reasonable solutions of this great question."<sup>60</sup> A few years later President Kirby of the Building Trades said: "So it is up

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<sup>58</sup> Blum, p. 447.

<sup>59</sup> Interview, Secretary Brandt, July, 1912.

<sup>60</sup> Proceedings, 1903, p. 59.



to us to endeavor to harmonize these conflicting interests as much as possible. . . . It may not be accomplished this time, but sooner than some of us may believe possible, the trade dispute will be minimized to such an extent that it will not longer be a menace and curse to both the employer and employee."<sup>61</sup>

To sum up: Although, for the reasons given, none of the remedies for jurisdictional disputes—conference and agreement, arbitration, amalgamation, exchange of working cards, and membership in both of the unions claiming the work—can be regarded as of general applicability, each is still used and is likely to continue in use, and will undoubtedly in some cases produce the desired result. As for the suggestions for the prevention of jurisdictional conflicts, though here again no one plan can be relied upon to prevent all controversies, each would effect something. Of such preventive measures the most valuable would be the abolition of the sympathetic strike on questions of jurisdiction. This, it is possible, the unions may put into execution when they realize more fully the literally incalculable cost of jurisdictional disputes, a great part of which falls upon organized labor. If all the building-trades unions would agree that under no circumstances would they participate in a sympathetic strike on account of a jurisdictional contest between two or more of their associations, the contractors could employ whichever group of the men they regarded as best fitted for the work, and the employment of the other trades would not be interrupted. The union which lost the work could do nothing but submit, for it would have no means of resisting. Labor leaders in various cities claim that there is a growing sentiment in favor of the abolition of sympathetic strikes on questions of jurisdiction. To make this effective it may be necessary to require the deposit of bonds by both the employers and the unions, so that, an agreement as to the proposed distribution of the work having been made before the building operation is begun, the work-

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<sup>61</sup> Building Trades Conference, 1908, p. 10.



men should by these bonds guarantee the employers against losses due to sympathetic strikes over questions of jurisdiction, while the employers should bind themselves to protect the workmen from loss of employment on account of changes in the award of work in violation of the agreement. A plan somewhat of this nature was adopted in Chicago during July, 1913, to bring to an end a lockout which had involved for a month twenty-eight thousand men and thirty million dollars worth of building construction. If the unions themselves fail to adopt some sort of a plan, there might be established by legal enactment machinery somewhat similar to that provided by the Erdman Act which would compel arbitration of all sympathetic strikes arising over questions of jurisdiction.

Finally, the recognized heads of the labor movement among the building trades—the American Federation of Labor and the Building Trades Department—can do a great deal to diminish conflicts over jurisdiction if they consistently refuse to charter or in any way recognize new unions whose field of work approaches even moderately close to organizations already in existence. The position must be taken that there are certain basic trades and that each new division of labor is but a constituent part of one of these trades and is not entitled to recognition as a separate union, for otherwise, as the division of labor goes on, disputes will be increased instead of diminished.



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SLAVERY IN MISSOURI  
1804-1865



SERIES XXXII

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JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE

Under the Direction of the  
Departments of History, Political Economy, and  
Political Science

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SLAVERY IN MISSOURI  
1804-1865

BY

HARRISON ANTHONY TREXLER, Ph.B.  
Assistant Professor of Economic History, University of Montana

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## PREFACE

The subject of this study was suggested to the writer several years ago by Professor Jonas Viles of the University of Missouri. Later it was again taken up and expanded when the author entered the Seminary in American History at the Johns Hopkins University. The writer is under great obligations to Professor J. M. Vincent for his advice throughout the preparation of the study, especially for the idea of emphasizing the economic side of Missouri slavery. Dr. R. V. D. Magoffin facilitated the work of collecting material both by his own efforts and by pointing out efficient methods of research. Although this study was practically completed before the election of Professor J. H. Latané to the chair of American History at the Johns Hopkins University, he has critically examined the entire work and made many suggestions which were gladly received.

To Mr. William Clark Breckenridge of St. Louis the writer owes much of the best that the study may afford. Mr. Breckenridge not only pointed out many valuable lines of work, but submitted for use his large private collection of manuscripts, newspaper files, and pamphlets. He also introduced the author to many collections of materials and made possible interviews with many antebellum citizens of St. Louis and Missouri. The writer is also indebted to Miss Mae Symonds of the Mercantile Library of St. Louis, Mr. Gaillard Hunt of the Library of Congress, Messrs. F. A. Sampson and F. C. Shoemaker of the State Historical Society of Missouri, Dean Walter Williams and Professor Jonas Viles of the University of Missouri, and to Judge Walter B. Douglas of the Missouri Historical Society for his cooperation and aid in finding materials in St. Louis.

In addition the writer wishes to express his thanks to Mr. K. Roberts Greenfield of the Historical Department of the

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H. A. T.



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# SLAVERY IN MISSOURI, 1804-1865

## CHAPTER I

### MISSOURI SLAVERY AS AN ECONOMIC SYSTEM

When Louisiana was purchased in 1803, there were between two and three thousand slaves within the present limits of Missouri, of which only the eastern and southern portions were then settled.<sup>1</sup> By 1860 the State contained 114,931 slaves and 3572 free negroes.<sup>2</sup> Natural increase was one cause for this increase in the number of slaves, and importations from other slave States represented the other. The relative number of negroes gained from these two sources cannot be learned with any accuracy. The number of slaves born within the State is not given in the Federal census returns. In 1860 of the 1,063,489 whites of Missouri 160,541 were foreign born, and 475,246 were natives of the State. Of the remainder, 273,808 were born south of Mason and Dixon's line, and 153,894 in the free States and Territories.<sup>3</sup> It may fairly be assumed that these slave-state immigrants brought most of the slaves imported. Of these southern settlers 99,814 were from Kentucky, 73,594 from Tennessee, 53,957 from Virginia, and 20,259 from North Carolina. It would perhaps be incorrect to assume that the slaves brought to Missouri were in exact proportion to the whites from the several Southern States, yet one may assert with a fair measure of safety that the imported blacks came from the four slave States named and from

<sup>1</sup> In 1810 there were 17,227 whites, 3011 slaves, and 607 free blacks in Missouri Territory (Eighth Federal Census, Population, p. 601). For a summary of the various census returns of the Missouri country before the cession of Louisiana see J. Viles, "Population and Extent of Settlement in Missouri before 1804," in *Missouri Historical Review*, vol. v, no. 4, pp. 189-213.

<sup>2</sup> Eighth Federal Census, Population, pp. 275, 281-282.

<sup>3</sup> *Ibid.*, p. 301.

the other slave States in some rough proportion to the whites from those States.<sup>4</sup>

To some counties immigration came in waves. In the thirties Carolinians settled in Pike County with their slaves; later others came from Virginia and Kentucky.<sup>5</sup> A large body of Union sympathizers from eastern Tennessee took up land in Greene County; Kentuckians and Virginians also settled on the rich soil of this county.<sup>6</sup> Other counties experienced similar movements. By no means all of the settlers who came from slave States brought negroes or favored slavery, but, as will be learned in another chapter, hundreds of immigrants, especially those coming from Kentucky, Tennessee, and Virginia, brought negroes, and some of them considerable bodies of slaves.<sup>7</sup>

The birth-rate was perhaps about the same as it is among the negroes of the State today, but because of the property interest of the master the death-rate may have been lower. For the year ending June 1, 1850, the slave births in Missouri numbered 2699, while the deaths amounted to 1293.<sup>8</sup> If these figures are correct, the births were double the death toll. It would be unsafe, however, to generalize from these limited data.

The growth of the different classes of the population of Missouri was as follows:—<sup>9</sup>

Year	Whites	Free Colored	Slaves]
1810	17,227	607	3,011
1820	54,903	376	9,797
1830	115,364	569	25,091
1840	322,295	1,478	57,891
1850	592,004	2,618	87,422
1860	1,063,489	3,572	114,931

<sup>4</sup> Six thousand and fifteen whites came to Missouri from Maryland, 4395 from Arkansas, 3913 from South Carolina, 3473 from Alabama, 3324 from Mississippi, and so on (ibid.).

<sup>5</sup> Statement of Ex-Lieutenant Governor R. A. Campbell of Bowling Green.

<sup>6</sup> Statement of Mr. Dorsey D. Berry of Springfield.

<sup>7</sup> See below, pp. 102-103.

<sup>8</sup> Seventh Federal Census, p. 665.

<sup>9</sup> The figures for 1810 are from the Eighth Federal Census, Population, p. 601. The other returns are from the Fourth Census, p. 40; Fifth Census, pp. 38, 40-41; Sixth Census, p. 418; Seventh Census, p. 655; Eighth Census, Population, pp. 275-283.

It appears from these figures that the slaves increased in number but at a decreasing ratio to the whites. Between 1810 and 1820 the slave increase was 239.48 per cent, in the next decade 145.46 per cent, in the next 132.11, in the next—1840 to 1850—50.1 per cent, while between 1850 and 1860 the increase was only about 33 per cent.<sup>10</sup> We must not conclude that slavery was declining because the increase was less decade by decade while that of the whites was continually greater. It must be remembered that the land of greatest fertility was naturally occupied first, and as a result there was less and less room for expansion. The back counties were not so rich and were more difficult to reach. By 1840 Texas and other new regions were beginning to divert settlers from Missouri. However, non-slaveholding whites continued to fill the towns and the rougher land which was less adapted to slave labor. Agriculture was the great source of slave profit. The artisan class was white, and the filling up of the country rather increased than decreased their possibilities in developing manufactures. Had slave labor in Missouri been as profitable as was German labor in Illinois, the occupation of the best soils would have limited its growth in time. Increase in population means more intensive agriculture. Slave labor, being largely unintelligent and lacking initiative, is better suited to extensive farming.

The fact that the increase of the slave population of Missouri was limited by the supply of new lands was first noticed in the old Mississippi River settlements. The old French counties along the Mississippi from St. Louis south—Jefferson, St. Genevieve, Cape Girardeau, and so forth—contained 11,647 slaves in 1850 and but 11,528 in 1860.<sup>11</sup> Another decrease is found in the counties along the Missouri from its mouth to the boundaries of Callaway and Cole—St. Louis, St. Charles, Franklin, Warren, Montgomery,

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<sup>10</sup> Seventh Federal Census, p. 665.

<sup>11</sup> For these and the following figures see the Seventh Federal Census, pp. 654-655, and the Eighth Federal Census, Population, pp. 280-283.

Gasconade, and Osage—which in this decade fell from 11,732 to 11,597 slaves. Increases are found in the counties lying on the Mississippi from the mouth of the Missouri to the Iowa line,—St. Charles, Lincoln, Ralls, Pike, Marion, Lewis, and Clark. In 1850 these counties contained 13,171 slaves and in 1860 there were 15,618. The slaves in the counties along the Iowa border increased from 897 in 1850 to 1009 in 1860.

To find the real location of the slave increase of the State we must turn to the west. The large and excessively rich Missouri River counties from Callaway and Cole to the Kansas line—Boone, Howard, Chariton, Cooper, Saline, Lafayette, Ray, Clay, Jackson, and Manitou—contained 34,135 slaves in 1850 and 45,530 ten years later.<sup>12</sup> The whole series of counties along the Kansas border from Iowa to Arkansas—Atchison, Buchanan, Platte, Jackson, Cass, Jasper, and the rest—had but 20,805 bondmen in 1850, while in 1860 they contained 29,577.

For two reasons these western counties increased in slave population faster than the eastern. In the first place, the land of the western counties was better, and hemp culture made slave labor profitable. A soil map of Missouri shows that the rich loam along the Missouri River surpassed any other land in the State. Here the slaves increased both in value and in price as in no other section. The eastern region was earlier settled, and as a consequence fewer and fewer slave-owners came from the South to locate there, while to the west settlers were still coming in large numbers when the Civil War opened.

The distribution of the slaves, as well as of the free population of Missouri, was controlled by the same conditions. The French and Spanish located along the Mississippi both because the land was fertile and because the river offered the

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<sup>12</sup> Some of these counties are counted twice where they are located at corners, or where two series of counties meet. In 1860 the counties ranked as follows in slave population: Lafayette, Howard, Boone, Saline, Callaway, St. Louis, Pike, Jackson, Clay. All of these counties save Pike are on the Missouri River.



only means of communication with the outer world. As the Anglo-Saxons invaded the Territory after the American occupation, they went up the Missouri to the Osage, then to the Bonne Femme, and then on west. Settlements thus followed the great streams and their tributaries. In general the slave-master also followed the streams, this fact being due to the coincidence that the river counties were not only more accessible than the back counties, the products from them being therefore more readily marketed, but were also more productive. It may be said, then, that the slaveholder followed the river because the railroad and the highway were not yet opening the back country. He remained in these river counties because they contained lands of unsurpassed fertility.

In Missouri as in the other border States the slave was put to general farm work rather than to the producing of a staple crop. The great plantation of the Mississippi and Louisiana type with its white overseer and gangs of driven blacks was comparatively uncommon in the State. Very few masters had a hundred slaves, not many had half that number. There were some farmers, however, who employed a considerable body of negroes.

The number of slaves held is most difficult to find with any accuracy. Personal information from contemporaries conflicts with the census reports and the county tax returns. For example, an old boat's clerk, Mr. Hunter Ben Jenkins of St. Louis, who spent much time in the great Missouri River slave counties, claims that the largest slaveholder of the State was Jabez F. Smith of Jackson County, who owned 165 negroes. In contrast with this statement the Jackson County tax book of 1860 credits Jabez F. Smith with but 42 slaves.<sup>13</sup> Therefore, Smith either dodged his

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<sup>13</sup> MS. Tax Book, Jackson County, 1860, pp. 151-152. The Eighth Federal Census (Population, p. 280) gives the Jackson County slave population at 3440 as against the 3316 listed in the tax book of that year. But this small difference does not account for the discrepancy of four to one in the reported numbers of Smith's slaves. Mr. James Peacock of Independence, who was an acquaintance of

taxes enormously or had fewer slaves by far than his neighbors thought.

From the local returns gathered for the Federal census it is found that there were some fairly large slaveholders for a country of diversified agriculture which, as compared with the plantations further south, was a community of small farms. These figures should be more complete than the tax returns, as they were not collected for purposes of taxation. These census reports for 1850 show that in Cooper County John H. Ragland was the leading slaveowner, being credited with 70 negroes, including infants and the aged. He lived on a farm of 1072 acres, 500 of which were under cultivation. Of these 70 slaves 29 were over fifteen years of age. His land was worked by 34 horses, mules, and oxen. His produce in hand was large,—4000 bushels of wheat, the same amount of corn, 400 bushels of oats, and 7000 pounds of tobacco. He had 140 swine and 24 head of cattle besides his oxen.<sup>14</sup>

The second largest Cooper County slaveholder was Henry E. Moore, who had 32 negroes, of whom 23 were over fifteen years of age. He possessed 250 acres of improved and 150 acres of unimproved land, 57 work animals, 5000 bushels of corn, 400 of oats, 200 swine, and 32 cattle.<sup>15</sup> These represent the more affluent Missouri farmers who were not engaged in producing a staple crop. An example of a less favored farmer is Joseph Byler, who owned 11 slaves, only 4 of whom were over fifteen years of age—2 men and 2 women. Byler owned 100 acres of improved

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Smith's, told the present writer that "Smith had many more than forty-two slaves." Mr. Peacock suggested that the infants and aged negroes were often not listed by the assessor, but 123 of Smith's 165 slaves could hardly have been infants and very old people. In the tax books old and young are alike given, as is the case with Smith's. In the earlier tax returns young negroes were not included. In the St. Charles County tax book of 1815 only slaves above ten years of age are listed, while in the Franklin County tax list of 1823 only those over three years were given. But if the assessor did omit the infants and the aged, he but eliminated those who were not effective producers, and with such a class there is little concern here.

<sup>14</sup> MS. Census Enumeration, Cooper County, 1850, Schedule no. 2.

<sup>15</sup> *Ibid.*

and 140 acres of unimproved land, 14 work animals, 32 head of cattle, 80 sheep, 50 swine, 1000 bushels of corn, and 200 each of wheat and oats.<sup>16</sup> These examples give an idea of the external economic conditions of the slave society in a rich river county.

If the old French Mississippi River county of St. Genevieve in eastern Missouri is examined, some large holders are found there. In 1860 John Coffman was the chief slave-owner, having 78 negroes living in fourteen cabins. Joseph Coffman, the second largest holder, had 32, and the third, Hiram Blaclege, possessed 27 slaves who were domiciled in eight cabins.<sup>17</sup> Although the tax levies discount slave property, nevertheless in many cases they are the only means of obtaining information. If the tax lists omit the slave children and the wornout blacks, they but fail to include those who did not labor and who had little economic significance save as a burden to the owner. The probate records would be an exact source of knowledge as to the size of slave holdings, but as only those who died in slavery days had their slaves listed in such records, an examination must be made of the assessors' returns.<sup>18</sup>

In Boone County the heirs of R. King were assessed in 1860 with 57 slaves,<sup>19</sup> and W. C. Robinett with 50.<sup>20</sup> In the adjoining county of Howard William Swinney paid taxes on 86 slaves valued at \$44,800 and on 1369 acres of land.<sup>21</sup> J. C. Carter of Pike County was assessed in 1859 with 43 slaves,<sup>22</sup> and Andrew Ashbaugh with 37.<sup>23</sup> In 1856 Dugan Frouts of Buchanan County was listed as having 28

<sup>16</sup> MS. Census Enumeration, Cooper County, 1850, Schedule no. 2.

<sup>17</sup> MS. Census Enumeration, St. Genevieve County, 1860, Schedule no. 2.

<sup>18</sup> Thomas A. Smith of Saline County left in 1844 a large estate in which were included 77 negroes (MS. Probate Records, Saline County, Box no. 248, Inventory and Appraisalment, filed November 11, 1844).

<sup>19</sup> The heirs of R. King (MS. Tax Book, Boone County, 1860, p. 18).

<sup>20</sup> This was William C. Robinett (*ibid.*, p. 118).

<sup>21</sup> MS. Tax Book, Howard County, 1856. George Cason was second with 52 negroes, and John R. White third with 46 (*ibid.*).

<sup>22</sup> MS. Tax Book, Pike County, 1859, p. 48.

<sup>23</sup> *Ibid.*, p. 1.



negroes and 320 acres of land,<sup>24</sup> and J. C. Ingram as having 26 slaves and 160 acres.<sup>25</sup> The Clay County tax books could not be found entire. However, figures for 1858 are obtainable for the southwestern portion of the county, the section just across the Missouri from Kansas City. Here on the rich riverbottom John Daugherty was assessed with 33 negroes and 2420 acres of land,<sup>26</sup> and Michael Arthur with 30 slaves and 1880½ acres.<sup>27</sup>

In southeast Missouri the records show that in Cape Girardeau County the largest holders were assessed with 40 slaves in 1856.<sup>28</sup> In the southwest portion of the State, in the rich county of Greene, Daniel D. Berry was taxed on 37 negroes worth \$13,300, 23 horses and mules, and 4320 acres of land worth \$33,760, and John Lair and Solomon C. Neville on 24 slaves each, the former's valued at \$16,200 and the latter's at \$10,000.<sup>29</sup> In the northern counties of Daviess and Macon the holdings were smaller. In 1854 Alfred Ray of Macon County was taxed on 31 slaves, and the second largest holder, James W. Medley, on 13,<sup>30</sup> while in Daviess County Milton N. Moore, the chief owner of slaves, was assessed with but 16.<sup>31</sup>

The Reverend Frederick Starr ("Lynceus") says that there were some plantations along the Missouri River having from 150 to 400 slaves. From the above figures it appears that a Missouri plantation with as many as 400 slaves must have been extremely rare.<sup>32</sup> In fact, the average slave-master had many less than the great holders mentioned in the preceding paragraphs. For instance, in Cooper County in 1850 of the 636 slaveholders 173 had but 1 negro each.

<sup>24</sup> MS. Tax Book, Buchanan County, 1856, p. 59.

<sup>25</sup> *Ibid.*, p. 85.

<sup>26</sup> MS. Tax Book, Clay County, 1858, p. 17.

<sup>27</sup> *Ibid.*, p. 2.

<sup>28</sup> MS. Tax Book, Cape Girardeau County, 1856. These were T. H. and Lucy Walker.

<sup>29</sup> MS. Tax Book, Greene County, 1858. By 1860 Berry's slaves on the tax book numbered 42 (MS. Tax Book, Greene County, 1860).

<sup>30</sup> MS. Assessors' List, Macon County, 1854, pp. 86, 63.

<sup>31</sup> MS. Tax Book, Daviess County, 1857, p. 29.

<sup>32</sup> Letters to the People in the Present Crisis [1853], Letter no. 1, p. 9.



and 102 possessed but 2. The average for the whole county was 4.67 slaves to the master.<sup>33</sup> Just across the Missouri in Boone County the average was almost the same—4.83 per owner in 1860.<sup>34</sup> Journeying on west up the Missouri to Jackson County a similar condition is met. Here in 1860 the average was 4.5 slaves to the master.<sup>35</sup> To the north of Jackson in Buchanan County the average was considerably less—3.6 in 1856,<sup>36</sup> which was a little higher than the average sixteen years previously in the same county, when it was 3.2.<sup>37</sup>

In looking eastward to the prosperous Mississippi River county of Pike the average is found to be slightly less. In this county in 1859 there were listed on the tax book 3733 slaves owned by 908 masters, or 4.18 negroes to the master.<sup>38</sup> To the north of Pike in the extreme northeastern corner of the State is Clark County. The 129 masters of this county averaged 3.14 slaves each in 1860.<sup>39</sup> In the old French county of St. Genevieve the average holding in 1860 was 5.16 negroes.<sup>40</sup>

<sup>33</sup> MS. Census Enumeration, Cooper County, 1850, Schedule no. 2. The Reverend Mr. Starr, who in 1853 endeavored to prove that slavery was declining in Missouri, divided the number of farms in the State, as given by the Federal census of 1850, and found the number of slaves per farm (Letter no. 1, pp. 9-12). But as even a small truck farm, which naturally could not support slave hands, was included in the government report, his results seem purposeless. It appears much more to the point to find the average of those who really had slaves than to find how many each farmer would have in case of an equal division—a condition impossible on its face. Hinton R. Helper stated that there were 19,185 slaveholders in Missouri in 1850 (*The Impending Crisis*, p. 146). From the averages given above in this study the 114,931 slaves of the State were owned by about 24,000 masters. This is merely a rough estimate.

<sup>34</sup> MS. Tax Book, Boone County, 1860, gives 4354 slaves and 902 owners.

<sup>35</sup> MS. Tax Book, Jackson County, 1860: 3316 slaves and 736 owners.

<sup>36</sup> MS. Tax Book, Buchanan County, 1856: 1534 slaves and 425 owners.

<sup>37</sup> MS. Tax Book, Buchanan County, 1840: 177 slaves and 55 owners.

<sup>38</sup> MS. Tax Book, Pike County, 1859: 3733 slaves and 908 owners.

<sup>39</sup> *History of Lewis, Clark, Knox and Scotland Counties* (St. Louis and Chicago, 1889), p. 305: 405 slaves and 129 owners.

<sup>40</sup> MS. Census Enumeration, St. Genevieve County, 1860, Schedule no. 2: 615 slaves and 119 owners.

Many of these masters actually held only one or two negroes each. In 1860 Jackson township, St. Genevieve County, contained 32 slaves owned by 10 persons. Of these 10 owners there were three who had but one slave, 2 had 2 negroes, 2 owned 3, 2 had 6, and another 7.<sup>41</sup> In this year there were 497 masters paying taxes on 1383 slaves in St. Louis city. Of these owners 217 were taxed on 1 negro each and 104 on 2 negroes. In other words, 321 of the 497 slaveholders of the city returned less than 3 negroes.<sup>42</sup> In Greene County in 1858 there were 567 slaves in the district about Springfield. These were owned by 108 persons, of whom 38 held 1 slave each and 31 held 2, 69 of the 108 masters having less than 3 slaves.<sup>43</sup> A similar situation is found in the newer county of Audrain in the earlier period, where in 1837 there were 26 masters and 68 taxable slaves. Of these 26 owners 13 were assessed with 1 slave and 8 with 2 each.<sup>44</sup>

From the figures given it appears that Missouri was a State of small slaveholdings. How these slaves were employed will next claim our attention.

The single slave held by so many persons was usually a cook or a personal servant, or perhaps a "boy" for all-round work. Often a slave man and his wife were owned. The probate records are filled with the appraisements of estates holding one or two slaves.<sup>45</sup> Captain Joseph A. Wilson of

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<sup>41</sup> MS. Census Enumeration, St. Genevieve County, 1860, Schedule no. 2.

<sup>42</sup> MS. Tax Book, St. Louis City, 1860, six vols. It is interesting to learn that among these St. Louis slaveholders of 1860 were Frank Blair, who was taxed on 1 negro (*ibid.*, Book A to B, p. 115); Senator Truett Polk, on 2 (*ibid.*, Book P to S, p. 44); Mrs. U. S. Grant, on 3 (*ibid.*, Book G to K, p. 59), and the St. Louis University, which held 6 taxable slaves (*ibid.*, Book P to S, p. 220).

<sup>43</sup> MS. Tax Book, Greene County, 1858. At this time Greene County was much larger than at present.

<sup>44</sup> MS. Tax Book, Audrain County, 1837. This return lacks the taxpayers whose initials were A and B, but this would not necessarily change the proportion. James E. Fenton was taxed on 17 of the 68 slaves then on the list.

<sup>45</sup> An interesting example of this holding of a single servant is found in the appraisement of the estate of Louise Ann Pippin, whose personal property was composed of six trunks containing clothing

Lexington declared that every decent Missouri family had at least one slave, and usually from two to four, as house servants. So many of the antebellum settlers of the State being from the border and Southern States, the idea of white servants was not congenial, even had there been a supply of them. Many slaves, as in other southern communities, were nurses and acted as maids to the female members of the family. "Slavery in western Missouri," wrote a contemporary, "was like slavery in northern Kentucky—much more a domestic than a commercial institution. Family servants constituted the bulk of ownership, and few families owned more than one family of blacks. The social habits were those of the farm and not of the plantation. The white owner, with his sons, labored in the same fields with the negroes both old and young. The mistress guided the industries in the house in both colors."<sup>46</sup>

The fifteen hundred slaves of St. Louis seem to have been quite largely employed as domestics, though as the city grew the German and the Irish immigrant assumed this work. When Anthony Trollope visited St. Louis in 1862, the Civil War and the coming of the alien had nearly driven the household slave from the city.<sup>47</sup> The further discussion of the slave as a domestic is not necessary, as this function of the negro is a commonplace.

The slave was early put to work at clearing the land, much of which was timbered. Advertisements for such negroes are to be found in the papers of the early period.<sup>48</sup>

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appraised at \$75, and "1 negro Boy Philbert aged 18 Years," valued at \$550 (MS. Probate Records, St. Louis, Estate no. 2653, filed August 14, 1849).

<sup>46</sup> J. G. Haskell, "The Passing of Slavery in Western Missouri," in *Transactions of the Kansas State Historical Society*, vol. vii, p. 31.

<sup>47</sup> North America, p. 381. He writes: "Slaves are not generally employed in St. Louis for domestic service . . . St. Louis has none of the aspects of a slave city." When Maximilian, Prince of Wied, visited St. Louis in 1832-34, he found that "the greater part of the workmen in the port, and all the servants of St. Louis, are negroes . . . who in the State of Missouri are all slaves" ("Travels in the Interior of North America," in R. G. Thwaites, *Early Western Travels*, vol. xxii, p. 216).

<sup>48</sup> "Wanted, To hire . . . an industrious negro man who is a good hand at chopping with an axe" (*Missouri Herald* [Jackson], Septem-



The rivers were the great highways for both passenger and freight traffic till the forties and fifties brought the railroads, and they quite largely retained the freight traffic till after slavery days. The boating business being very lucrative, the hire of surplus slave labor for cabin and deck work was very common. As early as 1816 Pierre Chouteau bought a slave who was "a working hand on a keel boat."<sup>49</sup> A traveller descending the Mississippi in 1858 stated that the crew and stokers on the boats were all slaves.<sup>50</sup> A Kansas immigrant who ascended the Missouri in 1857 observed that the deck hands were colored,<sup>51</sup> while another contemporary states that the Missouri River boats usually had a cabin crew of about twenty, "generally colored."<sup>52</sup>

This use of blacks on the rivers caused race feeling. An old boatman says that there were not enough free negroes, and consequently slaves were used as cabin crews. Therefore the custom developed that whites would not permit negroes to touch the freight. This division of the races seems evident from the following advertisement of 1854: "Wanted to hire by the Year, Ten negro boys, from 15 to 20 years of age—suitable for cabin boys. Also fifteen negro men for firemen, on a steamboat. Smith and Watkins."<sup>53</sup> According to an old boatman, these colored river

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ber 4, 1819). In the *Missouri Intelligencer and Boone's Lick Advertiser* (Franklin) of November 25, 1823, is read, "A Negro Woman, Healthy and Masculine, who can turn out 100 rails per day. May be hired."

<sup>49</sup> *Lagrange v. Chouteau*, 2 Mo., 19.

<sup>50</sup> C. Mackay, *Life and Liberty in America*, p. 151.

<sup>51</sup> A. D. Richardson, *Beyond the Mississippi River*, p. 285. In the *St. Joseph Commercial Cycle* of May 11, 1855, there is found an expense account of a steamer running between St. Louis and St. Joseph. In this table are listed twelve "boys" at \$20 each per month. As this term was applied to negro men and as the above accounts state that the cabin crews were generally colored, it seems probable that negroes were here meant. "Uncle" John Dill of Cape Girardeau claims that good river hands brought as high as \$45 per month, as a trusted boat hand was considered very valuable. He stated that he knew of masters who gave their negroes a silver watch or a bill after a cruise on the river.

<sup>52</sup> G. B. Merrick, *Old Times on the Upper Mississippi* [1854-1863], p. 64.

<sup>53</sup> *Republican* (St. Louis), February 7, 1854. There is found the



hands received from twenty to thirty dollars a month and keep.<sup>54</sup> The employment of free blacks and slaves on the river caused a strong protest on the part of a St. Louis editor in 1841. He asserted that the practice enabled abolitionists to communicate with the slaves of the State, and made them discontented. He spoke of the crews as "the profligate reckless band of slaves and free negroes . . . habitually employed as stewards, firemen, and crews on our steamboats."<sup>55</sup>

A considerable number of slaves seem to have been worked in the Missouri and Illinois lead mines.<sup>56</sup> In 1719 Renault brought a few to work the Fort Chartres and later the Missouri lead deposits. Some were seen working at Potosi as miners by Schoolcraft in 1819.<sup>57</sup> Later travellers, however, do not mention slaves working the mines of that region. Missouri slaves hired to work the saline deposits of the Illinois country provoked much litigation and a careful interpretation of the Ordinance of 1787.<sup>58</sup>

The slave also did general work about town and city as the negroes do today.<sup>59</sup> The chief interest here, however,

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following advertisement in the Daily Missourian (St. Louis) of May 7, 1845: "For hire—a woman chambermaid in the city or on the river . . . I. B. Burbbayge."

<sup>54</sup> Mr. Hunter B. Jenkins of St. Louis.

<sup>55</sup> Daily Evening Gazette (St. Louis), August 18, 1841.

<sup>56</sup> American State Papers, Public Lands, vol. iv, p. 800.

<sup>57</sup> H. R. Schoolcraft, *A View of the Lead Mines of Missouri*, pp. 15, 40.

<sup>58</sup> See below, pp. 216-217.

<sup>59</sup> Schoolcraft also states that "there are a considerable number [of slaves] at present [1819] nearly every good plantation, and many mines being wrought by them." He also states that many slaves served as blacksmiths and carpenters. "It has led to a state of society which is calculated to require their assistance" (pp. 40, 176). Slaves were also used as draymen, according to a traffic regulating ordinance of St. Louis of June 13, 1835, sec. 12 (*Missouri Argus* [St. Louis], June 19, 1835). This use of slaves caused some trouble (Mayor, etc., of St. Louis v. Hempstead, 4 Mo., 242). Slaves were also licensed as hucksters, hawkers, and so on (St. Louis Ordinances, 1836, p. 145). In the Jeffersonian Republican (*Jefferson City*) of January 16, 1835, there is the notice of an escaped slave who had worked in "Massey's Iron Works" near Jefferson City. The tobacco firm of Spear and Swinney of Fayette employed slaves. They were assessed with 34 negroes in 1856 (MS. Tax Book, Howard County, 1856).

lies in the agricultural slave. Whether or not free labor could have been obtained to work the fields of Missouri is a question about which contemporaries still living are not agreed. From their statements it is evident that the supply of free labor varied in the different parts of the State,<sup>60</sup> but the fact remains that slave labor really did the larger part of the work of the State.

Missouri was a State with a great variety of topography and soils, and a number of products were raised in great abundance.<sup>61</sup> The majority of Missouri bondmen were employed as general field hands. Statements of men who lived in various parts of the State convey the idea that the plantation with its overseer, "task system," and great negro gangs was not common. Except in hemp culture, where the task system prevailed, the Missouri rural negro is to be considered a general farm hand as he is today. A prominent Kansan who viewed slavery as it existed in western

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<sup>60</sup> Among some two dozen contemporaries living in the great slave counties opinion as to the availability of free labor was varied. Most of those questioned claimed that free white labor was scarce. Colonel D. C. Allen of Liberty said that abolition agitation kept white labor from the State. Colonel R. B. C. Wilson of Platte City stated that there was no free labor in Platte County. Captain J. A. Wilson of Lexington declared that free black labor was considered a menace, and that white labor was scarce in Lafayette County. Colonel James A. Gordon of Marshall said that free labor was usually obtainable in Saline County. "Uncle" Henry Napper, who was a slave in the same county, remembers that his master hired some free labor at harvest and other heavy seasons. "Lynceus" (Reverend Frederick Starr), who endeavored to prove that slavery was dying in the State, declared (1853) that the price of slaves was high because there was so little white labor (Letter no. i, p. 6). James Aull of Lexington, who was a prominent trader of western Missouri, wrote to a correspondent in Philadelphia on June 15, 1835: "We are the owners of slaves, in this State as well as in other slave holding states you must either have slaves for servants or yourself and family do your own work" (to Siter, Price and Company. In the collection of Messrs. E. U. Hopkins and J. Chamberlain of Lexington).

<sup>61</sup> For the year ending June, 1850, Missouri produced 2,981,652 bu. of wheat; 44,268 bu. rye; 36,214,537 bu. corn; 5,278,079 bu. oats; 17,113,784 lbs. tobacco; 1,627,164 lbs. wool; 939,006 bu. Irish and 335,505 bu. sweet potatoes; 23,641 bu. luckwheat; 116,925 tons hay; 15,968 tons hemp; 527,160 lbs. flax, and so forth. The State also contained 225,319 horses; 41,667 asses and mules; 230,169 milch cows; 112,168 oxen; 449,173 other cattle; 762,511 sheep; 1,702,625 swine (Seventh Federal Census, p. lxxxii).

Missouri states that the slave was an all-round laborer, there being no classification of "domestic servants" and "field hands."<sup>62</sup>

The severity of the slave's labor will be treated in a later chapter of this study, but the nature of his work, especially in the hemp country, deserves attention in this connection. Hemp was the great Missouri staple, although its culture was mostly restricted to the Missouri River counties. Other products were raised in greater abundance, but in some regions hemp was the chief crop. "From the first settlement of the county," wrote a citizen of Platte County, "hemp was the staple product. We became wealthy by its culture. No soil on earth, whether timber or prairie, is better adapted to hemp than Platte County. . . . But no machinery ever invented superseded the hand-break in cleaning it. . . . Negroes were, therefore, in demand, and stout men sold readily for \$1,200 to \$1,400."<sup>63</sup> As a hemp State Missouri was second only to Kentucky, and the quality of her hemp was said by J. C. Breckinridge to be even superior to that of his own State.<sup>64</sup> American hemp passed through many vicissitudes because of the tariff, and often met the competition of better hemp from Russia. The market

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<sup>62</sup> Haskell, p. 31.

<sup>63</sup> W. M. Paxton, *Annals of Platte County*, p. 37. In 1854 Judge Leonard of Buchanan County raised 1426 lbs. per acre on a ten-acre field. It was a virgin crop, however (*St. Joseph Commercial Cycle*, May 18, 1855).

<sup>64</sup> B. Moore, *A Study of the Past, the Present, and the Possibilities of the Hemp Industry in Kentucky*, p. 60, quoting from a letter of Breckinridge's of January 10, 1854, to C. J. Sanders, the Navy's hemp agent. In 1860 the great Missouri hemp counties were: Saline 3920 tons; Lafayette 3547 tons; Platte 1783 tons; Pike 1608 tons; Buchanan 1479 tons; the whole State 19,267 tons. Some of this was water-rotted, but most of it was dew-rotted. Gentry County produced 600 tons of water-rotted hemp but no dew-rotted (*Eighth Federal Census, Agriculture*, pp. 90-94). In 1850 Missouri was credited with 4 "hemp dressers," 48 ropemakers, and 191 rope-making establishments, each turning out over \$500 worth of material a year (*Seventh Federal Census, Statistics*, p. 674). In 1850 the great hemp counties were: Platte 4345 tons; Lafayette 2462 tons; Buchanan 1894 tons; Saline 1559 tons; Clay 1274 tons; the whole State 15,968 tons, of which 60 tons were water-rotted (*ibid.*, pp. 679-680).



finally dropped about 1870 when the South substituted iron hoops for hemp rope in baling cotton.<sup>65</sup>

The healthy western Missouri negro must have been a profitable investment as a hemp cutter and breaker if the slave was a paying investment anywhere. "I can remember how twenty or thirty negroes would work in line cutting hemp with sickles. It was then left to rot till January. Then it was broken and the pith removed by means of a heavy crusher which the slave swung up and down. He often received the lash if not breaking his one hundred pounds. I have seen a long line of wagons loaded with hemp extending from the river nearly to the court house." Thus a citizen of Lexington describes the hemp culture in Lafayette County.<sup>66</sup> "The farmers of Missouri seldom

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<sup>65</sup> Thomas S. Forman of Louisville wrote in 1844: "The price of hemp, bagging and bale rope has declined almost in ratio of their increased production; thus in 1835 with a crop of 7,000 or 8,000 tons in all the western States, it was \$10.00 to \$12.00 per hundred weight. . . . Since then, under the stimulating influence of the tariff of 1842, the products are four or five times the amount they were in 1835, and the price is \$3.00 per hundred weight. . . . These prices do not remunerate the grower or manufacturer" (Moore, *Hemp Culture in Kentucky*, pp. 53-54). The poorer American dew-rotted hemp had to compete with the superior Russian water-rotted, which was said to exceed the former by at least ten or fifteen pounds per hundred weight (*ibid.*, p. 55). The loss of the cotton crop during the Civil War injured the demand for hemp bagging and rope. "Formerly, when bagging and rope were worth more per pound than cotton, they were considered one of the expenses of cotton shipping; now that cotton was twenty-five cents a pound, the bagging and rope were only six or seven cents a pound, rope and bagging were not spared, since they weighed in with the cotton bale. It was for the sake of the spinner rather than the cotton grower, that iron ties were substituted for hemp rope during the years around 1870. The inability of Kentucky to supply bagging enough created competition of jute bagging, which, during the early seventies, almost completely disabled hemp bagging" (*ibid.*, pp. 62-63).

<sup>66</sup> Statement of Captain Joseph A. Wilson. In 1855 one S. A. Clemens of St. Louis invented a hempbreaker which was propelled by steam or by horsepower. The hemp stocks could be used for fuel. It was said to have a capacity of breaking a ton in ten hours, and if the hemp was very fine, a ton and a half. Three men could run it (*St. Joseph Commercial Cycle*, May 18, 1855). W. B. Napton states that "John Lock Hardeman, about 1850 . . . invented a hemp breaking machine, which lessened the labor to a considerable extent, and about the year 1854 an attachment had been added to the McCormick reaper by which hemp was cut by machinery also" (*Past and Present in Saline County*, p. 132). Mr. Napton claims to write from



stack hemp," runs a letter of the slavery regime. "They suffer it to receive enough rain, after cutting, to color it. It is then taken up and shocked without binding. About the middle of October it is spread out to rot. Our winters are so dry that the hemp must receive several rains before it is shocked."<sup>67</sup>

It was the task of the slave to break one hundred pounds of hemp a day, receiving one cent per pound for all broken in excess of that amount. Many slaves broke from a hundred and seventy-five to two hundred, some as many as three hundred pounds a day. The work seems to have been heavy, but the possibility of making a dollar or more a day made it popular with the ambitious slaves.<sup>68</sup> Hemp became the staple in western Missouri to such an extent that, according to the statement of an old negro, his master could find no market for his wheat.<sup>69</sup> Hemp was even

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personal experience. On the other hand, Mr. Paxton asserts that no machine that was ever invented superseded the handbreaking of hemp by the slave. The work was so very arduous that after the War the freed negro would not engage in it (p. 37).

<sup>67</sup> Paxton, p. 81, quoting a letter of unknown date from an unknown person.

<sup>68</sup> Mr. Dean D. Duggins of Marshall stated that their old Jim could break 300 pounds a day at one dollar per hundred over the task, and that Jim had quite a sum of money when the War opened. "Uncle" Henry Napper of Marshall, a wiry little negro, formerly owned by Mr. Duggins's family, said that he could not break over 175 pounds, but that many broke 200, and some 300 pounds. "Uncle" Eph Sanders of Platte City claims that he could break 200 pounds. Captain J. A. Wilson of Lexington stated that many slaves made a dollar a day and were paid in silver at Christmas, the negroes keeping accounts on notched sticks and the owner or overseer in his books. Mr. Hunter B. Jenkins knew slaves in Lafayette County who made from seventy-five cents to a dollar a day breaking hemp. "Uncle" Peter Clay of Liberty said that he broke 165 pounds in a day, and that he would as soon break hemp as do any other hard work, while Henry Napper said that it was very hard labor. Dr. John Doy says that while he was a prisoner in the Platte City jail a young negro owned by one William Rywaters, living near Camden Point, told him that "both men and women had a task given them, the latter to break one hundred pounds of hemp a day and the former still more, and received a lash for every pound they fell short" (J. Doy, Narrative of John Doy of Lawrence, Kansas, p. 60). But Doy had both a political and a private grudge against slaveowners, and consequently gathered all the hard tales about them he could find.

<sup>69</sup> Statement of Henry Napper of Marshall.

used as a medium of commerce in some cases, like tobacco in old Virginia.<sup>70</sup>

The other staple crops of Missouri were tobacco and cotton. The culture of the latter was restricted to the southern part of the State. Tobacco was raised to a greater or less degree throughout the eastern and central regions. As today, many farmers raised tobacco, not as a staple, but as they did corn or wheat.<sup>71</sup> "In the tobacco regions of the State," says a prominent citizen of Pike County, "there was no task system for the slaves. They were expected, and in many instances required, to do a reasonable day's work."<sup>72</sup>

The slave seems to have been a very slight factor in the cotton culture of the State. The cotton counties ranked as follows in 1860: Stoddard, Shannon, Dunklin, Dallas, Jasper, and Barry.<sup>73</sup> Their slave population was very small,—Stoddard 189, Shannon 6, Dunklin 152, Dallas 88, Jasper 317, and Barry 217.<sup>74</sup> Contemporaries remember few or no slaves in the cotton fields and no task system. As in the tobacco culture, the few slaves employed worked as general field hands.<sup>75</sup> Outside of the hemp fields the task system was seldom practiced in the State. A negress who was a slave in Madison and St. Francis Counties claims that

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<sup>70</sup> The following notice is found in the *Weston Platte Argus* of December 19, 1856: "All persons indebted to us . . . are hereby requested to come forward and settle, with Cash, Hemp or give approved security . . . Belt, Coleman & Co."

<sup>71</sup> In 1860 Missouri ranked seventh in tobacco culture, producing 25,086,196 lbs. The great tobacco counties were: Chariton 4,356,024 lbs.; Howard 2,871,584 lbs.; Randolph 1,918,715 lbs.; Callaway 1,433,374 lbs.; Macon 1,396,673 lbs.; Lincoln 1,356,105 lbs.; Monroe 1,325,386 lbs.; Pike 1,194,715 lbs. (Eighth Federal Census, Agriculture, pp. xliv, 88-94).

<sup>72</sup> Statement of Ex-Lieutenant-Governor R. A. Campbell of Bowling Green.

<sup>73</sup> Missouri was credited with no tobacco in 1850. In 1860 the State raised 44,188 bales of 400 lbs. each. Stoddard County produced 19,100 bales, Shannon 10,877, Dunklin 7000, Dallas 1200, Jasper 972, and Barry 500 (Eighth Federal Census, Agriculture, pp. 90-94).

<sup>74</sup> Eighth Federal Census, Population, p. 280.

<sup>75</sup> Several old settlers of the cotton counties were questioned, but all denied that a task system existed in the cotton fields or that any number of slaves were employed in them.

she had to weave four yards a day and fill the quills. The spinning of eight "cuts" (one hundred and fifty threads to the "cut") was a day's work. Often she wove or spun till dark after working all day in the fields. She worked neither Saturday afternoons nor Sundays.<sup>76</sup>

The Missouri law forbade a master to work his slaves on Sunday, except in regular housework or labor for charity. Field work was thus forbidden on Sunday. The penalty for the master was one dollar for each negro so employed.<sup>77</sup> This law was enforced in some instances at least, as on February 28, 1853, the Boone County circuit court fined R. R. Rollins five dollars "for working slaves on Sunday."<sup>78</sup>

As there were few great plantations in the State, the systematic but brutal overseer—that grewsome evil genius of so many slave tales—was not often seen in Missouri. Widows who needed a farm manager at times employed an overseer, and some tobacco and hemp farmers had white managers. Usually a trusted slave, called a "driver," or one of the sons laid out the work for the slaves, so that the hired white overseer managing great gangs of negroes was not a characteristic Missouri figure. Contemporaries are nearly unanimous on this point.<sup>79</sup>

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<sup>76</sup> Mrs. Anice (or Alice) Washington of St. Louis.

<sup>77</sup> Law of July 4, 1825 (Revised Laws, 1825, vol. i, p. 310, sec. 90).

<sup>78</sup> MS. Records, Boone County Circuit Court, Book F, p. 190.

<sup>79</sup> Ex-Lieutenant-Governor R. A. Campbell of Pike County stated that some widows and a few tobacco farmers of the county had overseers, but that general farming was the rule in most of the county. Mr. J. H. Sallee of Mexico, formerly of Marion County, remembers no overseers or task system in that county. Mr. John W. Beatty of Mexico said that the overseer and the task system were seldom seen in Audrain County, Robert St. Clair having the only overseer he remembers. Mr. Robert B. Price of Columbia stated that there were no overseers in the southern sense in Boone or neighboring counties. Mr. George Carson remembers a few overseers in Howard and adjacent counties. Captain J. A. Wilson of Lexington said that there were a few overseers in Lafayette County, some farmers with over twenty negroes hiring one, but that usually a son or a negro "driver" managed the hands. The latter was often more severe than a white overseer. Colonel D. C. Allen of Liberty said that there were some white overseers in Clay County. Mr. E. W. Strode of Independence stated that he knew of very few



Without the overseer and the horror of drudgery in pestilent rice and sugar swamps, the despair of the slave could not have been so great as in the far South. As the negroes of Missouri today work about the town or the farm, so they must have labored in slavery days, except that more of them worked than now and the hours of labor were longer. The great slave counties of antebellum days are the great negro counties of today, save where urban attractions have caused the negroes to flock to the cities.

Many slave-owners naturally had more of such labor than they could utilize. Negroes inherited by professional men and other townsmen often had little work except as household servants. The excess hands were therefore hired to those needing their services.<sup>80</sup> These slave-masters retained their slaves either because they thought the investment was paying, or in order to preserve the family dignity, which was largely based on slave property. Widows were unable to alienate their slaves if there were other heirs, and consequently hired them out as a means of income. The slaves of orphans and of estates in probate were annually hired

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overseers in Jackson County, as a negro foreman usually managed the slaves. Mr. George F. Shaw of Independence, formerly of Franklin County, said that there were few overseers in the latter county, as general farming was the rule. Mr. Dorsey D. Berry and Mr. Martin J. Hubble of Springfield stated that the overseer was not seen in Greene County.

Overseers were at times advertised for, as may be learned from the *Daily Missourian* of November 16, 1845: "Wanted—an overseer with a wife to go on a farm. . . I. B. Burbayge." The Seventh Federal Census states that there were 64 "overseers" in Missouri in 1850 (p. 674). In 1860 there were 256 of them in the State (Eighth Federal Census, Population, p. 303). This term seems to have been applied to the familiar negro overseer, as of the 37,830 in the United States 32,458 were accredited to the slave States (*ibid.*, pp. 670-671). On the other hand, Pennsylvania is given 1241 of these "overseers" (*ibid.*, p. 440), and Massachusetts 1098 (*ibid.*, p. 228). From this it appears that the term in some cases must have been applied to ordinary foremen or managers.

<sup>80</sup> One Alexander Stuart offered to hire out nineteen slaves, which were doubtless excess hands as he at the same time advertised for an overseer, and so could hardly have been giving up farming (The *Missourian* [St. Charles], December 31, 1821).



out by the court, bond being necessary "for the amount of hire."<sup>81</sup>

As the State developed, the hire of the slave advanced in price approximately in proportion to the increasing value of slave property. Excepting in the earlier part of this period,<sup>82</sup> negroes seem to have been hired almost entirely by the year, without reference to the busy planting and harvest seasons or to the slack months when their possession must have been a burden. Some were even hired for terms of years.<sup>83</sup> This well illustrates the weakness of the entire slavery system. In addition to the cash paid by the hirer, he also furnished the slave with medical attention, food, and a customary amount of clothing. An old slave claims that the hired slave of western Missouri usually received two pairs of trousers, two shirts, and a hat the first summer, a

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<sup>81</sup> Law of January 23, 1829 (Session Laws of Missouri, 1828, ch. i, sec. 1). The slaves of estates in probate or of minor orphans were to be hired to the highest bidder once each year at the court house door where the administrator or guardian resided, unless the court otherwise directed. The former was to give twenty days' notice of such hiring of slaves at the court house and at two other places in the county. No private hiring of slaves belonging to such estates or such minors was allowed, the penalty being five hundred dollars. An example of one of these published notices is found in the *Farmers' and Mechanics' Advocate* (St. Louis) of February 20, 1834: "By order of the Court there will be hired to the highest bidder, for the term of one year, at the court house door in the City of St. Louis, on the first day of March next, Two Negro Men, belonging to the estate of William C. Fugate, deceased. Bond and approved security will be required for the payment of the hire and redelivery of said negroes. Isaac J. Price, Admr." But slaves were privately hired as the law provided. The probate court of Saline County on February 5, 1860, "ordered that McDowell, Poage and Maupin as administrators of the Estate of Samuel M. McDowell, deceased, hire publically or privately the slaves belonging to said Estate" (MS. Probate Records, Saline County, Book G [1859-66], p. 111).

<sup>82</sup> The following advertisements show that in the early days slaves were at times hired by the month: "Wanted, To hire, by the month an industrious negro man" (*Missouri Herald*, September 4, 1819); "A NEGRO WOMAN . . . may be hired at \$6 per month" (*Missouri Intelligencer*, November 25, 1823). R. H. Williams, en route from Virginia to Kansas in 1855, hired his three slaves in St. Louis by the week (*With the Border Ruffians*, p. 64).

<sup>83</sup> The following advertisement is found in the *St. Louis Enquirer* of May 24, 1820: "FOR SALE, Four negroes for the term of four years each, from the 1st of August next. . . . Also two others for 2 years each. . . . W. Brown."

coat and a pair of trousers in the winter, and two pairs of trousers the second summer.<sup>84</sup>

The yearly hiring price of the slave was of course dependent on the nature of the work and on the character, sex, age, and individual strength of the negro.<sup>85</sup> The rate steadily increased till the Civil War. A number of figures were obtained by the author from old Missouri masters and slaves which are very similar to those obtained from the county records and other sources.<sup>86</sup> The market rate for

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<sup>84</sup> "Uncle" Peter Clay of Liberty. He adds that the slave was clever enough to go to his new employer in his worst rags in order to get the full quota of clothing.

<sup>85</sup> The hirer often demanded good references as to the slave. This form of advertisement is frequently found: "WANTED TO HIRE, A healthy, sober, and industrious Negro Woman . . . one that can be well recommended" (Jeffersonian Republican, May 28, 1836).

<sup>86</sup> Mr. Hunter B. Jenkins of St. Louis, formerly of Lexington, said: "Many slaves received from \$15 to \$20 per month and board and clothing as farm hands, and from \$20 to \$30 as roustabouts on the river." Major G. W. Lankford of Marshall stated that most slaves hired for from \$150 to \$250 as hemp hands, many bringing \$200. "Good livery-stable hands brought from \$200 to \$250," said Captain J. A. Wilson of Lexington. "Mechanics received more. I knew a good carpenter whose master received \$250 for his hire." Peter Clay of Liberty stated that his master hired him out as a general field hand at \$175 per year. "Aunt" Melinda Sanders of Platte City said: "I was hired out by my mistress, a widow woman, for one dollar a week and had to keep house for a family of seven. I was fed very badly." Professor Peter H. Clark, formerly of the Colored High School of St. Louis, said he knew of slaves who paid their masters several hundred dollars for the master's share of the yearly hire. General Haskell of Kansas says that he knew a trusty negro who returned to his Missouri master with \$150 in gold as the latter's share of his earnings, and that this was an "exceptional but not an isolated case" (p. 32). The Reverend William G. Eliot in an article of unknown date wrote that in St. Louis "prime male house servants received \$150 per year and females \$75 per year and in the country slave labor appeared equally unprofitable, \$100 on an average being received by the owner for the hire of his best field hands," while free labor could be had for \$10 per month and no clothing (C. C. Eliot, William Greenleaf Eliot, p. 142). In the History of Lewis, Clark, Knox, and Scotland Counties it is stated that in northeast Missouri a good man hired for about \$250 a year with specified clothes, food, and so on. "In case of sickness his owner usually took care of him and paid the doctor's bills" (p. 630). In many cases, however, the hirer paid the bills in case the slave was sick, unless the illness was more or less permanent. Mr. William M. Paxton, the historian of Platte County, now in his ninety-sixth year (1913), was interviewed by the author at his home in Platte

slave hire is difficult to discover for a certain period because of the individual differences in the negroes. However, two papers found in the probate records of St. Louis show the ratio between the hiring price and the value in the year 1838.<sup>87</sup> The slaves were all men but one. Their ages, value, and annual hire were as follows:—

Name	Age	Value	Year's Hire
Solomon	22	\$800	\$119
Antoine	25	800	96
John	23	600	90
Bill	16	600	87
Henry	35	300	47
Edd	12	350	45
Frank	14	350	45
Lucy	10	300	15

For the closing years of the slavery period when negroes were considered gilt-edged property there are the following comparisons of the value and the hiring price in the rich river county of Boone. In 1858 a body of slaves were valued and hired as follows by the probate court of that county:—<sup>88</sup>

Name	Value	Year's Hire
Men—Charles	\$1200	\$194.00
Jack	1200	190.00
Sam	1100	176.00
Stephen	1200	150.00
Bob	1000	132.50
Joe	1000	120.00
Fil	800	105.00
Elijah	800	101.00
Ben	600	22.00
Women—Palma	\$ 900	\$ 83.00
Lizzy	300	52.00
Ann, and child	500	46.00
Amy, and child	1000	41.00

City on August 1, 1912. In describing the hemp culture he stated that he remembered that \$200 was frequently paid as the annual hire of a good hemp-breaking negro.

<sup>87</sup> These figures are taken from papers of the Estate of Thomas Withington. The ages and values are given in the Bill of Appraisement, filed June 14, 1838, p. 12. The hiring price is found in the Bill of Sale, pp. 14-15 (MS. Probate Records, St. Louis, Estate no. 1374).

<sup>88</sup> MS. Probate Records, Boone County, Inventories, Appraisements, and Sales, Book B, pp. 87-89. Appraisement filed December 30, and Sale Bill December 31, 1858.



Name	Value	Year's Hire
Mary, and child	1100	35.00
Nancy	500	18.00
Alsey	550	16.00
Milly	500	10.00
Lucy, and Servis, her husband.	10	.50

From the above figures it will be seen that in the case of the men the rate was between one seventh and one eighth of the valuation, or about fourteen per cent. The hire of the women averaged only about one sixteenth of the value. This difference was caused largely by the fact that in three cases the children were taken with the mothers; these, unless they were fairly large, would be an expense to the hirer and would demand some of the mother's time. Roughly, the hiring price was in proportion to the valuation. Fourteen per cent hardly seems an excessive rate for a developing country famous for its fertility when we consider that the owner must subtract taxes, wear and tear, risk of escape, and permanent injury if received through no fault of the hirer. He had also to figure on the deterioration in value and the approaching old age of the slave, whom he must support when past working.<sup>89</sup>

In Saline County a slave named Cooper was hired for \$231 in 1857, the following year for \$200, and again in 1859 for \$190.<sup>90</sup> Cooper was a valuable negro and Saline a rich county.<sup>91</sup> For the above three years Cooper's hire

<sup>89</sup> The owner's risk by disease is well illustrated by the following letter: "Sister . . . desires me to say that Dr. Johnson was to see the Negro Woman Elinzra & pronounces her not worth a Cent as she is deformed & diseased in several ways & thinks it will in all probability terminate in Consumption" (MS. J. L. Talbot to S. P. Sublette, dated St. Louis, October 1, 1854, Sublette Papers). The present writer looked into the question of the insurance of slave property. Several of the oldest insurance men of St. Louis remembered nothing of the kind. Mr. Martin J. Hubble of Springfield, who well remembers slavery days and who has long been in the insurance business, said, "No, slaves were never insured." But the contract quoted on page 221 of this study implies that it might have been done at times.

<sup>90</sup> Estate of Jas. D. Garnett, MS. Probate Records, Saline County, Inventories, Appraisements, and Sales, Book 1, p. 606, filed April 5, 1860.

<sup>91</sup> Major G. W. Lankford of Marshall stated that Cooper was a valuable negro.



averaged \$207, or \$17.25 per month. In comparison with this figure, it is found that in the adjoining river county of Cooper the average monthly wage of a white farm hand with board was \$10 in 1849-50,<sup>92</sup> and in St. Genevieve the average was \$12 a month in 1859-60.<sup>93</sup> Even admitting that the above-named slave lived in a very wealthy county, his hire seems liberal, especially so when it is remembered that in addition he was fed, clothed, and given medical attention. Except for the ever-threatening danger of escape, the western Missouri slaveholder must have had a good investment in the ownership of a slave like Cooper from his fifteenth to his fiftieth year, yet the cost of his raising must have been heavy. The risk of absconding, injury, and future decrepitude of a slave were stalking menaces which the easy-going slaveholder could not escape but apparently did not always consider.

The hiring price of female slaves has been referred to in the preceding pages. It was considerably less than that of the men because their labor was less productive. The loss of time resulting from the birth and rearing of children was also an item which was not overlooked. The German traveller, Graf Adelbert Baudissin, claims that in the early fifties a negress was worth from \$500 to \$700 and was hired for from \$40 to \$60.<sup>94</sup> In some cases a high price was paid for a negress who was competent. Just before the Civil War a former citizen of Franklin County hired a negress as cook and housekeeper for \$150.<sup>95</sup>

<sup>92</sup> MS. Census Enumeration, Cooper County, 1850, Schedule no. 6.

<sup>93</sup> MS. Census Enumeration, St. Genevieve County, 1860, Schedule no. 6.

<sup>94</sup> Der Anziedler in Missouri Staat, p. 56. His book was published in 1854. A woman was hired in 1834 for \$42 (Blanton v. Knox, 3 Mo., 241), and one in 1839 for \$40 (MS. Probate Records, St. Louis, Estate of John W. Reel, Estate no. 1359, paper filed March 11, 1840). As late as August, 1863, a negress was hired in Lafayette County for \$40 (MS. Probate Records, Lafayette County, Estate of Jas. H. Crooks, Inventories, Book D, filed August 3, 1863). From the context it appears that in case the slave escaped during the turmoil of the War the time was to be deducted.

<sup>95</sup> Mr. George F. Shaw of Independence, formerly of Franklin County.

A contract for slave hire was protected on both sides by the law. If a slave was hired for a year and died within that time, the hirer was bound for payment only to the time of the slave's death.<sup>96</sup> If the hirer caused the slave's death by his cruelty, he was responsible to the owner for the value of the negro and was subject to criminal prosecution as well.<sup>97</sup> Should a slave, hired without the owner's consent, be killed while so employed, though by no act of the employer, the latter was responsible.<sup>98</sup> It was held as early as 1827 that "the law is that if the . . . covenanter disable himself by his own act [in injuring a hired slave] to perform his covenant . . . this shall not excuse his own performance" to pay for the hire of the slave.<sup>99</sup> The sickness of a hired slave might cause trouble. One case was found in which the hirer attempted to return the negro to the owner before the contract had expired.<sup>100</sup>

The hirer was bound to take reasonable care that the slave did not escape. He was honestly to endeavor to recapture a fugitive whom he had hired.<sup>101</sup> Because of the precarious position of Missouri's slave property the owner took considerable risk in hiring his negro as a hand on a Mississippi River boat.<sup>102</sup> Concerning such a case the supreme court in 1847 instructed a jury as follows: "The jury is authorized

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<sup>96</sup> *Dudgeon v. Teas*, 9 Mo., 867. A statement of this case as it appeared before the Warren County circuit court can be found in the *Jefferson Inquirer* (Jefferson City) of October 2, 1845. The supreme court confirmed the lower decision.

<sup>97</sup> *Adams v. Childers*, 10 Mo., 778.

<sup>98</sup> *Garneau v. Herthel*, 15 Mo., 191.

<sup>99</sup> *Mann v. Trabue*, 1 Mo., 508.

<sup>100</sup> On April 4, 1853, Theodore La Beaume wrote Solomon J. Sublette: "Your boy George that I hired last January at the Court-house, I believe has strong Symptoms of Consumption and if not taken from hard work will not last long. . . . So says the Doctor, as long as he is exposed. I am willing to give him up, and I think that it will be to your advantage as well as his to have him under your immediate charge" (MS. Sublette Papers).

<sup>101</sup> *Elliott v. Robb*, 6 Mo., 323. This opinion was also followed in *Perkins v. Reeds, Admr.*, 8 Mo., 33, and in *Beardslee et al. v. Perry et al.*, 14 Mo., 88. In case a slave committed a crime while in the service of the hirer "the owner and not the temporary master of the slave . . . is the proper person to pay the costs of conviction" (*Reed v. Circuit Court of Howard County*, 6 Mo., 44).

<sup>102</sup> *Merrick*, p. 64.

to consider the peculiar circumstances of the country, the vicinity of the city of St. Louis . . . and Missouri to free States, the difficulties of retaining negroes in slavery, the age, character, sagacity, color and general appearance of the negro. . . . Where a slave is hired as a boathand, we must presume that the owner is fully aware, that every facility for escape is afforded by the very nature of the service. . . . Does the owner expect, that in case his slave escapes, whilst the boat is . . . putting off freight . . . the captain and crew will relinquish the boat, or abandon the trip for the purpose of hunting up the slave?"<sup>103</sup>

There were apparently many careless masters and numerous wandering slaves in the State at times, despite the laws passed to prevent the practice mentioned above. The Code of 1804 provided that an owner should be fined thirty dollars for allowing his slave to go about as a free man and hire himself out. If a negro was permitted to so hire his own time, he could be sold by the sheriff at the next term of court, after being advertised at the court-house for twenty days.<sup>104</sup> The Code of 1835 fined an owner from twenty to one hundred dollars for hiring a slave to another slave or suffering him to go at large and hire himself out.<sup>105</sup>

Cases occurred where persons were fined for violating this law. In 1860 one R. Schooling was fined twenty dollars in Boone County for "hiring a slave his time."<sup>106</sup> The following entry appears in the circuit court records of St. Louis for 1832: "Sam a Negro Man Slave who is in the custody of the sheriff on charge of having hired himself out contrary to the statute in such cases made and provided, being now brought before the court . . . it is ordered by the court that therefore said slave Sam be discharged from custody on the charge aforesaid and that the court do further order that Smith the person in whose service he

<sup>103</sup> Perry and Van Houten v. Beardsley and Wife, 10 Mo., 568.

<sup>104</sup> Territorial Laws of Missouri, vol. 1, ch. 3, secs. 18, 19.

<sup>105</sup> Revised Laws, 1835, p. 581, art. i, sec. 7; reenacted February 15, 1841 (Session Laws, 1840, p. 146, sec. 1).

<sup>106</sup> The State v. R. Schooling, MS. Records, Boone County Circuit Court, Book H, p. 169.



now is do pay the costs of this proceeding and those incurred in consequence of his arrest and imprisonment."<sup>107</sup>

From an early date this law seems to have been hard to enforce. The press and the public continually complained of its non-enforcement to the detriment of the negro and the danger of the community.<sup>108</sup> A St. Louis editorial of 1824, after quoting the law, explains the real or supposed seriousness of this custom as follows: "The reasons for this enactment are obvious: and the reasons resulting from the neglect to enforce it are already severely felt. Slaves hiring their own time of their masters, as is the case in numerous instances, take upon themselves at once the airs of freemen and often resort to very illicit modes to meet their monthly payments. . . . They become unsteady and vicious, and corrupt their associates, and perhaps at length resort to theft as an easier mode of paying their masters. This practice, is in fact, one principal source of the irregularity and crimes of slaves in this place."<sup>109</sup>

At a mass-meeting of St. Louis citizens, held October 31, 1835, there were drawn up a series of resolutions which show the magnitude of the problem as contemporaries viewed it. "Resolved, That no slave should be suffered to live or dwell in this city or county at any place other than the same lot or parcel of ground on which his owner . . . shall reside. . . . Resolved, That this meeting view the practice of slaveholders hiring their slaves their time, one of the greatest evils that can be inflicted on a community in a slave State." The committee on abolition was given power to see that the practice was stopped.<sup>110</sup> A Columbia

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<sup>107</sup> MS. Records, St. Louis Circuit Court, vol. 6, p. 301.

<sup>108</sup> Governor Dunklin in his message to the General Assembly of November 8, 1834, said: "I lay before you a presentation of a grand jury in the County of St. Louis. So much of it as relates to free negroes; . . . and slaves hiring their time of their owners, is entitled to your consideration" (Senate Journal [Journals of the General Assembly of Missouri, House and Senate Journals], 8th Ass., 1st Sess., p. 20). Perhaps this advice resulted in the above provisions in the Code of 1835.

<sup>109</sup> Republican, July 19, 1824.

<sup>110</sup> Daily Evening Herald and Commercial Advertiser (St. Louis), November 3, 1835, resolutions no. 10, 18, 19.



editor in 1856 complained that the law covering this point was "frequently violated." Its enforcement was demanded.<sup>111</sup>

It is quite evident that the Missouri slave-master indulged his bondman in many ways. It would have been a hardship to the negro to have hired him at a distance from his family. The hirer often allowed him to return to his owner's plantation at night, but if working at some distance the slave was able to return home only over Sunday.<sup>112</sup> A traveller states that a slave was often given a horse on which to visit his family and in some cases his prospective wife.<sup>113</sup> These favors could but have made the lot of the slave easier and his contentment and faithfulness more assured.

No question concerning slavery is more difficult to handle than the value of slave property. The selling price of individual negroes and of lots of them can be found in the county records and in the newspapers, but to generalize on these figures for any one period or to compare values in different periods would be most misleading. For example, if a male slave twenty years of age sold for \$500 in 1820 and another of the same age sold for \$1400 in 1860, little is learned. The first negro may have been less healthy, less tractable, and less intelligent than the other. Therefore the difference of \$900 could not represent the general rise in prices or the increased value of slave labor. To illustrate this point concretely, two slaves were sold in Ray County in 1854; both were twenty-six years of age, yet one brought \$1295 and the other \$670.<sup>114</sup> This shows how unsafe it is to compare specific sales.

On the other hand, by comparing the prices brought by bodies of negroes about the same age and in the same

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<sup>111</sup> Weekly Missouri State Journal (Columbia), February 7, 1856. The charter of Carondelet of 1851 empowered the city council "to impose fines, penalties and forfeitures on the owners and masters of slaves suffered to go at large or to act or deal as free persons" (pamphlet, art. v, sec. 21).

<sup>112</sup> Statement of Mr. Hunter B. Jenkins of St. Louis.

<sup>113</sup> Baudissin, p. 56.

<sup>114</sup> Notice of the sale of the slaves of the estate of Thomas Reeves (Richmond Weekly Mirror, January 5, 1855).

locality an approximately sound conclusion is reached. In general it can be said that there was a gradual rise in slave values up to the Civil War. It was exceptional indeed when a negro brought over \$500 before 1830.<sup>115</sup> A prime male servant from eighteen to thirty-five years of age was in this early period worth from \$450 to \$500, and a woman about a fourth less.<sup>116</sup> When Auguste Chouteau's negroes were appraised in 1829, the eleven men among them who were between the ages of sixteen and thirty-five averaged \$486.35 each, the highest being valued at \$500 and the lowest at \$300. The eleven women between the ages of sixteen and thirty-nine averaged \$316.35, the highest valuation being \$350 and the lowest \$130.<sup>117</sup>

From the third decade of the century on there is an increase in value. Men brought considerably more by the late thirties. In 1838 prime hands were bringing from \$600 to

<sup>115</sup> The following representative examples of slave values of the territorial period are found in the St. Louis probate records. In the will of the Widow Quénel of March, 1805, four slaves are listed and valued as follows: two women at 376 and 641 "piastres" respectively; Sophie, aged 13, at 900 piastres, Alexander, aged 5, at 300, and a cow at 10 piastres. If the latter was a normal animal, some idea may be had of the comparative value of the negroes (MS. Probate Records, Estate no. 7). Joseph Robidoux's estate was probated in August, 1810. His slaves were listed as follows: Felecite with child at breast, 300 piastres, her daughter 8 years old, 150, a girl of 6, 125, and "Une autre petite Negrette" 100 (ibid., Estate no. 59). In 1817 the following values were attached to slaves in Cape Girardeau County: two men, \$900, woman and two children, \$800, woman and child, \$550, woman, \$350, and five men, \$2700 (MS. Probate Records, Cape Girardeau County, Appraisement of the Estate of Elijah Betty, filed June 2, 1817, Estate no. 628). H. R. Schoolcraft, writing in 1820 or 1821, stated that a good slave sold for \$600 in Missouri (Travels in the Central Portion of the Mississippi Valley, p. 232).

<sup>116</sup> In 1830 the following values were given in St. Louis: Charles, aged 32, \$450; Anthony, aged 30, \$400; Antrim, aged 24, \$450; Allen, aged 24, \$500 (Estate of John C. Sullivan, MS. Probate Records, St. Louis, Estate no. 882, Appraisement filed October 9, 1830). The appraisement values correspond very closely with the amounts received at the sales; in some cases slaves sold for more than the appraisal value and in others for less. In Pike County in 1835 a negress aged 22 years and her three children aged 4 years, 3 years, and 3 months respectively, sold for \$650 (MS. receipt of sale, dated May 2, 1835, Dougherty Papers).

<sup>117</sup> MS. Copy of Appraisement, dated May 11, 1829, in the Missouri Historical Society.

\$900 in St. Louis.<sup>118</sup> Up to 1840 female slaves were worth from \$300 to \$350 when men were bringing from \$500 to \$600. Children from two to five years of age were sold for from \$100 to \$200. In St. Louis, Thomas Withington's slave children were appraised as follows in 1838: Frank, aged 14, \$350; Lucy, aged 10, \$300; Sophia, aged 5, \$200; Charlotte, aged 3, \$100; Harriet and Jane, aged 2, \$75 and \$100 respectively.<sup>119</sup> In the same year W. H. Ashley's women and children were valued as follows: Berril (boy), aged 12, \$350; Celia, aged 9, \$250; Lucy, aged 9, \$250; Catherine, aged 7, \$200; and Betsy, aged 30, and her infant son, \$500.<sup>120</sup> The above are representative prices for the forties. At Marshall, Thomas Smith's women and children were valued as follows in 1844: Harriet, aged 32, \$300; Patsy, aged 22, \$350; Wilson, aged 8, \$200; Lizzy, aged 3, \$125; Betty, aged 2, \$150; Emiline, aged 1, \$75, and Leah, aged ten months, \$75.<sup>121</sup>

The golden age of slave values is the fifties. The prime male slave of Missouri in 1860 was worth about \$1300 and the negresses about \$1000. The fabled \$2000 negro is found more often in story than in record. "Uncle" Eph Sanders of Platte City, still a very intelligent and powerful negro, claims that his master refused \$2000 for him in 1859 when he was twenty-three.<sup>122</sup> Contemporaries, however, place the normal limit at about \$1500. Mr. Paxton says that stout hemp-breaking negroes "sold readily for from \$1200

<sup>118</sup> The estate of Thomas Withington received \$800 each for two men, aged 22 and 25, and \$600 each for one 23 and one 16 (MS. Probate Records, St. Louis, Estate no. 1374, Bill of Sale dated June 14, 1838). This same year a man of 21 brought \$650, and one 35 sold for \$900 (*ibid.*, Estate of W. H. Ashley, Estate no. 1377, Inventory and Appraisal, filed June 20, 1838). In 1844 in Saline County good hands sold at about the same figures. Thomas A. Smith's blacks were valued as follows: \$500 each for three men, \$550 each for two others, and one for \$600 (MS. Probate Records, Saline County, Box no. 248, Inventory and Appraisal filed November 11, 1844).

<sup>119</sup> MS. Probate Records, St. Louis, Estate no. 1374.

<sup>120</sup> *Ibid.*, no. 1377.

<sup>121</sup> MS. Probate Records, Saline County, Box no. 248.

<sup>122</sup> Mr. Hunter B. Jenkins of St. Louis claims that in the late fifties a good sound black brought from \$1500 to \$2000.



to \$1400" in the heyday of Platte County hemp culture.<sup>123</sup> Dr. John Doy asserts that one sold in Weston in the late fifties for \$1800.<sup>124</sup>

Although the above figures may be exceptional, there is plenty of evidence that negroes were very valuable in these years. In 1854 the slaves of Thomas Reeves were sold in Richmond for fine prices. The ages and prices of these negroes were as follows:—<sup>125</sup>

Sex	Age	Value
Man	23	\$1440
Man	26	1295
Man	23	1245
Man	40	1115
Man	31	911
Man	33	904
Man	26	670
Man	58	115
Boy	13	851
Boy	14	825
Boy	11	795
Boy	13	775
Woman	49	510
Girl	12	942

<sup>123</sup> P. 37. G. B. Merrick says that while he was on the Mississippi as a boatman in the late fifties, a male slave sold for from \$800 to \$1500 (p. 64). At the Lexington Pro-Slavery Convention of 1855 President James Shannon of the State University declared that the average Missouri slave was worth \$600, and that field hands "will now readily sell for \$1,200" (Proceedings of the Convention, p. 7).

<sup>124</sup> P. 59.

<sup>125</sup> Richmond Weekly Mirror, January 5, 1855. One thousand to \$1200 seems to have been the common figure for good men in the late fifties. In 1858 in Boone County four men were valued at \$1200 each, one at \$1100, and another at \$1000. Two women were rated at \$900 each (MS. Probate Records, Boone County, Inventories, Appraisements, and Sales, Book B, pp. 87-88, filed December 30, 1858). The following year in Greene County two men were valued at \$1100 each (MS. Probate Records, Greene County, Inventories and Appraisements, Book A, p. 31, Estate of Jonathan Carthel, filed August 4, 1859). In 1860 in the same county a man was rated at \$1200 (*ibid.*, p. 160, Estate of Jacob Rodenkamer, filed May 18, 1860). The same year a woman was sold for \$1100, and two men for \$1150 and \$1260 respectively (*ibid.*, p. 202, Estate of James Boaldin, Sale Bill not dated). In Henry County in 1860 a man aged 29 was valued at \$1250, a girl of 12 at \$1000, one of 15 at the same figure, a girl of 9 and two boys of 7 at \$800 each. A boy 5 years old was valued at \$600 (MS. Probate Records, Henry County, Inventories, Appraisements, and Sales, p. 126, Estate of A. Embry, filed September 26, 1860).



In the same issue of the Richmond Weekly Mirror which published the above items there is an account of the disposal of the negroes of Charity Creason, which were sold on January 1, 1855. They brought the following prices: a man aged 23, \$1439; another aged 38, \$1031; a woman aged 26 and her 18-months child, \$1102.50; a girl of 3, \$400, and a woman of 59, \$1.

During the middle and late fifties all classes of negroes were priced high. In 1856 a lot of children was sold as follows: a boy of nine for \$550, one of seven for \$500, and another of five for \$300.<sup>126</sup> A Saline County inventory of 1859 shows what good prices negroes in general were commanding in the closing years of the slavery regime:—<sup>127</sup>

Name	Age	Value
Henry	17	\$1300
Daniel	36	1200
George	13	950
Stephen	8	650
Addison	8	550
Thomas	5	440
Ellen	20	1300
Mary, 21, and child of 14 mos.		1250
Susan	15	1150
Eliza	17	1050
Francis	10	800
Minerva	12	800
Marie, 35, and son, 18 mos.		775
Delia	46	500
Marie	7	625
Julia	4	400
a girl	6 mos.	50

Top prices are found in Boone County, where in 1860

<sup>126</sup> Estate of Benjamin Moberly (MS. Probate Records, Saline County, Appraisements, and Sales, 1855-61, vol. i, pp. 118-119, filed January 26, 1856). At Hannibal on April 15, 1855, a girl of 9 sold for \$450, and a boy of 4 for \$321 (Weekly Pilot [St. Louis], April 21, 1855).

<sup>127</sup> Estate of H. Eustace (MS. Probate Records, Saline County, Appraisements, and Sales, 1855-61, vol. i, pp. 602-603, filed April 4, 1859). In this same year two men (age not given) were appraised in Saline County at \$1300 each, and another at \$1100. A mother and child were together valued at \$1100 (ibid., Estate of Samuel M. McDonald, Box no. 169, Inventory filed November 20, 1859). In these records there are many similar valuations.

George W. Gordon's blacks received the following valuations:—<sup>128</sup>

Name	Age	Value
Lou	25	\$1500
Horace	30	1500
Charles	34	1600
Roger	36	1500

It appears from the foregoing pages that the highest official value placed upon a negro man was \$1600, and upon a woman \$1300. A difficulty in finding the exact price of slave women is that the small children are often included with them.

When the Civil War opened and escapes became more numerous, the values of slave property began to decline. Compared with the above figures there is the following appraisalment of the estate of Lawson Calvin of Saline County, filed July 11, 1861, after the War had engulfed the State in a torrent of strife:—<sup>129</sup>

Name	Age	Value
Lewis	18	\$800
George	12	600
Narcissa	16	600
Lewis	47	500
Henry	7	300
Mag	40	275

Nevertheless, it is surprising to note how slave values persisted during the Civil War. The prices kept fairly high, as the probate records of Lafayette, Missouri's greatest slave county, bear witness. Two men were actually appraised at \$1100 and \$800 respectively, and a woman at \$1000, in November, 1861.<sup>130</sup> In January, 1862, one woman was in-

<sup>128</sup> MS. Probate Records, Boone County, Inventories, Appraisements, and Sales, Book B, p. 287, filed December 25, 1860). In 1859 William W. Hudson's negro named Beverley, aged 29, was valued at \$1500, three other men at \$1200 each, and four men at \$1000 each (*ibid.*, p. 170, filed September 12, 1859).

<sup>129</sup> MS. Probate Records, Saline County, Inventories, and Appraisements, 1855-61, vol. i, p. 677. The appraisalment of the estate of Elizabeth Huff of July 7, 1861, bears similar testimony to the effect of the War on slave property (*ibid.*).

<sup>130</sup> The Estate of Colonel John Brown, Appraisalment filed November 18, 1861 (MS. Probate Records, Lafayette County, Inventories, Appraisements, and Sales, vol. ii, p. 24).

ventoried at \$650 and another at \$550, and a boy of seventeen at \$650, while one of eleven was rated at \$500.<sup>131</sup> By the last of July, 1863, the price had further decreased, but although Gettysburg had been fought and Missouri was overrun by bushwhackers, values did not fall as much as one conversant with conditions in the border States might expect. In the above month two women aged twenty-three and sixteen were appraised at \$300 each, and a boy of eighteen at \$400.<sup>132</sup> Slave property was not merely appraised this late. On June 3, 1863, the negroes of Samuel F. Taylor of Lafayette County were actually sold as follows: Amanda, \$380; Milky (girl), \$370; Jack, \$305; Georgetta, \$300; William, \$250; Eunis, \$200; and Sam, \$200.<sup>133</sup> There was an appraisal of an estate in Lafayette County made on October 2, 1863, but the slaves were not assigned value.<sup>134</sup> Over a month later, on November 5, 1863, negroes were still appraised, but this is the last official valuation of slave property in Lafayette County records. On that date a "boy" named Charles was appraised at \$300 and a girl of fourteen at \$200.<sup>135</sup>

The total value of slave property is of course very difficult to estimate. Contemporaries were far from agreeing on this point. For instance, in 1854 John Hogan of the Republican, in an article which was intended to boom St. Louis and Missouri, placed the average value at \$300.<sup>136</sup> In contrast with this low estimate, the "Address to the People of the United States," prepared by a committee of the Lexington Pro-Slavery Convention of 1855, valued the 50,000 slaves of western Missouri at \$25,000,000, or \$500

<sup>131</sup> Estate of John D. Bailey, Inventory filed January 2, 1862 (*ibid.*, p. 18).

<sup>132</sup> Estate of Randell Latamer, Appraisement filed July (?), 1863 (*ibid.*, p. 261).

<sup>133</sup> Estate of Samuel F. Taylor, Bill of Sale filed June 6, 1863 (MS. Probate Records, Lafayette County, Inventories and Sale Bills, Book D, p. 69). Several slaves appraised in the early part of this year are found in these records. The values show a gradual decline.

<sup>134</sup> Estate of Western Woollard (MS. Probate Records, Lafayette County, Inventories, Appraisements, and Sales, vol. ii, p. 267).

<sup>135</sup> Estate of F. U. Talliferro (*ibid.*, p. 262).

<sup>136</sup> Thoughts about the City of St. Louis . . . pamphlet, p. 65.

each.<sup>137</sup> Governor Jackson in his inaugural address of January 3, 1861, estimated the 114,931 slaves of the State to be worth \$100,000,000.<sup>138</sup> Of course the governor was speaking in general terms, but his average would be nearly \$700 a slave.

The above figures are in excess of those given by the county assessors of the period. Tax values are usually considered lower than market values. The Jackson County tax average for 1860 was \$438.05 per slave,<sup>139</sup> and that of Boone County \$372.30.<sup>140</sup> The average in Pike County in 1859 was \$434.78.<sup>141</sup> In 1856 in Buchanan County it was \$450.92,<sup>142</sup> and that of the 170 slaves of its county seat, St. Joseph, was \$434.70.<sup>143</sup> Evidently the assessors of the various counties had no uniform standard in rating negroes, but despite the fact that the figures vary they show at least that slave property was increasing in price. In 1828 the 239 slaves of Lafayette County were taxed at an average of \$249.68.<sup>144</sup> This is at least a third less than the average rate in the counties above mentioned in the years around 1860. At the same time, in comparing these values the decreasing purchasing power of money should be taken into consideration.

A very bitter experience which the slave might at any time be forced to undergo was his removal to a strange region far from his wife or children or old associations.

<sup>137</sup> Proceedings of the Convention, p. 3, or in the Weekly Missouri Sentinel (Columbia), October 5, 1855. This address was signed by W. B. Napton, Governor Sterling Price, and others.

<sup>138</sup> Pamphlet, p. 7.

<sup>139</sup> MS. Tax Book, Jackson County, 1860: 3316 slaves, tax value \$1,452,591.

<sup>140</sup> MS. Tax Book, Boone County, 1860: 4354 slaves, tax value \$1,721,000.

<sup>141</sup> MS. Tax Book, Pike County, 1859: 3733 slaves, tax value \$1,623,085.

<sup>142</sup> MS. Tax Book, Buchanan County, 1856: 1534 slaves, tax value \$691,825.

<sup>143</sup> M. H. Nash, city registrar, valued the 170 slaves of the town at \$73,900 (St. Joseph Commercial Cycle, September 7, 1855).

<sup>144</sup> The History of Lafayette County (St. Louis, 1881), p. 306. The total valuation was \$59,665, as copied by the author of the above work from the tax book.



This disruption of the negro family was entirely dependant upon the humanity of the individual owner. The sale of the slave to be taken south was known in Missouri as in the other border States, but the Missourians deny that it was ever practised save where financial reverses, an excess of hands, or a chronic spirit of viciousness or of absconding on the part of the slave made it necessary.<sup>145</sup> Whether to mollify the new antislavery party which developed during the Compromise struggle, or whether through pure conviction, the constitution of 1820 provided that the legislature might pass laws to prohibit the introduction of slaves into the State as "an article of commerce."<sup>146</sup> The provision was not taken seriously, and the General Assembly never acted upon the suggestion.

The slave-trader is generally pictured as the brutal, conscienceless, evil genius of the slavery system, detested even by those with whom he dealt. In Missouri he held no very enviable position. "Slavetraders and whiskey-sellers were equally hated by many," wrote one antislavery clergyman of St. Louis,<sup>147</sup> while another maintained that "large fortunes were made by the trade; and some of those who made them were held as fit associates for the best men on 'change'."<sup>148</sup> Dr. John Doy, the Kansas abolitionist, who had a personal grievance against the Missouri slaveholder, claimed that General Dorris, whom he described as a brutal dealer, was highly respected and "belonged to the aristocracy of Platte county."<sup>149</sup> Some of the slaveholders who were interviewed

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<sup>145</sup> "I never heard of any Missourian who consciously raised slaves for the southern market. I feel sure it was never done," said Ex-Lieutenant-Governor R. A. Campbell of Bowling Green. Mr. Robert B. Price of Columbia denied that slaves were consciously bred for the southern market. Mr. J. W. Beatty of Mexico stated that there was a general feeling that the sale of negroes south was not right. Letters from old residents and slaveholders in all parts of the State deny that in Missouri, at least, slave breeding was ever engaged in as the antislavery people so often charged. The better classes at any rate frowned upon the practice.

<sup>146</sup> Art. iii, sec. 26.

<sup>147</sup> G. Anderson, *The Story of a Border City During the Civil War*, p. 171.

<sup>148</sup> W. G. Eliot, *The Story of Archer Alexander*, p. 100.

<sup>149</sup> P. 59.

declared that the slave-trader and the saloon-keeper were tolerated as necessary evils, but that they were personally loathed and socially ostracised. Others, however, stated that it was a question of the individual trader, some being liked and some disliked.<sup>150</sup>

If the slave-trader was a hard man and detested, he at least had the satisfaction of knowing that the wisest and gentlest of men would be hated by many if plying his trade. The very nature of the business made it contemptible. If the Missouri system was as patriarchal and the tie between master and man as close as one is led to believe they were, the dealer who higgled and bargained even for the most unruly servant must have been disliked. This feeling would naturally be enhanced if financial reverses compelled the sale of family slaves.<sup>151</sup>

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<sup>150</sup> Captain J. A. Wilson of Lexington declared that slave-traders were considered worse than saloon-keepers, many of them about Lafayette County being gamblers. Mr. R. B. Price of Columbia stated that they were considered a questionable class in Boone County. Messrs. J. H. Sallee and J. W. Beatty of Mexico said that like any other class of people some were respected and some were detested. James Aull of Lexington, a prominent merchant and slaveholder, wrote in 1835: "A traffic in slaves we never could consent to embark in. No hope of gain could induce us to do it . . . we entirely and forever abandon the least share in the purchase of Negroes for sale again" (MS. Aull to Siter, Price and Company of Philadelphia, June 15, Aull Papers).

<sup>151</sup> Many dealers were undoubtedly brutal men. An escaped Missouri slave later wrote that he was once hired to a dealer named Walker who collected Missouri slaves for the Gulf markets. This Walker forced a beautiful mulatto slave into concubinage, and years after sold her and his four children by her into slavery before marrying a white woman (W. B. Brown, *Narrative of William B. Brown, A Fugitive Slave*, p. 47). Once while on a negro buying expedition Walker was annoyed by the continual wailing of an infant in the gang. He seized it from the mother and ran into a wayside house with the child hanging by one leg. Despite the shrieks of the mother he gave it to a woman who thankfully received it. The gang then marched on to St. Louis (*ibid.*, p. 49). John Doy says that while a prisoner in Platte City he met many brutal dealers. He thus describes a slave gang: "At midnight Gen. Dorris, his son and assistants came to the jail and ordered the slaves to get ready to leave. As it was quite cold a pair of sox were drawn over the fists and wrists of the men, in place of mittens, they were then hand cuffed together in pairs and driven into the street, where they were formed in marching order behind the wagons containing the women and children—some of the former tied with rope when considered unruly" (p. 64).

In addition to the vicious, the runaway, and the slave of the financially depressed owner, there was a surplus from the natural increase, and consequently a considerable amount of business in the local exchange of negroes existed. Besides this there was the itinerant buyer for the southern markets. The smaller towns seem to have been regularly visited, while the larger centers had permanent dealers. There were two such in Lexington in 1861, but they are said to have had difficulty in getting sufficiently large gangs to make the business pay.<sup>152</sup> There was at least one permanent firm of dealers in St. Joseph in 1856.<sup>153</sup> John Doy asserts that while he was imprisoned in St. Joseph many negroes were shipped from there to Bernard Lynch, Corbin Thompson, and other large St. Louis buyers.<sup>154</sup> Columbia and Marshall were regularly visited, and Platte City had quite a thriving trade.<sup>155</sup> John R. White of Howard County was a wealthy planter of good repute who dealt in slaves. He lived on a farm of 1053 acres and was taxed with 46 negroes in 1856.<sup>156</sup> The slave-trader, like the stock dealer, undoubtedly plied his trade wherever he could obtain his commodity.

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<sup>152</sup> Captain J. A. Wilson has a map of Lexington executed by Joseph C. Jennings in 1861. It also contains a business directory in which are given two slave-traders, A. Alexander at the City Hotel, and R. J. White at the Laurel Hotel. The latter, Captain Wilson remembers, had a three-story building which he used as a slave pen, but found it difficult to collect many negroes.

<sup>153</sup> Wright and Carter, who were "located permanently at the Empire on Second Street" (St. Joseph Commercial Cycle, August 15, 1856).

<sup>154</sup> P. 98.

<sup>155</sup> Mr. R. B. Price remembers that dealers came regularly to Columbia. "Uncle" Henry Napper said that buyers came regularly to Marshall and picked up unruly slaves and those of hard-up masters. John Doy wrote: "During our imprisonment [in Platte City in the late fifties] numbers of slaves were lodged in the jail by different traders, who were making up gangs to take or send to the south. Every slave when brought in, was ordered to strip naked, and was minutely examined for marks, which with the condition of the teeth and other details, were carefully noted by the trader in his memorandum-book. Many facts connected with these examinations were too disgusting to mention" (p. 59). J. G. Haskell states that unless unruly the slave had little danger of being sold to a distant market; "the oldest inhabitant remembers no such thing as a market auction block in western Missouri" (p. 31).

<sup>156</sup> MS. Tax Book, Howard County, 1856. Mr. George Carson of Fayette gave the above description of White's character.



St. Louis became a considerable center for shipping gangs down the Mississippi. One Reuben Bartlett openly advertised for negroes for the "Memphis and Louisiana Markets."<sup>157</sup> St. Louis was "fast becoming a slave market," wrote the Reverend W. G. Eliot, an antislavery clergyman, "and the supply was increasing with the demand. Often have I seen gangs of negroes handcuffed together, two and two, going through the open street like dumb cattle, on the way to the steamboat for the South. Large fortunes were made by the trade."<sup>158</sup> "I had to prepare the old slaves for the market," stated William Brown, a slave who worked for a trader on a boat from St. Louis south on the Mississippi; "I was ordered to have the old men's whiskers shaved off, and the grey hairs plucked out where they were not too numerous, in which case he [the trader] had a preparation of blacking to color it, and with a blacking brush we put it on. . . . These slaves were then taught how old they were . . . after going through the blacking process they looked fifteen years younger."<sup>159</sup> In one issue of the Republican three firms, perhaps to imply great prosperity or to outdo one another, advertised for five hundred, one thousand, and twenty-five hundred slaves respectively.<sup>160</sup>

The St. Louis Directory of 1859 lists two "Slave Dealers" among the classified businesses. These were Bernard M. Lynch, 100 Locust Street, and Corbin Thompson, 3 South Sixth Street.<sup>161</sup> The former may be taken as a

<sup>157</sup> Republican, April 23, 1852.

<sup>158</sup> W. G. Eliot, p. 100.

<sup>159</sup> P. 43. Brown claims that "Missouri, though a comparatively new state is [1847] very much engaged in raising slaves to supply the southern market" (p. 81). On the other hand, the antislavery clergyman, Frederick Starr, said in 1853: "It is true that our papers are defiled by the advertisements of slave-traders, but they are few. Our Court-house witnesses the sale [of slaves] . . . and yet, this is emphatically a free city . . . most of the sales are for debt, or to close estates in accordance with the statute law" (Letter no. i, p. 8).

<sup>160</sup> Issue of January 7, 1854.

<sup>161</sup> Published by L. and A. Carr, p. 131. In the directory of 1859, published by R. V. Kennedy and Company, this same list appears, but Lynch's address is given as 109 Locust Street (p. 615). In a letter to S. P. Sublette of January 19, 1853, Lynch gave his address as 104 Locust Street (MS. Sublette Papers).



type of the great Missouri slave-dealer, who had his correspondents in the outlying parts of the State. His historic slave-pen in St. Louis was afterward used as a military prison.<sup>162</sup> Like other dealers, Lynch advertised his business in the newspapers, and posted in his office the rates and the conditions under which he handled negroes. This latter broadside placard read as follows:—<sup>163</sup>

“ RULES

No charge less than one Dollar  
 All Negroes entrusted to my care for sale or otherwise  
 must be at the Risk of the Owners,—  
 A charge of 37½ cents will be made per Day for board of  
 negroes & 2½ per cent on all Sales of Slaves,—  
 My usual care will be taken to avoid escape, or, accidents,  
 but will not be made Responsible should they occur,—  
 I only promise to give the same protection to other negroes  
 that I do to my own, I bar all pretexts to want of diligence,  
 These must be the acknowledged terms of all Negroes found  
 in my care, as they will not be received on any other—  
 As these Rules will be placed in my Office, so ‘That all can  
 see that will see.’ The pretence of ignorance shall not be a  
 plea.

1st January 1858

B. M. LYNCH  
 No. 100 Locust St.”

Lynch could not have been the terror-inspiring ogre that the slave-dealer is usually pictured to be. On two different occasions slaves ran for refuge to his door.<sup>164</sup> Statistics of his business are also uncertain, for he was evidently clever enough to empty his “pen” on tax assessment day. In 1852

<sup>162</sup> An account of this building can be found in the *Encyclopedia of Missouri History*, vol. iii, p. 1333. There was also a slave-pen at Broadway and Clark Streets (J. L. Foy, “Slavery and Emancipation in Missouri,” in *ibid.*, vol. iv, p. 2079). Another was located at Fifth and Myrtle Streets (Anderson, p. 184). Lucy Delaney states that her mother was sold at an “auction-room on Main Street” (From the *Darkness Cometh the Light*, p. 22). Father D. S. Phelan of St. Louis remembers seeing slaves sold at the block on the northeast corner of Fifth and Elm Streets.

<sup>163</sup> Photo-facsimile copy in the Missouri Historical Society.

<sup>164</sup> On December 16, 1852, Lynch wrote Solomon P. Sublette, “Your negro woman Sarah came to the gate for admittance, she is here and will be held subject to your order, Very Respectfully B. M. Lynch” (MS. Sublette Papers). On January 19, 1853, Lynch wrote Sublette, “Your Negro woman with child rang about 4 o'clock this morning for admittance and will be retained subject to your order” (*ibid.*).

Lynch was taxed on three slaves,<sup>165</sup> on the same number in 1857,<sup>166</sup> and on four in 1860.<sup>167</sup>

The slave-dealer had his own difficulties, and was perhaps a little prone to "horse-swapping" methods. His commodity at times fell back upon his hands. "I received your letter yesterday," runs a note from John S. Bishop to S. P. Sublette in 1854, "in reference to the negro Girl I sold you. I will be on my way South by the last of October . . . and will take the negro and pay you the money—Or if you should see my Bro. G. B. Bishop . . . he perhaps will pay you the money, and request him if he does to leave the girl at Mull-halls at the Stock Yards."<sup>168</sup> In February, 1855, Bishop again wrote Sublette: "I received yours of Feb 8 & was rather surprised . . . times is hard & money scares. I would of taken her as I was going South but do not want her now in hard times as Negroes have fallen. I bought her above here & Paid \$600 for her as a Sound Negro & a very good one & will have My recorse where I bought her so you will know how to pro sede according to law."<sup>169</sup>

In some respects the slave-trade was unique. In the earlier days of the State the negro was frequently used as a medium of exchange in the purchase of land.<sup>170</sup> Some dealers bought both horses and slaves.<sup>171</sup> Others handled

<sup>165</sup> MS. Tax Book, St. Louis City, 1852, Second District, p. 117.

<sup>166</sup> MS. Tax Book, St. Louis City, 1857, vol. ii, p. 96.

<sup>167</sup> MS. Tax Book, St. Louis City, 1860, Book L to O, p. 74.

<sup>168</sup> MS., dated Mexico, Missouri, September 26, 1854, Sublette Papers.

<sup>169</sup> MS., dated February 14, 1855, Sublette Papers. A guarantee of soundness for a slave sale reads as follows: "Franklin, County, Mo. March 1st, 1856. Received of Mr. Solomon P. Sublette Eight hundred and fifty dollars in full payment for a Negro Girl Eliza, aged seventeen years, the above described Negro girl I warrant sound in body and mind a Slave for life & free from all claims. . . . W. G. Nally" (*ibid.*).

<sup>170</sup> In the *Farmers' and Mechanics' Advocate* (St. Louis) of November 21, 1833, is an example of this. Such advertisements are common.

<sup>171</sup> Advertisement of George Buchanan in the *Republican* of March 19, 1849.

negroes, real estate, and loans.<sup>172</sup> In some cases slaves were taken on trial.<sup>173</sup> Some dealers sold negroes on commission, boarding them till sold at the owner's risk and at his expense.<sup>174</sup>

Many sorrows were undoubtedly borne by bereaved slave families and much misery was suffered by negroes at the hands of traders, but the master at times endeavored to make his departing bondman comfortable. In the *Republican* of January 7, 1854, may be read the following: "For Sale; A good negro man, 32 years old, and not to be taken from the city." In the same issue a dealer offered to find homes for negroes within the city or the State if requested. These provisions were either to prevent the separation of slave families or to insure the master that his negro would not be sold south.

The official negro auction block of St. Louis was the eastern door of the court-house.<sup>175</sup> Some of these sales, especially when negresses were on the block, may have been accompanied by obscene jibes and comment. The frequency of this is denied by contemporaries. "I have often," said a citizen of Lexington, "heard the auctioneer cry, 'A good sound wench, sixteen years old, good to cook, bake, iron, and work. Warranted a slave for life.' Crowds would flock to the court house to see the sight. I never heard or saw any indecency on such an occasion."<sup>176</sup> William Brown stated that it was not uncommon in St.

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<sup>172</sup> "I. B. Burbayge, General Agent, and proprietor of the old established Real Estate, Negro, Slave, Money Agency and Intelligence Office, Third Street between Chestnut and Market streets" (*Daily Missourian*, May 1, 1845).

<sup>173</sup> This advertisement is found in the *Richmond Weekly Mirror* of October 20, 1854: "Negro Woman for Sale. . . . She can be taken on trial if preferred."

<sup>174</sup> See the advertisements of Blakey and McAfee (*Republican*, March 6, 1849); of B. M. Lynch (*Daily Union* [St. Louis], February 6, 1849); of R. Bartlett (*Republican*, January 7, 1854), and that of Wright and Carter (*St. Joseph Commercial Cycle* of August 15, 1856).

<sup>175</sup> Most of the notices of official slave sales state that the bidding would take place at the east door of the court house. Slaves were also sold at the north door (see this study, ch. vi, note 5).

<sup>176</sup> Captain J. A. Wilson.



Louis to hear a negress on the block thus described: "How much is offered for this woman? She is a good cook, good washer, a good obedient servant. She has got religion!"<sup>177</sup> Nevertheless, the slave traffic at its best was perhaps the worst feature of the system. Unruly slaves were continually threatened with being "sold south" as a means of encouraging industry or of enforcing discipline. Families were actually separated and obedient slaves often sold into a life of misery "down the river," either because of callousness on the part of the owner or because financial straits demanded it.<sup>178</sup> Many sad incidents occurred at the block. Children were at times wrung from their parents. Professor Peter H. Clark of St. Louis remembers a house on the southwest corner of Morgan and Garrison Streets in which lived a woman who bought up infants from the mothers' arms at the slave-markets of St. Louis and raised them for profit.

On the other hand, a little good was inadvertently done by some dealers. The story of the finding of Wharton Blanton's slave-pen near Wright City, Warren County, is most interesting. Certain mounds in that vicinity, some two score in number, were supposed to mark the resting-place of the members of some ill-fated Spanish expedition, or of an Indian tribe. Investigation was started and the mounds were opened, but the bodies encountered were found to be those of negroes. Eventually it was learned that one

<sup>177</sup> P. 83.

<sup>178</sup> Lucy Delaney states that she was continually threatened with being sold south. Her father was sent south despite the will of his late master. Lucy herself escaped this fate by hiding with friends in St. Louis (pp. 14, 22). Undoubtedly the sale of slaves was discouraged by the better classes. The following letter is dated St. Joseph, November 26, 1850: "I must know tell you what I have done with Kitty, I found her two expensive and I sold here for one hundred and fifty dollars which money started me House Keeping it was through necessity I sold here" (MS. Wm. S. Hereford to S. P. Sublette, Sublette Papers). The separation of families was also decried. "I have a Negro Woman in St. Louis," runs a letter of November 1, 1848; "she should remain [in St. Louis] if she prefers it—She may have a child or children, if so, dispose of the whole family to the same person" (MS. Captain G. Morris to W. F. Darby, Darby Papers).



Blanton had bought up diseased negroes about St. Louis and taken them to Warren County for recuperation. Those who died on his hands were buried in this mysterious cemetery.<sup>179</sup>

The incidental and often exceptional results of the system were juicy morsels for the antislavery agitators. The public too often generalized on these exceptions, which were perhaps only too numerous, but were not the normal conditions of slavery in Missouri.

Missouri as a slave State differed from others in many respects. As it is today, the State was then a vast region of unlimited resources both in minerals and soils. It was not homogeneous, but displayed a great variety of interests, of products, and of industries. As a slave State it was a region of small farms, small slave holdings, and relatively few slaves. All these conditions make it most difficult to reach a conclusion as to the profit or loss of the slavery system.<sup>180</sup> It must always be borne in mind that some farmers are good managers and can get a profit from almost any soil with almost any kind of labor, while others fail under the greatest advantages. The statement of a slaveholder pro or con must always be considered in connection with the personal equation.

When the question is asked, "Was slave labor a paying proposition in Missouri?" one of three things may be in mind: Was slave labor in Missouri as good an investment as it was in Texas, Georgia, or some other slave State? Was slavery in Missouri as profitable as white labor in Ohio, Iowa, or some other free State? Would free labor have

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<sup>179</sup> This information was obtained by Mr. T. C. Wilson of Columbia, Missouri, who was one of the excavators of this cemetery. His knowledge of the traffic of Blanton was gained from old residents of the neighborhood. He also learned a great deal from Mr. Emil Pollien of Warrenton, Missouri, the present possessor of this property. According to Mr. Pollien's papers the land came into the possession of the Blanton family in 1829.

<sup>180</sup> When this study was begun the author hoped to arrive at a satisfactory conclusion as to the profitableness of slave labor in the State. The results have been disappointing.

brought greater returns to the Missouri farmer than did slave labor?

The first question is simply a comparison of slave labor under different conditions. It may well be doubted whether this could ever be answered. If the second is meant, it must be said that to come to any adequate conclusion the account books of hundreds of farmers of Iowa or Ohio ought to be compared with those of farmers of Missouri to find their profits and losses. There would have to be taken into consideration the differences in land values, interest rates, market prices, labor rates, cost of raising slaves and of clothing them, losses by escape, accident, and deterioration, and a mass of other facts. To begin with, few if any farmers ever kept such accounts, hence it is not difficult to see that the question is insolvable, or at least that any conclusion would be unconvincing to both friend and foe of the slavery system.

Likewise, if the questioner has in mind the comparative profits of slave and white labor on the same soil, the data are equally unresponsive. As already stated in another part of this chapter, white labor was not to be had in some counties and was scarce in all. To say that the farmer of Lafayette or Pike County was a poor manager in employing slave labor is unreasonable. Through tradition, through habit, through necessity, he used slave labor.

A large number of old slaveholders were asked the question, "Do you think that slavery paid in Missouri?" Four fifths of them replied in the negative. They were then asked a second: "*At the time* did Missouri slaveowners think that free labor would have been better for the State?" A large majority answered that some perhaps thought slavery was an economic burden, but that most of them were well satisfied with conditions as they were. After the Civil War the advantages of free labor were realized, but not in slavery days.

A prominent Missouri historian declared that "relatively, slavery declined in Missouri from 1830 onward to emancipa-

tion."<sup>181</sup> As was seen in the early pages of this chapter, the whites increased much faster than the slaves in the State as a whole, but this is not valid proof that slavery was actually declining or that it did not pay. Enormous sections of the State were unfit for slave labor. These districts invited the westward moving settlers, because the land was cheap and because white labor shunned the slave portions of the State. Because the whites increased faster in the State as a whole is not proof that slave labor did not remunerate the farmer of Saline or of Marion County.

Little information of value is gained from the local literature of the time. Most of it is political and therefore written for a purpose. The proslavery element denied emphatically that slavery was anything but a blessing, whether viewed from a financial, a social, or a religious point of view. "The slave population of the State of Missouri has grown rapidly in the last ten years," exclaimed Senator Green in the United States Senate in 1858, "and it is retained because it is profitable."<sup>182</sup> Even Frank Blair, Missouri's most forcible antislavery agitator, declared in 1855 that the staples of the State, hemp and tobacco, could "only be cultivated by slave labor."<sup>183</sup> On the other hand, there were a number of prominent Missourians who never ceased to decry slavery as a curse. They held the system responsible for keeping free labor away from the State, for hampering the commerce and industry of St. Louis, and, in fact, for preventing Missouri from realizing her possibilities.<sup>184</sup>

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<sup>181</sup> C. M. Harvey, "Missouri," in *Atlantic Monthly*, vol. lxxxiv, p. 63.

<sup>182</sup> Speech in reply to Preston King, May 18, 1858 (*Congressional Globe*, 35th Cong., 1st Sess., part iii, p. 2207).

<sup>183</sup> Speech at a joint session of the General Assembly, January, 1855, pamphlet, p. 4. Blair emphasized this point. In its "Address to the people of the United States" the Lexington Pro-Slavery Convention of 1855 declared that in the great slave counties of western Missouri agriculture was prospering. Slavery was held to be the cause of this prosperity (*Proceedings of the Convention*, pp. 3-4).

<sup>184</sup> The Reverend Frederick Starr in 1853 showed how the whites were outgrowing the blacks, and how the alien was battering down the slavery system. He used the phrase of the time, "One German

The whole question of the profit and loss of slave labor and the relative prosperity of the slave and the free States is academic. Hinton R. Helper and his opponents in their day thrashed over the question from beginning to end, and based their conflicting conclusions on the same census figures. No matter what contemporaries or present-day authorities conclude, the problem is not one to be mathematically settled. The amount of data is so enormous and at the same time so incomplete and so contradictory that one is not justified in drawing conclusions.

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knocks out three slaves and one Irishman two" (Letter no. i, entitled, "Slavery in Missouri," p. 6). "The feeling is becoming painful, throughout the State, that slavery is retarding its growth, . . . making men supercilious, the women dolls, and the children imbeciles" (ibid., p. 17). See B. Gratz Brown's speech in the Missouri House of Representatives, February 12, 1857. He shows how slavery was being swamped in the State by the white immigrants. The Reverend Galusha Anderson, who was pastor of a Baptist church in St. Louis during the late fifties and the sixties, declared that proslavery sentiment prevailed. "Those who cherished it [proslavery belief] were often intense and bitter, and controlled the entire city. But on the other hand the leading business men of the city were quietly, conservatively, yet positively, opposed to slavery . . . [considering it] a drag upon the commercial interests of the city" (p. 9).



## CHAPTER II

### THE SLAVE BEFORE THE LAW

Slavery, both of the negro and of the Indian, had existed in the Louisiana country from the earliest days. Upon the cession of the province to the United States slave property was presumably guaranteed by the Treaty of 1803.<sup>1</sup> The binding force of the clause protecting property at once caused much discussion in the Missouri region and later in Congress during the debate on the Compromise of 1820. Immediately upon the annexation of Louisiana the upper or St. Louis portion, called the "District of Louisiana," was placed under the government of the Indiana Territory.<sup>2</sup> This action caused rather a strong outburst of feeling in the St. Louis region. In January, 1805, "Representatives elected by the Freemen" of the District of Louisiana protested against this assignment for several

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<sup>1</sup> Territorial Laws, vol. i, ch. 2, sec. 3. This section reads as follows: "The inhabitants of the ceded territory will be incorporated into the Union of the states and admitted, as soon as possible . . . and during this time they will be upheld and protected in the enjoyment of their liberty, property, and religion they profess."

<sup>2</sup> Law of March 26, 1804 (United States Statutes at Large, vol. ii, p. 287, sec. 12). Whether or not this statute guaranteed the inhabitants in the possession of their slaves is a question. Section thirteen reads: "The laws in force in the said district of Louisiana, at the commencement of this act, and not inconsistent with any of the provisions thereof, shall continue in force until altered, modified or repealed by the governor and judges of Indiana territory, as aforesaid." The powers of the latter seem quite large. The law of March 3, 1805, which made the Missouri country a separate territory, required that the laws must be consistent with the "constitution and laws of the United States" (*ibid.*, p. 331, sec. 3). Section nine of this statute reads: "And be it further enacted, That the laws and regulations, in force in the said district, at the commencement of this act and not inconsistent with the provisions thereof, shall continue in force, until altered, modified, or repealed by the legislature." This seems to give much latitude to the legislature, and ultimately of course to Congress and the President, who controlled the Territory.

reasons, one of the chief of which was that they feared for their slaves, because such property was proscribed in the Indiana Territory. They were apprehensive lest this connection with Indiana should "create the presumption of a disposition in Congress to abolish at a future day slavery altogether in the District of Louisiana." This they declared would be an infringement of the French treaty.<sup>3</sup>

In October, 1804, the Indiana judges formulated for the new district an extensive slave code which would have answered for a much larger slave society,<sup>4</sup> there being but 3011 slaves in the Missouri Territory as late as 1810.<sup>5</sup> This code did not state who were slaves, but did fix the status of those to be considered colored, as "every person other than a negro whose grandfather or grandmother any one is, or shall have been a negro . . . and every such person who shall have one-fourth or more of negro blood, shall in a like manner be deemed a mulatto."<sup>6</sup> Neither this code nor any subsequent Missouri legislation distinguishes between the life bondman or slave and the limited bondman or servant, as was done in several of the States. However, there were some bond servants, either black or white, in the State as late as 1832, in which year there were thirty-seven "bound to service for a term of years."<sup>7</sup>

The constitution of 1820 guaranteed slave property, as no slaves were to be emancipated "without the consent of

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<sup>3</sup> Remonstrance and Petition of the Representatives elected by the Freemen of the Territory of Louisiana, dated January 4, 1805, pp. 11-12. Among other things the petition requested "that Congress would acknowledge the principle of our being entitled in virtue of the treaty, to the free possession of our slaves, and to the right of importing slaves into the District, under such restrictions as to Congress in their wisdom appear necessary" (*ibid.*, p. 22).

<sup>4</sup> Territorial Laws, vol. i, ch. 3.

<sup>5</sup> Eighth Federal Census, Population, p. 601. Governor Delassus gave the slave population of the twelve districts which comprise eastern Missouri as 883 in 1799, and the free blacks 197 (*American State Papers, Miscellaneous, vol. i, p. 383*).

<sup>6</sup> Territorial Laws, vol. i, ch. 3, sec. 6. Reenacted in Revised Laws, 1825, vol. ii, p. 600, sec. 1.

<sup>7</sup> Senate Journal, 7th Ass., 1st Sess., pp. 60-61, 124. There were 64 of this class in the State according to the state census of 1824 (*Senate Journal, 3d Ass., 1st Sess., p. 41*).

their owners, or without paying them, before such emancipation," and as any "*bona fide* emigrants to this state, or actual settlers therein," were to be secure in such property "so long as any persons of the same description are allowed to be held as slaves by the laws of this state."<sup>8</sup> But the lack of any positive municipal law enslaving the negro must have caused some misunderstanding. In the case of *Charlotte v. Chouteau*, which was argued three times before the Missouri supreme court to settle the status of a negress whose mother was born in Canada, the court each time declared that no positive law was necessary. In the final hearing in 1857 it was held that "slavery now exists in Louisiana, Missouri, and Florida without any act of legislation introducing it, and none was necessary, for being in existence under the sanction at least of France and Spain in 1803 . . . it was continued, and was not dependent on any positive law for its recognition."<sup>9</sup>

The Missouri slave law, like that of Kentucky, is usually said to have been taken largely from the Virginia statutes. This statement seems to be fairly well founded if the early Missouri laws are compared with those of Virginia. The Code of 1804 bears many close resemblances, in some cases having the identical wording of the Virginia statutes.<sup>10</sup> In

<sup>8</sup> In Revised Laws, 1825, vol. i, p. 15, art. iii, sec. 26. This section is nearly identical with the Kentucky constitutions of 1792 and 1799 (B. P. Poore, Federal and State Constitutions, vol. i, p. 647, art. ix; p. 657, art. vii).

<sup>9</sup> 25 Mo., 465. In *Chouteau v. Pierre* it was held that "the system being recognized in fact, it devolved upon the plaintiff, he being a negro, to show the law forbidding it" (9 Mo., 3). In *Charlotte v. Chouteau* it was stated that the existence of slavery in fact was presumptive evidence of its legality (11 Mo., 193). The next time this case was tried it was held that African slavery was recognized as legal in the Spanish, French, and British colonies, though no law could be found reducing that race to bondage (21 Mo., 590).

<sup>10</sup> For Virginia statutes with which to compare the Missouri Code of 1804 see: Statute of 1723 (Hening's Statutes of Virginia, vol. iv, p. 126, secs. 8-14); Statute, 1832 (*ibid.*, p. 327); Statutes, 1748 (*ibid.*, vol. v, p. 432; p. 548, sec. 4; p. 558; vol. vi, p. 105, secs. 2, 3, 13-16); Statute, 1753 (*ibid.*, p. 356, secs. 4, 9, 28); Statute, 1765 (*ibid.*, vol. viii, p. 135, sec. 1); Statute, 1769 (*ibid.*, p. 359, secs. 1, 3-8); Statute, 1772 (*ibid.*, p. 522, sec. 1); Statute, 1776 (*ibid.*, vol. ix, p. 186); Statute, 1782 (*ibid.*, vol. xi, p. 39, secs. 1-3); Statute, 1785 (*ibid.*, vol. xii, p. 145, secs. 22, 23); Statute, 1788 (*ibid.*, p. 531, sec. 2).



addition to this internal evidence is the fact that Governor Harrison and one of the three Indiana judges were natives of the Old Dominion, while another judge came from Kentucky.<sup>11</sup> As later Missouri slave law was based largely on this code, being reenacted in some cases verbatim up to the Civil War, the legal status of the Missouri slave in many aspects can be traced to the original home of so many of the antebellum Missourians. This similarity of the two legal systems, as far as slave law is concerned, will in the more striking instances be compared in the notes.

The Code of 1804 made the slave personal property, and each revision of the laws followed this precedent.<sup>12</sup> The widow's dower in slaves and the division of estates holding negroes were the subjects of much technical legislation.<sup>13</sup>

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<sup>11</sup>The Indiana judges in 1804 were Henry Vanderburgh, born in Troy, New York, John Griffin, born in Virginia, and Thomas Terry Davis. The latter came to Indiana from Kentucky where he had served as a member of Congress; the place of his birth could not be found ("The Executive Journal of the Indiana Territory," edited by W. W. Wooley, D. W. How, and J. P. Dunn, in *Publications of the Indiana Historical Society*, vol. iii, no. 3, p. 91). D. W. How says that the Indiana slave law of 1803, which was almost identical with the Missouri Code of 1804, was adapted from that of Virginia. He declares that the Indiana law as a whole was from the following sources: seven laws from Virginia, three from Kentucky, two from Virginia and Kentucky, one from Virginia and Pennsylvania, one from New York, Pennsylvania, and Virginia, and two from Pennsylvania ("The Laws and Courts of the Northwest and Indiana Territories," in *ibid.*, vol. ii, no. 1, pp. 20-22).

<sup>12</sup>*Territorial Laws*, vol. i, ch. 3, sec. 27. *Revised Laws*, 1835, p. 581, art. iii, sec. 1. The slave was not always considered ordinary personal property, but assumed the nature of real estate in certain cases, as in a law of January 11, 1860, which provided that "when slaves or real estate shall be taken in execution . . . it shall be his [the sheriff's] duty to expose the same for sale at the court house door" (*Session Laws, Adjourned Session*, 1859, p. 63, sec. 1).

<sup>13</sup>Until the widow's dower was assigned the court was to grant her an income from realty rents and slave hire "in proportion to her interest in the slaves and real estate" (*Revised Laws*, 1835, p. 40, art. vi, sec. 12). The widow was very often bequeathed the slaves "during her natural life." A number of such wills can be found in the *MS. Probate Records of Saline County* (*Will Record Book, No. A, 1837-1860*). If the husband had no children by his last wife, "in lieu of dower [she could] elect to take in addition to her real estate, the slaves and other personal property" which came to her through this marriage (*Revised Laws*, 1835, p. 227, sec. 3; see also provision concerning dower in slaves in *Session Laws*, 1836, p. 60).



In case of an inability to divide an estate "the court may order the sale of slaves, or other personal property."<sup>14</sup> The court often exercised this power. Descriptions of the distribution of negroes belonging to an estate, showing how some of the heirs gave or took cash to equalize the division in case the slaves varied in value, can be found in the probate records of the various counties.<sup>15</sup>

Slaves could be seized in execution on a lien under certain conditions.<sup>16</sup> Whenever sold in such distraint the negroes were to be advertised by hand bills or by publication in a newspaper twenty days before the sale.<sup>17</sup> A law of 1835 provided that "if the perishable goods [of the deceased] be not sufficient to pay the debts, the executor . . . [shall dispose] of the slaves last until the debts and legacies are all paid."<sup>18</sup> Examples of the sale bills of slaves sold in execution are numerous in the probate records.<sup>19</sup>

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<sup>14</sup> Revised Laws, 1835, p. 40, art. vi, sec. 4. The Code of 1804 made this same provision (Territorial Laws, vol. i, ch. 3, sec. 30).

<sup>15</sup> For an instance of such a division of slaves see the example given in *The History of Henry and St. Clair Counties* (St. Louis, 1883), p. 130. The probate court of St. Louis in 1844 appointed appraisers who divided the slaves between the children of Antoine Chenie. This arrangement did not satisfy them, and so on March 21 of that year they filed a petition stating that "an equal division of the said slaves cannot be made . . . without great prejudice to said petitioners and praying the Court to order the sale of the said slaves and cause the money to be distributed according to the several rights of said petitioners" (MS. Probate Records of St. Louis, Estate No. 1731). The circuit court records of the several counties are quite rich in petitions for the division of groups of slaves.

<sup>16</sup> Revised Statutes, 1855, vol. i, p. 669. This law also placed slaves on an equality with other personal property.

<sup>17</sup> Session Laws, 1859, p. 93, sec. 1. This law was to apply specifically to the judicial circuit of Cape Girardeau County.

<sup>18</sup> Revised Laws, 1835, p. 40, art. vi, ch. 2, sec. 32.

<sup>19</sup> "In the St. Louis Circuit Court, April Term 1845. This bill of sale made this twenty seventh day of September . . . by John W. Reel . . . and Henry M. Shreeve of the second part . . . for and in consideration of Seven hundred & fifty Dollars . . . a Negro man named William about thirty years of age and a slave for life" (MS. Probate Records, St. Louis, November, 1859, Estate of John W. Reel, Bill of Sale filed June 17, 1845). For an example of an advertising bill of a slave sold in execution we read in the *Western Monitor* (Fayette), July 4, 1829: "PUBLIC SALE of a valuable Negro Man On the first day of the July term of Howard County Circuit Court to be holden at Fayette on the first monday in July next, I will sell at public sale to the highest bidder for cash in hand, a likely

While in probate the slaves of an estate were to be hired to the highest bidder, "unless the court order otherwise."<sup>20</sup> This form of property caused more trouble than most others because of the peculiar risks. One widow complained that a slave on whose labor she depended was very prone to abscond for months at a time. She obtained permission to sell this negro and purchase another, but this one also became a source of great trouble.<sup>21</sup> The Code of 1804 forbade a widow to leave the State with slaves in whom other heirs had a claim.<sup>22</sup> This provision was reenacted in 1831,<sup>23</sup> and apparently was rigorously enforced.<sup>24</sup>

Slaves do not always appear to have been considered as mere chattels. An old ordinance of the city of St. Charles required the whites and the slaves in common to turn out

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negro man belonging to the estate of Thomas Crews deceased in order to raise funds to pay off the debts due by said estate. David D. Crews, Exec'r T. Crews dec'd."

<sup>20</sup> Revised Laws, 1835, p. 40, art. ii, sec. 41. A guardian could also sell slaves and loan the proceeds of the sale (Local and Private Acts, 1855, p. 402). An administrator could sell the slaves, the proceeds going to the widow for life (*ibid.*, p. 448).

<sup>21</sup> MS. Probate Records, St. Louis, No. 2068, Estate of Beverley Allen. Papers filed June 23, 1848, and March 20, 1850. The danger and peculiarity of slave property is shown in the provisions by which slave title passed. Slaves were transferred (1) by will only under the set form, (2) by "deed in writing, to be proved by not less than two witnesses, or acknowledged by donor, and recorded in the county where one of the parties lives, within six months after the date of such deed" (Revised Laws, 1835, p. 581, art. iii, sec. 2). This article was not placed in the later revisions. Slaves seemingly took on the character of real estate in this provision.

<sup>22</sup> Territorial Laws, vol. i, ch. 3, secs. 28, 29. A Virginia statute of 1785 forbade a widow to remove slaves from the State unless the heirs in reversion gave their consent (Hening, vol. xii, p. 145, secs. 22, 23).

<sup>23</sup> Session Laws, 1830, ch. 70. Somewhat modified in Revised Laws, 1835, p. 384, secs. 30, 33.

<sup>24</sup> In 1841 one Adolphus Bryant, accompanied by William Kio, took two slaves from St. Louis to New Orleans. These negroes were the temporary property of Bryant's wife, her first husband's children having an interest in them after her death. These heirs had Bryant and Kio arrested for slave-stealing. The captain and clerk of the steamer Meteor were forced to give bail, but Bryant and Kio could not furnish bond and were consequently jailed (Daily Evening Gazette, August 13, 1841).

and work the streets of the town under a penalty.<sup>25</sup> As a slave could not vote this could not have been a poll tax. It was therefore really a double tax on slave property, as the master also paid a property tax on his negroes.

Ownerships in slaves were often held by free colored persons. Sometimes these were owned as bona-fide property, but usually merely in the interim between the date when the free negro purchased the freedom of the slave and the date of the latter's liberation. The following item appears in the St. Louis circuit court records for March 16, 1837: "Thomas Keller a free man of colour, comes into court and acknowledges a deed of Emancipation in favor of his negro slave named Ester, a woman aged thirty-nine years."<sup>26</sup> Many such entries appear in the circuit court records of the various counties. In *David v. Evans* the state supreme court by a decision of 2 to 1 held that a free negro could legally hold slaves.<sup>27</sup> Thus it can readily be seen that slave ownership was unique. It was declared by the law to be personal estate, but both the law and circumstances made so many exceptions that it became a form of property peculiar to itself.

A slave could hold no property in his own right. In 1830 it was held that the mere fact that a negro was keeping a "barber's shop and selling articles in that shop is such evidence of freedom as ought to have gone to the jury."<sup>28</sup> This assertion implies that a property right gave the presumption of a free status. Other decisions bear out this impression.

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<sup>25</sup> Ordinance of April 28, 1821, "Concerning the Streets of St. Charles." Section three reads: "All able bodied persons of the age of 16 to 50 years, are required to work on the streets to which they may be assigned and on failing . . . each person shall forfeit and pay \$2.00 each day, if a man of full age, if a minor by his parents or guardian, and if a slave by his master, overseer or employer" (printed in the *Missourian* of May 2, 1821).

<sup>26</sup> MS. Records St. Louis Circuit Court, vol. 8, p. 194. For further examples of this practice see *ibid.*, p. 240, *ibid.*, vol. 6, p. 421, and also a paper dated December 3, 1855, in the MS. Darby Papers.

<sup>27</sup> 18 Mo., 249. See also *Machan (negro) v. Julia Logan (negress)*, 4 Mo., 361.

<sup>28</sup> *The State v. Henry*, 2 Mo., 177.



The local Dred Scott decision of 1852 possibly influenced the court in its later renderings and general sentiment regarding most phases of slave rights.<sup>29</sup> In reversing a lower decision relative to the purchase of goods by a slave for his master, the state supreme court held in 1857 that "our system of slavery resembles that of the Romans rather than the villanage of the ancient common law. . . . Under the former law, slaves were 'things' and not 'persons'; they were not the subjects of civil rights, and of course were incapable of owning property or of contracting legal obligations."<sup>30</sup> This being the case, the slave had no legal right even to the clothes on his back. Hence he could make no valid contract, nor could he either sue or be sued.

The court applied this principle rigidly in 1860. In that year a case was tried in which the owner had sold a slave after entering into a contract to manumit him on the payment of a specific sum. The slave held a receipt from the master for most of the stated amount. After denying the slave any right to sue in the courts of the State, the court held that "the incapacities of his condition . . . suggest, at the threshold of the inquiry, insuperable obstacles to the specific enforcement of an executory contract between the master and himself . . . even where there might be a complete fulfillment on the part of the slave."<sup>31</sup> Thus at the very close of the slavery regime the doctrine was again enunciated that the slave had absolutely no property rights independent of his owner.

It has been seen that a slave had a legal right to no property whatever, although he naturally held temporarily the furniture and utensils necessary for carrying on his small household in the slave quarters. As laws against the commercial dealings of slaves date from the earliest slave code in old Louisiana and are continuously reenunciated from then till 1860, the conclusion must be reached that this was a serious problem. The Missouri laws are unfortu-

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<sup>29</sup> Scott (a man of color) v. Emerson, 15 Mo., 570.

<sup>30</sup> Douglas v. Richie, 24 Mo., 177.

<sup>31</sup> Redmond (colored) v. Murray et al., 30 Mo., 570.



nately not often prefixed by preambles, whether elaborate or only brief, hence the reasons for the law are left largely to speculation. For petty crimes of this nature the slave was simply haled before a justice of the peace, and consequently there are no records by which one may judge of the real gravity of the situation. It might well have been feared that the slave, by buying or selling without permission, would dispose of his owner's goods. But there was also, as in the case of the slave hiring himself out without his master's consent, the danger that he might grow independent and unruly in disposition.

The Black Code of 1724 forbade buying or selling without a written permission from the master, and fixed a fine of fifteen hundred livres upon any one so dealing with a slave without permission. When the owner gave his negro such permission, he was responsible for the commercial acts of the slave.<sup>32</sup> The police regulations of Governor Carondelet of 1795, under penalty of twenty-five lashes, prohibited a slave from selling without his master's consent even the products of the waste land given him for his own use.<sup>33</sup> The Code of 1804 fined a dealer four times the value of the consideration involved, with costs, while the informer of such a transaction received twenty dollars. A free negro for the same offense was given thirty stripes "well laid on" in default of the payment of this fine.<sup>34</sup> This section seems

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<sup>32</sup> B. F. French, *Historical Collections of Louisiana*, vol. iii, p. 89, secs. 15, 23.

<sup>33</sup> *American State Papers, Miscellaneous*, vol. i, p. 380. The Laws of Las Seite Partidas bound the master to all commercial acts of the slave if the former commissioned the slave to "exercise any trade or commerce" (vol. i, p. 485). It is not known what binding force these semiclerical laws had in the Louisiana colonial courts. The translators of these laws claim that they had the force of law as late as 1820 (translator's note, vol. i, p. 1). In 1745 Governor Pierre Regant De Vandreuil drew up a police regulation in which a white person for illegally dealing with a slave was to be placed in the pillory for the first offense and sent to the galleys for the second (C. Gayarré, *History of Louisiana*, vol. ii, app., p. 361, art. xvii). The severity of the penalty implies that the problem was somewhat grave.

<sup>34</sup> *Territorial Laws*, vol. i, ch. 3, sec. 11. The master was also liable for the transactions of his slave (*ibid.*, sec. 18).

to have been taken almost word for word from Virginia statutes of 1753 and 1785, the only difference being that the information fee was to be five pounds instead of twenty dollars.<sup>35</sup> The Missouri legislature reenacted this law verbatim in 1822,<sup>36</sup> 1823, 1835, 1845, and 1855.<sup>37</sup> Many of the Missouri statutes sprang from this superimposed code of the Indiana judges of 1804, and continued in operation with little or no change till slavery disappeared in the State.

The charter of Carondelet of 1851 empowered the city council "to impose fines, penalties and forfeitures on the owners and masters of slaves suffered to go at large or to act or deal as free persons."<sup>38</sup> Other particular communities seem also to have experienced grave apprehensions from this cause, as is indicated by a statute passed in 1861 which forbade any owner in Macon County to permit his slave to sell refreshments or do huckstering of any kind unless under the direction of himself or an overseer. The penalty was from fifteen to twenty dollars, which was to go to the county school fund. Such cases were to be taken before a justice of the peace.<sup>39</sup>

The slave early caused apprehension by both vending and imbibing liquor. In 1811 an ordinance was passed in St. Louis fining an offender ten dollars for selling a negro any "spiritous or ardent liquor" without his master's consent. If a person found a slave in a state of intoxication in the

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<sup>35</sup> Hening, vol. vi, p. 356, sec. 9; *ibid.*, vol. xii, p. 182, sec. 6. A statute of 1769 fined a master £10 for allowing his slave to go at large and trade as a free man because of numerous thefts thereby committed (*ibid.*, vol. viii, p. 360, sec. 8).

<sup>36</sup> Territorial Laws, vol. i, p. 399, sec. 1.

<sup>37</sup> Law of March 1, 1823 (Laws of Missouri, 1825, vol. ii, p. 746, sec. 1). If the consideration was over ninety dollars, the case could be carried to the circuit court. Reenacted in Revised Laws, 1835, p. 581, art. i, sec. 37; Revised Statutes, 1845, ch. 167, art. i, sec. 31; Revised Statutes, 1855, ch. 150, art. i, sec. 31.

<sup>38</sup> Art. v, sec. 21. This section also refers to careless owners who permitted their slaves to hire themselves out without due formality. It was a pressing problem in Missouri (see above, pp. 35-37). It was decided in 1853 that "hiring a slave to maul rails without the consent of his master is not a dealing with the slave," manual labor not being considered "dealing" under the law (*State v. Henke*, 19 Mo., 225).

<sup>39</sup> Session Laws, 1860, p. 417, secs. 1, 2.

streets or other public place, he was to give the offender ten lashes. The master or mistress of such slave was to be fined five dollars for neglecting to punish him.<sup>40</sup> A law of 1833 forbade a store, tavern, or grog-shop keeper to permit slaves or free negroes to assemble on his premises without the owner's assent, under a penalty of from five to fifty dollars.<sup>41</sup> The Act of 1835 Regulating Inns and Taverns fined the keepers of such places from ten to fifty dollars for "bartering in liquors" with slaves, free blacks, or apprentices without the consent in writing of their masters.<sup>42</sup> The Grocers' Regulation Act of the same year fined such a person for this offence from fifteen to fifty dollars and costs and revoked his license.<sup>43</sup> Cases on record indicate that these provisions were at times enforced. In 1853 James Hill was fined twenty-five dollars by the Boone County circuit court for selling liquor to slaves,<sup>44</sup> and in 1859 Henry Hains was similarly punished.<sup>45</sup>

The slave as well as the white and the free black engaged in illicit liquor dealing. The Revision of 1835 placed a fine of three hundred dollars upon the master who allowed his slave to sell or deliver any spiritous or vinous liquors to any other slave without the consent of the latter's owner, and the offending slave was to receive not more than twenty-five stripes after a summary trial before a justice of the peace. He was to be released only after the master had

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<sup>40</sup> An Ordinance concerning Slaves in the Town of St. Louis, February 5, 1811 (MS. Record Book of the Trustees of St. Louis, pp. 23-25, secs. 1, 3). That the slave often drank to excess is learned from the following advertisements: "Runaway this morning, my negro man David. He is a black man . . . stout made, fond of whiskey, getting drunk whenever he can procure it" (Missouri Gazette [St. Louis], March 9, 1820, advertisement of Nathan Benton). "Runaway from the farm of General Rector . . . my servant John, a very bright freckled mulatto . . . he is remarkably fond of whiskey" (ibid., July 5, 1820).

<sup>41</sup> Session Laws, 1832, ch. 41, secs. 1, 2.

<sup>42</sup> Revised Laws, 1835, p. 315, sec. 22. Reenacted, Revised Statutes, 1845, ch. 83, sec. 22.

<sup>43</sup> Revised Statutes, 1845, p. 291, sec. 7. It was necessary to prove that the grocer was actually licensed when the liquor was sold to slaves (Fraser v. The State, 6 Mo., 195).

<sup>44</sup> MS. Circuit Court Records, Boone County, Book F, p. 190.

<sup>45</sup> Ibid., Book H, pp. 82, 173, 282.



paid the costs and had given a bond of two hundred dollars for his negro's good behavior for one year. The slave could be sold if not removed from jail by the second day of the following session of the county court.<sup>46</sup> The Revision of 1845 fixed the maximum punishment of a slave selling liquor at thirty-nine lashes, and his owner was to pay all costs.<sup>47</sup> In addition to this penalty the Revision of 1855 fined the owner from twenty to one hundred dollars.<sup>48</sup>

It was held in 1850 that if a person sold liquor to a slave without the master's consent and the negro was made drunk and died, the vendor of the liquor was liable for legal damages, even though a clerk sold the liquor without the proprietor's knowledge.<sup>49</sup> Despite the number of statutes on this subject, the press does not reflect a serious condition of drunkenness among the slaves. Lack of money on the part of the negro as well as fear on the side of the merchant prevented the problem from assuming alarming proportions.

Although the Missouri slave was without any property rights, he was not a mere thing. He was not absolutely at the mercy of his master. The constitution of 1820 required the legislature to pass laws "to oblige the owners of slaves to treat them with humanity, and to abstain from all injuries to them extending to life or limb." The slave was also to be given a jury trial, and, if convicted of a capital offence, was to receive the same punishment as a white person for a like offence, "and no other," and he was to be assigned counsel for his defence.<sup>50</sup> The definite principle

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<sup>46</sup> Revised Laws, 1835, p. 591, art. i, secs. 17-22.

<sup>47</sup> Revised Statutes, 1845, ch. 72, secs. 7, 25.

<sup>48</sup> Revised Statutes, 1855, ch. 57, secs. 17, 19, 23.

<sup>49</sup> *Skinner et al. v. Hughes*, 13 Mo., 440.

<sup>50</sup> Art. iii, secs. 26, 27. "No other state constitution gave so much protection to the rights of the slave as this one" (F. C. Shoemaker, *The First Constitution of Missouri*, p. 55). These sections are nearly identical with the Kentucky constitutions of 1792 and 1799 (Poore, p. 647, art. ix; p. 657, art. vii). In the territorial period two cases are recorded in the MS. Records of the St. Louis general court or court of record, wherein it appears that the slave had fair treatment in court. In *United States v. Le Blond* (vol. ii, pp. 86, 96) the latter was fined \$500 and costs and imprisoned for two months for killing



was declared that "any person who shall maliciously deprive of life or dismember any slave, shall suffer such punishment as would be inflicted for a like offence if it were committed on a free white person."<sup>51</sup> For striking his master a law of 1825 condemned an unruly slave to punishment after conviction before a justice, but gave the master no permission to punish him.<sup>52</sup> Furthermore, several decisions were at various times rendered by the supreme court of Missouri which show that it was disposed to protect the slave against the arbitrary will of his master. In *Nash v. Prinne* it is incidentally stated that "the justice of the country shall be satisfied," and that the slayer of a bondman was first to be criminally prosecuted before civil damages could be allowed.<sup>53</sup> In other words, the court declared that in the maiming of a slave the public was outraged to a greater extent than the owner was injured financially. Justice was not to be sacrificed for the personal gain of the master. In 1846 a person sought escape from prosecution for injuring a slave on the plea of an improper indictment, but the court in this instance declared that "it made no difference whether the slave belonged to the defendant or to a third person. . . . It could answer no useful purpose whatever, unless to designate with greater certainty the person of the injured slave."<sup>54</sup> Thus a white man was not allowed to escape justice on a technicality, even though his victim was a bondman.

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his slave. Le Blond's provocation is not stated. In 1820 one Prinne was found not guilty on a charge of murdering his slave, Walter, by confining him "in a dungeon or cell dangerous to his health" (*ibid.*, pp. 226, 230, 234, 236). The *Missouri Gazette* of September 4, 1818, gave accounts of two negroes then being tried for murder before the local court, one being defended by two and the other by three counsel. The above provision is very similar in nature to a Virginia statute of 1772 which provided that slaves suffering death for burglary were not to be refused benefit of clergy "unless the said breaking, in the case of a freeman would be burglary" (*Henning*, vol. viii, p. 522, sec. 1).

<sup>51</sup> Art. iii, sec. 28. A case was decided under this section twenty years later (*Fanny v. The State*, 6 Mo., 122).

<sup>52</sup> Revised Laws, 1825, vol. i, p. 309, sec. 84.

<sup>53</sup> 1 Mo., 125.

<sup>54</sup> *Grove v. The State*, 10 Mo., 233.

The right of any other white than the master to mistreat a slave was emphatically denied, one decision holding that "such offences stand on the same ground as when white persons cruelly use each other."<sup>55</sup> The whole subject of the treatment of the slave will be considered in the following chapter. Whatever the practice of individuals may have been, the wording of the statutes and of the court decisions is certainly humane and praiseworthy.

In most of the States there was a stiffening up of the criminal laws following insurrections or severe antislavery agitation, but the Missouri slave code of 1835 was reenacted almost verbatim in 1845 and again in 1855. More stringent patrolling regulations were enacted and there was an increasing bitterness toward outside interference or the free airing of antislavery views at home, but of a growing hostility toward the negro or fear of trouble there is little reflection in law or decision. Even the newspapers, despite their occasional rancorous political vituperation, evince a spirit of justice to the black bondman, even if not toward the white opponent in politics. Some of the most lofty opinions regarding the duty of the whites toward the slave and his right to seek freedom under the laws are to be found in the period between the Compromise of 1850 and the Civil War. Even the obvious danger of the Kansas struggle, instead of reacting on the slave, seems to have been focussed on the white abolitionist and the Bentonites. More severe control of movement and stricter inspection of slave meetings and assemblies are evident, but of change in the personal treatment of the bondman, either in law or practice, little can be seen other than what would naturally follow a growing system needing more orderly control.

At the same time the Dred Scott dictum as enunciated by the Missouri supreme court in 1852 shows that in principle the State was ready to change her policy the better to protect the system. The Missourians who favored slavery desired not to depress their blacks, but rather to extend slave terri-

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<sup>55</sup> *The State v. Peters*, 28 Mo., 241.

tory in order to safeguard their colored property. Thus as late as 1860, when her own slaves numbered scarcely one eighth of her total population, Missouri was made the battering-ram to fight against the abolition influence in Kansas.

The criminal legislation affecting the slave falls according to penalties under three heads: capital offences; mutilation; whipping.

The Code of 1804 provided the death penalty without benefit of clergy "if any negro or other slave shall at any time consult, advise or conspire to rebel or make insurrection or shall plot or conspire the murder of any person or persons whatever."<sup>56</sup> The same punishment was to be inflicted for administering poison or "any medicine whatever" unless there was no evil intent and no actual harm resulted.<sup>57</sup> Thus the slave was responsible for both the intent and the result of his act, while with the white the old common-law idea of the intent alone was considered in a criminal charge.

When these provisions are compared with the general criminal law of 1808, it is found that if the slave was cruelly used the white man was no less severely handled. Under that statute any individual, black or white, was to suffer castration for rape, thirty-nine lashes for burglary, disfranchisement and an hour in the pillory for perjury, forty-nine lashes on the bare back "well laid on" for stealing and branding horses and cattle, and death for stealing or enslaving a negro whom he knew to be free.<sup>58</sup>

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<sup>56</sup> Territorial Laws, vol. i, ch. 3, sec. 14. This provision is identical with a Virginia statute of 1748 (Hening, vol. vi, p. 105, sec. 2).

<sup>57</sup> Hening, vol. vi, p. 105, secs. 15, 16. In 1825 a law likewise made it a death penalty for a slave to prepare, exhibit, or administer any medicine whatever, but if such medicine was found to be harmless and no evil intent was evident, he was to receive stripes at the discretion of the court (Revised Laws, 1825, vol. i, p. 312, sec. 98). In 1843 an act was passed fining any person a maximum of fifty dollars for selling poisoned drugs to any slave without the written consent of the owner (Session Laws, 1842, p. 102, secs. 1, 2). In 1818 a slave was tried on a poison charge in St. Louis (MS. Records of St. Louis Court of Records, vol. ii, pp. 180, 184).

<sup>58</sup> Territorial Laws, vol. i, p. 210, secs. 8, 11, 16, 18, 21, 22, 39, 45. That some of these provisions were literally carried out is learned from the Missouri Intelligencer of April 24, 1824, wherein is an



The law of 1804 as to conspiracy was virtually reenacted in 1825, but the punishment was limited to thirty-nine stripes if the slave simply conspired without committing the "overt act," unless he "unwittingly" entered the conspiracy and voluntarily confessed with "genuine repentance" before being accused of the crime. In the latter case he might be pardoned, but the second offence was to be punishable by death in any case.<sup>59</sup> As already stated, the constitution of 1820 limited the punishment of a slave for a capital offence to the same degree of punishment that would be inflicted upon a white person for the same crime.<sup>60</sup> There seems to have been no slave insurrection of any magnitude in Missouri, but the commission of a number of crimes punishable by death is recorded, the accounts often not specifying whether they were committed by slaves or by free colored persons.<sup>61</sup>

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advertisement for one William Job, a horse thief, who had broken out of the Cooper County jail. He could be recognized as he "has lately been whipped for the said crime, and his back in all probability is not yet entirely healed." Cases of selling free blacks into slavery seem to have been rare. On January 27, 1835, one Jacob Gregg was "granted relief" for expenses in taking Palsa Rouse and Sarah Scritchfield, "arrested for having sold a free person as a slave" (Senate Journal, 8th Ass., 1st Sess., p. 208).

<sup>59</sup> Revised Laws, 1825, vol. i, p. 312, secs. 96, 97.

<sup>60</sup> Art. iii, sec. 27.

<sup>61</sup> In December, 1835, Israel B. Grant of Callaway County, a member of the legislature, was murdered, his throat being cut. "We have been informed that this horrid deed has been traced to one of his own slaves," reads the account in the Jeffersonian Republican of January 9, 1836. In 1836 a sheriff submitted a bill for fees in holding a slave charged with murder (Senate Journal, 9th Ass., 1st Sess., p. 127). In 1841 four negroes (status not given) were hanged for murder and incendiarism (R. Edwards and M. Hopewell, *Edwards's Great West and her Commercial Metropolis*, p. 372). In April, 1847, a slave named Eli was lynched in Franklin County for murdering a white woman (*History of Franklin, Jefferson, Washington, Crawford and Gasconade Counties*, p. 283). In Lincoln County a slave named Gibbs was burned for murdering his master during a brawl when both were drunk. The date of this affair is not given (*History of Lincoln County* [Chicago, 1888], pp. 365-368). In 1850 a white man named McClintock and a slave woman were hanged by a Clay County mob for murdering a white woman. Being a slave, her testimony could not be accepted against her white confederate, and so both were lynched (*History of Clay and Platte Counties* [St. Louis, 1885], pp. 158-159). Several attacks were made in the year 1855 by slaves on their masters and mistresses (*ibid.*, pp. 158-159). Two slaves were tried for murder in 1852 (*Weekly Missouri Sen-*



That his bondage was no absolute deterrent in preventing criminal assault by the negro can be seen by a survey of the slavery period in Missouri. The general criminal law of 1808 punished rape, whether committed by a white or a black, by castration.<sup>62</sup> In 1825 another criminal law likewise made mutilation the punishment of any one who assaulted a girl under ten years of age, but a slave who assaulted any white woman, no matter what her age might be, was to suffer castration.<sup>63</sup> Although both whites and blacks were to be thus punished, no record of a white being so used has been noted, but several instances of negroes treated in this manner are on record.<sup>64</sup>

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tinel, August 10, 1853). On July 12, 1854, a slave woman poisoned the Kent family of Warren County. The victims recovered (Republican, August 1, 1854). In August, 1854, W. T. Cochran of Trenton was stabbed by a slave (Richmond Weekly Mirror, August 11, 1854). A negress killed Robert Newson near Fulton on June 23, 1855 (Missouri Statesman [Columbia], July 6, 1855). In 1857 in Boone County a slave named Pete was given twenty-five lashes for a murderous attack. Charles Simmons, his owner, was ordered to pay the costs of the prosecution (MS. Circuit Court Records, Boone County, Book G, p. 281, Book H, pp. 226, 246). In 1859 a slave named Jack Anderson murdered his master, Seneca Diggs, in Howard County, and escaped to Canada (Session Laws, 1860, p. 534).

<sup>62</sup> Territorial Laws, vol. 1, p. 210, sec. 8.

<sup>63</sup> Revised Laws, 1825, vol. 1, p. 312, secs. 10, 11, 99.

<sup>64</sup> In 1844 a slave was sentenced to be castrated for a rape (Nathan, a slave, v. The State, 8 Mo., 631). In 1853 two negroes (status not given) were so sentenced (The State v. Anderson, 19 Mo., 241). The Republican of April 30, 1838, records that a negro (status not given) was thrown overboard from a river boat and drowned for an assault. Several negroes murdered Dr. Fisk and child of Jasper County in July, 1852. His wife was raped and killed and the house was burned (Weekly Missouri Sentinel, August 4, 1852). In 1853 a negro was taken from jail and hanged for an assault (ibid., August 25, 1853). At Boonville in September, 1853, a negro was caught "and beat almost to death" for an attempted rape (ibid., September 1, 1853). In the same year at Springfield two negroes were burned and one was hanged for an assault (A. D. Richardson, "Free Missouri," in Atlantic Monthly, vol. xxi, pp. 363, 492). In 1859 a slave was dismissed for some reason by the Greene County circuit court after having been indicted for rape by a special session of the grand jury (MS. Records, Book Djr., pp. 487-488, 501). In *The State v. Anderson* it was held that the character of the white girl or that of her parents was not relevant, as it was simply a question of the assailant being a negro and the victim a white female (19 Mo., 241). In many cases the accounts do not state whether the negro in question was free or a slave, but as the slaves of the State outnumbered the free blacks thirty to one the presumption is strong that they were slaves.

The slave was not to be fined or imprisoned,<sup>65</sup> save at his master's request.<sup>66</sup> He was therefore punished physically in cases where a white man would be fined or incarcerated. In some instances the maximum and minimum number of lashes are given while in others the matter was left to the "discretion" of the court. All whippings, whether received by whites or blacks, were to be given in public "and well and truly laid on such offenders' bare backs, and that without favor or affection."<sup>67</sup> In theory at least the law made no distinction between the white and the black offender in the early days. Punishment by stripes being the only form of punishment for the slave besides

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<sup>65</sup> Revised Laws, 1825, vol. i, p. 312, sec. 99. Females other than slaves could not be whipped (*ibid.*, sec. 101).

<sup>66</sup> Local police regulations made exceptions to this provision. In St. Louis slaves were imprisoned unless the owner paid fines imposed for various offences (St. Louis Ordinances, 1836, p. 89, sec. 2; p. 25, sec. 5). An early ordinance of St. Louis fined a master one dollar a year if his slave kept a dog within the city limits (Ordinance of February 25, 1811, MS. Record Book of the Trustees of St. Louis, p. 42, sec. 3). An ordinance of St. Charles fined an owner ten dollars if his negro littered the streets of the town (Ordinance of the Board of Trustees of St. Charles, April 28, 1821, in the *Missourian* of May 2, 1821). Another ordinance of St. Charles fined the master the same amount if the slave injured the woods on the village common (*ibid.*, April 13, 1822, in the *Missourian* of April 18, 1822).

<sup>67</sup> Revised Laws, 1825, vol. i, p. 312, sec. 30. But all whippings were not performed in public. Thomas Shackelford states that when he was a boy one of their slaves was unjustly condemned to be whipped. The family were indignant, but the neighbors demanded that the negro be punished. The sheriff took the slave into a shed and bound him to a post. The crowd waited till they heard the lash applied and the negro yell with pain. After the crowd had disappeared the sheriff brought the slave out to young Shackelford, who was told to keep the matter secret as the sheriff had only lashed the post and had made the negro scream that the crowd might be mollified ("Early Recollections of Missouri," in *Missouri Historical Society Collections*, vol. ii, no. 2, p. 9). When the old sheriff's house was destroyed at Lexington, Captain J. A. Wilson secured the slave whip which had been the official Lafayette County flagellum. It is composed of a wooden handle attached to a flat piece of rubber strap about eighteen inches long, an inch and a half wide, and a quarter of an inch thick. It has the appearance of having been cut from rubber belting, being reenforced with fibre as is rubber hose. It would cause a very painful blow without leaving a scar. If scarred the negro would be less valuable, as a prospective buyer would consider him vicious or liable to absconding if bearing the marks of punishment (see below, p. 96).

hanging and mutilation, it was thus more or less definitely limited to prevent either a too severe or a too lenient sentence.

Resistance to the owner or overseer was considered the gravest offence after the two treated above.<sup>68</sup> The Code of 1804 fixed the maximum at thirty lashes for lifting a hand against any person not a negro or mulatto unless "wantonly assaulted."<sup>69</sup> The general criminal law of 1825 empowered the master to incarcerate his slave in the public jail, at his own expense, if the slave resisted his "lawful demands" or refused to obey him, "and if any slave shall, contrary to his bounden duty, presume to strike or assault his or her master . . . such slave, on conviction before a justice of the peace, shall be whipped not exceeding thirty-nine stripes."<sup>70</sup>

Although no insurrections of any importance were ever even threatened in Missouri, there was a continual reenactment of the early legislation to prevent seditious speeches and riotous meetings. The Missouri slaveholder, being surrounded on three sides by free territory where abolitionism was more or less active, and knowing that the great rivers of the State offered a ready means of escape for the slave, feared the loss of his property rather than personal danger. Hence the amount of legislation and litigation concerning the fugitive. The Missourians retained the laws which the Indiana judges had given them in 1804 relative to slave insurrections. These laws were later reenacted so as to be in harmony with those of the other slave States, which were continually threatened with servile outbreaks. The subject of slave assemblages will be treated in Chapter VI of this study.

The evidence that might be offered by the slave was a

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<sup>68</sup> The terms "master," "mistress," "owner," and "overseer" are used interchangeably in this paper. The law provided that these terms were to be considered synonymous before the courts (Revised Statutes, 1835, vol. i, p. 581, sec. 39).

<sup>69</sup> Territorial Laws, vol. i, ch. 3, sec. 12. A Kentucky law of 1798 provided that a slave be sentenced by a justice of the peace to thirty lashes for striking any person not a negro (J. C. Hurd, *The Law of Freedom and Bondage*, vol. ii, p. 14).

<sup>70</sup> Revised Laws, 1825, vol. i, p. 309, sec. 84.



point which caused considerable legislation. In the first section of the Code of 1804 it was provided that "no negro or mulatto shall be a witness except in pleas of the United States against negroes or mulattoes or in civil pleas where negroes alone shall be parties."<sup>71</sup> Practice gave rise to some exceptions, and a number of decisions later modified this provision in some details, but the principle was never deserted. Slaves were allowed to testify against whites in some instances. When the Illinois abolitionists, Burr, Work, and Thompson, were placed on trial at Palmyra in 1841, their counsel sought in vain to exclude the testimony of the slaves whom they had sought to liberate. This testimony was given through the masters of these slaves, which the narrator implies was the custom.<sup>72</sup>

In cases where suit was brought for damages in selling an unsound slave the latter's declaration of "a symptom or appearance of disease, is competent evidence to prove that the slave was at the time diseased."<sup>73</sup> In *Hawkins v. The State* it was held that "on the trial of an indictment against a white person, the State may give in evidence a conversation between the accused and a negro in relation to the offense charged, when the conversation on the part of the negro is merely given in evidence as an indictment, and in illustration of what was said by a white person, and not by the negro."<sup>74</sup> This case seems very close to the line of allowing a negro to testify against a white, the technical distinction being between an indictment before a grand jury and a trial.

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<sup>71</sup> Territorial Laws, vol. i, ch. 3, sec. 1. A Virginia law of 1732 forbade a negro, mulatto, or Indian to give evidence except in cases involving one of his own race (Hening, vol. iv, p. 327). When giving evidence against one of their own race negroes took the oath and testified as whites. The following entry appears in the St. Louis Coroners' Inquest Record for 1836: "Spencer a colored man after being duly sworn on his oath said that on Wednesday . . . he saw a colored boy belonging to I. A. Fletcher throw a brick bat and strike the above named William on the head . . . 12th day of April, 1836, John Andrews, Coroner" (MS. Record of Coroners' Inquests, City of St. Louis, 1822-1839, not paged).

<sup>72</sup> R. I. Holcombe, *History of Marion County, Missouri*, p. 239.

<sup>73</sup> *Marr v. Hill & Hayes*, 10 Mo., 320. Also, *Wadlow v. Perrymans, Admr.*, 27 Mo., 279.

<sup>74</sup> 7 Mo., 190.



The court in 1855 took a very peculiar view of the law in accepting a slave's evidence against himself which rendered his master liable to damages. In this instance the action was brought against the owner for a larceny committed by his slave. The latter's declaration as to the whereabouts of stolen goods, in connection with the fact that the goods were actually found in the place mentioned, was held by the supreme court to be admissible as evidence.<sup>75</sup> Thus it appears to be a point of fact rather than testimony. Had the stolen property not been found, the court seems to imply that the negro's evidence would not have been accepted. Whatever may have been the means by which slave evidence was admitted, it is certain that it was occasionally accepted and at the expense of the master or other whites.

By the Missouri practice the slave was also protected from cruelty in forcing evidence from him. In one case where a slave testified against himself it was held that a confession extorted by pain was not to be admitted as evidence.<sup>76</sup> Here the court declared plainly that "it is settled that confessions induced by the flattery of hope or terror of punishment, are not admissible as evidence."<sup>77</sup>

In the early period procedure in slave indictments for misdemeanors was similar to that of the whites. Later the

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<sup>75</sup> Fackler v. Chapman, 20 Mo., 249.

<sup>76</sup> Hector v. The State, 2 Mo., 135.

<sup>77</sup> Hawkins v. The State, 7 Mo., 190. It is interesting to note that the division of the whole Methodist Church largely revolved about the point of admitting negro evidence in a church trial in Missouri. In 1840 the Reverend Silas Comfort appealed to the General Conference of the Methodist Church from a decision of the Missouri Conference which had adjudged him guilty of mal-administration in admitting the testimony of colored members against a white. On May 17 the General Conference of 1840 rejected a resolution confirming the Missouri decision. The following day Mr. I. W. Few of Georgia introduced the following resolution, which was adopted by a vote of 74 to 46: "Resolved, That it is inexpedient and unjustifiable for any preacher among us to permit colored persons to give testimony against white persons in any state where they are denied that privilege in trials at law." Bad feeling resulted, and by the next general conference the church was ripe for a division. The question of the right of bishops and preachers to hold slaves was the rock upon which the church split (J. M. Buckley, History of Methodism in the United States, vol. ii, p. 12).

practice was modified. A law of 1825 required that a bondman should be taken before the circuit court for serious offences.<sup>78</sup> Six years later the justice court was given jurisdiction over thefts amounting to less than twenty dollars. If the master so requested, the offending slave was to be given a jury trial. The punishment for either a misdemeanor or a theft could be fixed by the justice, the maximum penalty being thirty-nine lashes.<sup>79</sup> The justice court was the tribunal to which the slave was haled for most of his offences. In many respects the procedure resembled that of the old English market court of "Pied poudre." As the justice of the peace was not required to keep permanent records, it is not possible to gain a very close view of the procedure or of negro punishment. The county circuit court records contain many accounts of slaves tried for the more serious crimes.

The owner was responsible for the depredations committed by his negro as for injury done by his other live stock. The liability of the master was the cause of considerable legislation and was continually brought before the courts. A law of 1824 made the owner, or the employer in case the slave was hired out at the time of the trespass, responsible for his injury to trees, crops, and other forms of property.<sup>80</sup> In 1830 a statute limited this liability to the value of the offending slave.<sup>81</sup>

The slave naturally differed from other forms of property in the point of the responsibility of the owner in that, being human, he had his abettors and his colleagues in crime, both

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<sup>78</sup> Revised Laws, 1825, vol. ii, p. 790.

<sup>79</sup> Session Laws, 1830, p. 35. In 1853 the supreme court of Missouri held that this statute did not provide for an appeal in cases of petit larceny (*The State v. Joe*, 19 Mo., 223).

<sup>80</sup> Revised Laws, 1825, vol. ii, p. 781, sec. 4. The owner was also responsible if his slave fired the prairie or forest with his knowledge (*ibid.*, p. 798, sec. 4). These provisions were both reenacted in Revised Laws, 1835, p. 612, sec. 5; p. 624, sec. 4.

<sup>81</sup> Session Laws, 1830, p. 35. In 1859 a law was passed making a person hiring a slave from a party not a resident of the State responsible for any trespass, felony, or misdemeanor committed by such slave (*Session Laws*, 1858, p. 90, sec. 2).

white and black. In reversing a lower decision in 1855 it was held that if the slaves of several persons united in committing larceny, the owner of one of the negroes so offending would be liable for the damages committed by all.<sup>82</sup>

Although the old Spanish practice held to the contrary,<sup>83</sup> the supreme court declared in 1837 that a master was not liable if his slave killed the negro of another. The court here held that the law did not provide for injury to that form of property by a slave,<sup>84</sup> but this does not mean that the slave was mere property. That the slave was punished for injuring another slave, although the master was relieved of pecuniary responsibility, is learned from an issue of the Liberty Tribune of 1848: "The black man of Mr. J. D. Ewing of this county [Clay], charged with the murder of Mr. Robert Thompson's black man, had his trial on Monday last and was sentenced to receive 39 lashes and transported out of the State."<sup>85</sup>

The Indian slave occupied an entirely different position from that of the negro. Although feared as a race, the Indians were socially never under the ban as were the Africans. Conscious and legal as well as clandestine sexual relations existed in the Mississippi Valley, especially where the French settled. The French "voyageurs" mingled with the natives and produced a mixed race, but as slaves they seem to have come under the regular servile law. "Indian slaves," says Scharf, "it is obvious were treated and regarded as negro slaves were, with the difference, however, that more Indians than negroes were manumitted. Many of the en-

<sup>82</sup> Fackler v. Chapman, 20 Mo., 249. In 1857 a master was held not to be responsible if his slave fired a stable and thereby injured a horse belonging to a third party not the owner of the stable (Stratton v. Harriman, 24 Mo., 324). This opinion reaffirmed the decision of the lower court, and it was again reaffirmed in *Armstrong v. Marmaduke*, 31 Mo., 327.

<sup>83</sup> For the responsibility of the master for injury done by his slave to that of another during the Spanish regime see F. L. Billon, *Annals of St. Louis*, vol. i, pp. 58-60.

<sup>84</sup> *Jennings v. Kavanaugh*, 5 Mo., 36.

<sup>85</sup> Quoted from an October issue of 1848 in the *History of Clay and Platte Counties*, p. 140. The date of issue is not given.



slaved women were probably the concubines of their masters, and were set free, because they had borne them children."<sup>86</sup>

The enslavement of Indians had nearly disappeared in the Eastern States before the cession of Louisiana, although the practice still existed in a modified form.<sup>87</sup> In the Mississippi Valley there was also a continuous opposition to the bondage of the Indian, but the custom could not easily be prevented in such an extensive region so far from the home government. Intertribal wars led to the sale of captives rather than to their execution, and the natural thirst of the Indian for liquor and his weakness for gaming placed before the whites a most lucrative traffic which they could not always forego.

As early as 1720 Bienville forbade the enslavement of the natives along the Missouri and the Arkansas rivers who had been taken in war by the "voyageurs" upon pain of the forfeiture of their goods.<sup>88</sup> In 1769 Governor O'Reilly also forbade the practice, but nevertheless it continued.<sup>89</sup> As late as 1828 it was declared by the Missouri supreme

<sup>86</sup> J. T. Scharf, *History of Saint Louis City and County*, vol. i, p. 304. On December 26, 1774, St. Ange de Bellerive bequeathed three Indian slaves, a mother and two children, to his niece, Madame Belestre; the mother was to be freed at the death of Madame Belestre and the children when twenty years of age (MS. St. Louis Archives, vol. iii, p. 289).

<sup>87</sup> J. C. Ballagh, *A History of Slavery in Virginia*, p. 50. The practice was prohibited by implication in 1691 and in 1777. There were vestiges of it, however, as late as 1806.

<sup>88</sup> "La Compagnie ayant appris que les voyageurs, qui vont traiter sur les rivières du Missouri et des Akansas, taschent de semer la division entre les nations sauvages et de les porter à se faire la guerre pour se procurer des esclaves qu'ils achettent, ce qui non seulement est contraire aux ordonnances du Roy, mais encore très préjudiciable au bien du commerce de la Compagnie et aux établissemens qu'elle s'est proposé de faire audit pays, elle a ordonné et ordonne par la présente au sieur de Bourmont, commandant . . . de faire arrester, confisquer les marchandises des voyageurs qui viendront traiter dans l'estendue de son commandement, sans prendre sa permission et sans luy declarer les nations avec lesquelles ils ont dessein de commercer.—Mande la compagnie au sieur Lemoyne de Bienville, commandant général de la colonie." October 25, 1720 (quoted by P. Margry, *Découvertes et Établissements Des Français Dans L'ouest et dans Le Sud de L'Amérique Septentrionale*, vol. vi, p. 316).

<sup>89</sup> *American State Papers, Miscellaneous*, vol. i, p. 380.



court that "Indians taken captive in war, prior to 1769, by the French, and held or sold as slaves, in the province of Louisiana, while the same was held by the French [are] . . . lawful slaves, and if females, their descendants likewise."<sup>90</sup> Six years later the same court repassed on this case. Two of the three judges decided that the holding of Indians as slaves was not lawful in Louisiana under either France or Spain.<sup>91</sup> Thus Indian slavery passed away in Missouri. It was already practically extinct, as little or no mention of it is made after the American occupation.

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<sup>90</sup> *Marguerite v. Chouteau*, 2 Mo., 59.

<sup>91</sup> *Marguerite v. Chouteau*, 3 Mo., 375. Judge Wash dissented. An historical discussion of Indian servitude can be found in this decision.

## CHAPTER III

### THE SOCIAL STATUS OF THE SLAVE

In discussing the social relations of the slave it is difficult to escape being commonplace. Many points in the everyday experience of the negro have been incidentally touched in the preceding pages of this study. The ordinary life of the slave was very similar to that of the negro of today in so far as it was affected by temperament and inclination, hence it will be the endeavor of this chapter to deal simply with the more vital points of slave existence, mentioning only a few of the numerous items gathered on the different phases of the subject.

A question which caused much concern both to the slaveholder and to his antislavery critic was the education of the slave and of the free negro. After the different servile insurrections many of the eastern slave States enforced more rigidly old laws or passed new ones forbidding the teaching of the slaves. This was done largely to prevent the negroes from reading the abolition literature then being sent South.<sup>1</sup> Missouri, however, was less subject to social than to political or financial hysteria. Never having a slave population equal to more than a fifth of the total, being far from the insurrections to the east and south, and each master averaging so few negroes, Missouri seems not to have been affected by the movements which concerned so many of

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<sup>1</sup> Commenting on the North Carolina law of 1830 which prohibited the teaching of the slaves to read and write, J. S. Bassett says: "This law was no doubt intended to meet the danger from the circulation of incendiary literature; yet it is no less true that it bore directly on the slave's religious life. It cut him off from the reading of the Bible—a point most insisted on by the agitators of the North. . . . The only argument made for this law was that if a slave could read he could soon become acquainted with his rights" ("Slavery in the State of North Carolina," in *J. H. U. Studies*, series xvii, p. 365).

the slave States. She did not change her law in common with them, although much of it was originally copied from Kentucky and Virginia.

When the Missouri country passed into the hands of the United States, education among the old French settlers was at a very low point, and undoubtedly the condition of their slaves was worse. As late as 1820, long before a law had been passed to prevent the teaching of negroes, a slave who could read was something of a novelty. A fugitive is thus described in a paper of that year: "Ranaway . . . a negro man named Peter. . . He pretends to be religious and can read a little."<sup>2</sup> Apparently his ability to read was calculated to attract attention.

An apprenticeship law of 1825 relieved the master from the duty of teaching negro and mulatto apprentices reading, writing, or arithmetic, but "if such apprentice or servant be a free negro or mulatto he or she shall be allowed, at the expiration of his or her term of service, a sum of money in lieu of his education to be assessed by the probate court."<sup>3</sup> This provision seemingly had no reference to masters who desired to teach their slaves. In May, 1836, the faculty of Marion College forbade their students to instruct "any slave to read without the consent of his owner being first given in writing."<sup>4</sup> From this statement it is learned that the teaching of slaves must have been practiced by some masters at least.

Either to conform to the law and practice in the Southern States or because of interference on the part of abolitionists, a statute was passed in 1847 which provided that "no person shall keep or teach any school for the instruction of any negroes or mulattoes, in reading or writing in this State"

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<sup>2</sup> St. Louis Enquirer, June 14, 1820.

<sup>3</sup> Session Laws, 1825, p. 133, sec. 5.

<sup>4</sup> Fourth Annual Report (1837) of American Anti-Slavery Society, p. 81. The Reverend J. M. Peck wrote from St. Charles in October, 1825: "I am happy to find among the slave holders in Missouri a growing disposition to have the blacks educated, and to patronize Sunday Schools for the purpose" (R. Babcock, Memoir of John Mason Peck, p. 210).

under a penalty of five hundred dollars or not more than six months' imprisonment or both.<sup>5</sup> This statute was broken by indulgent masters and their families. "Many of us," says a prominent citizen of Lafayette County, "taught our niggers to read despite the law, but many of them refused to learn."<sup>6</sup> A colored educator of St. Louis asserts that Catholic sisters in that city often taught illegitimate colored girls, while free colored women, under the guise of holding sewing classes, taught negro children to read. Sometimes slave children slipped into these classes. Such a school was carried on by a Mrs. Keckley (colored) of St. Louis.<sup>7</sup>

As will be seen later, rigorous laws, increasing in severity in proportion to the activity of free-state neighbors in assisting slaves to escape, were passed to prevent negro assemblages, whether religious or social.<sup>8</sup> Nevertheless the patriarchal Missouri system fostered the religious instruction of the slave. The antebellum frontiersman was very religious and very orthodox, and the newspapers, the public speeches, and even the journals of the General Assembly abound in expressions of deep fervor. It was not a busy industrial society, and outside of St. Louis and a few other sections the liberal alien was as yet hardly known. The northern clergy with their developing unitarianism were abhorred. The master and the mistress and even the children considered themselves personally responsible for the spiritual welfare of the slave. In the rural sections the bondman usually attended his master's church.<sup>9</sup> "In the old Liberty Baptist church the servants occupied the northeast corner. After the whites had partaken of the Communion the cup was passed to the slaves," says a con-

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<sup>5</sup> Session Laws, 1846, p. 103, secs. 1, 5.

<sup>6</sup> Captain Joseph A. Wilson.

<sup>7</sup> Statement of Professor Peter H. Clark.

<sup>8</sup> Pages 179-181.

<sup>9</sup> "Uncle" Peter Clay of Liberty stated that he went to the Baptist Church because his master did, but that after the War he joined the Methodist Church "because the Nothen Methodists stood foh freedom from slavery an freedom from sin."



temporary.<sup>10</sup> Very often the negroes were placed in the gallery. William Brown, a fugitive Missouri slave, declares that the slaves were instructed in religion at the owner's expense as a means of making them faithful to their masters and content in their state of servitude. He admits, however, that the owner really had a pious desire to give his negroes Christian training.<sup>11</sup> The restriction on negro preachers will be treated later.<sup>12</sup>

The statistics given of the various churches include the free colored along with the slaves, and hence are of little value in obtaining an idea of slave membership. In St. Louis, where there was a large free negro population, both classes seem to have attended the same churches, one colored minister, the Reverend Richard Anderson, having a flock of one thousand, "fully half of whom were free."<sup>13</sup> The other half must necessarily have been slaves. The St. Louis Directory of 1842 mentions two colored churches, each having a pastor.<sup>14</sup> Another negro church, organized in 1858, had seventy-five members.<sup>15</sup> That slaves, whether Protestant or Catholic, were often very devout is indicated by numerous touching accounts.<sup>16</sup>

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<sup>10</sup> Statement of Colonel D. C. Allen of Liberty. "Uncle" Eph Sanders of Platte City said that the slaves had a corner in the Baptist Church in that town and partook of the Sacrament after the whites and from the same cup.

<sup>11</sup> Pp. 36, 83. A traveller passing through Independence in 1852 heard a negro preacher say in a sermon, "It is the will of God that the blacks are to be slaves . . . we must bear our fate." This writer heard that the blacks believed that bad negroes became monkeys in the next world, while the good ones became white and grew wings (J. Froebel, *Seven Years Travel in Central America . . . and the Far West of the United States*, p. 220).

<sup>12</sup> Page 180.

<sup>13</sup> Anderson, p. 12.

<sup>14</sup> These were the Reverend John Anderson, Methodist, Green and Seventh Streets, and the Reverend J. Berry Meachum, Baptist, South Fifth Street (p. vi).

<sup>15</sup> Scharf, vol. ii, p. 1697.

<sup>16</sup> The Reverend Timothy Flint, a Presbyterian missionary, states that in September, 1816, he celebrated Communion at St. Charles. On that occasion a "black servant of a Catholic Frenchman," running in, fell on his knees and partook of the Sacrament with passionate devotion (*Recollections of the Last Ten Years in the Valley of the Mississippi*, p. 112).

The relations between the old French inhabitants of Missouri and their slaves were very close. The Catholic church was the special guardian of the bondman. It was very common for the white mistress to stand as sponsor for the black babe at its baptism, or for the slave mother to act as godmother to the master's child.<sup>17</sup> The following entry may be read in the records of the St. Louis Cathedral: "On the thirtieth October 1836, I baptized William Henry, six weeks old, and John, six years old, both slaves belonging to Mr. H. O'Neil, born of Mary, likewise Slave belonging to Mr. H. O'Neil, Sponsors were Henry Guibord and Mary O'Neil. Jos. A. Lutz."<sup>18</sup>

The Catholic church considered slavery as a part of the patriarchal life of the old French settlements. The growth of the country, however, soon commercialized the system, the French families becoming as prone to slave-dealing as were the newcomers. One has but to examine the probate records of the older counties to realize this fact. The Catholic clergy themselves often held slaves whom they did not govern very strictly. Some of the religious orders inherited negroes,<sup>19</sup> and in 1860 St. Louis University paid taxes on six slaves.<sup>20</sup>

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<sup>17</sup> Father D. S. Phelan of St. Louis said that he officiated at such baptisms. "The relations between the master's family and the slaves were close," he said. "I have seen the black and the white child in the same cradle, the mistress and the slave mother taking turns rocking them."

<sup>18</sup> MS. Records, St. Louis Cathedral, Baptisms 1835-1844, p. 37. Scharf counted 945 negro baptisms in Roman Catholic parishes in St. Louis up to 1818 (vol. i, p. 171). The present author, in company with Father Schiller of the Roman Catholic Cathedral, found several entries in the records similar to the above.

<sup>19</sup> Father Phelan stated that he once owned a couple of slaves but never knew what became of them. He remembers that the Lazarus Priests and other orders were at times bequeathed negroes.

<sup>20</sup> MS. Tax Book, St. Louis, 1860, Book P to S, p. 220. Bishops Rosati and Kenrick were taxed with no slaves, according to the St. Louis tax books covering the years 1842-60. The old Cathedral choir of the thirties and forties, led by Judge Wilson Primm, contained among others "Augustine, a mulatto slave of Bishop Dubourg, a fine tenor" (W. C. Breckenridge, "Biographical Sketch of Judge Wilson Primm," in Missouri Historical Society Collections, vol. iv, no. 2, p. 153).

The marriage relation of the slaves was necessarily lax, as the right of the owner to separate the parties was a corollary of his property right. This was the subject of very bitter criticism by antislavery people, as most of the churches admitted that the removal of either party sundered the marriage bond. A Unitarian minister of St. Louis wrote indignantly that "the sham service which the law scorned to recognize was rendered by the ministers of the gospel of Christ."<sup>21</sup> He also states that a religious ceremony was "according to slavery usage in well regulated Christian families."<sup>22</sup> William Brown, a Missouri refugee, says that the slaves were married, usually with a ceremony, when the owner ordered, but that the parties were separated at his will. He declares that he never heard of a slave being tried for bigamy.<sup>23</sup> Scharf claims that the official registration of a slave marriage was almost unknown in St. Louis.<sup>24</sup>

On the other hand, the Catholic church regularly married slaves and held the tie to be as sacred as any other marriage. The following entry appears in the Cathedral records: "On the twenty-fourth of December, Eighteen Hundred and twenty-eight the undersigned Parish priest at St. Louis received the mutual consent at Marriage between Silvester slave of Mr. Bosseron born in St. Louis and Nora Helen slave of Mr. Hough born in the city of Washington and gave them the nuptial benediction in the presence of the undersigned witnesses. Wm. Sautnier." Then follow the

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<sup>21</sup> W. G. Eliot, app., p. i.

<sup>22</sup> *Ibid.*, p. 40.

<sup>23</sup> P. 88.

<sup>24</sup> Vol. i, p. 305, note. In the *Republican* of February 16, 1854, there is the complaint of a free negress that her husband had taken another wife. "As the subject of the second marriage is a slave, and some fears being entertained that he might take her out of the state to the injury of the master, the City Marshall sent some police officers in search of him and had him arrested." Financial loss rather than moral delinquency seems to have been the burden of interest in this matter.



crosses which represent the signatures of Silvester, Nora Helen, and four other slaves and one free negro.<sup>25</sup>

Several old slaves were questioned regarding the subject of marriage, and their statements show differences in practice. One said that he and his wife liked one another, and as they both belonged to the same master they "took up" or "simply lived together," and that this arrangement was the custom and nothing was said.<sup>26</sup> A negro of Saline County who was a child in slavery days stated that his parents belonged to different persons, and, by the consent of both, were married by the squire. The children went to the mother's master. After the War they were again married in conformity with the new state constitution.<sup>27</sup> Doubtless the experience of many slave families was similar to this last.

The slave marriage was never recognized by the law, consequently a statute was passed in 1865 requiring a legal marriage of all slaves in the State under a penalty.<sup>28</sup> An illustration of the legal position of the old slave marriage is best gained from a reading of the case of *Johnson v. Johnson*, which was handed down by the state supreme court in 1870. Here it was held that the old slave marriages were simply moral agreements and had no legal force whatever.<sup>29</sup>

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<sup>25</sup> MS. Records, St. Louis Cathedral, Register of Marriages 1828-1839, p. 10. Father Phelan stated that Catholics never sold their slaves and thus escaped the predicament of severing a Church marriage. The probate records, however, belie his statement. The Chouteaus, Chenies, and other Catholic families bought and sold many slaves.

<sup>26</sup> "Uncle" Henry Napper of Marshall.

<sup>27</sup> John Austin of Marshall.

<sup>28</sup> This law reads: "In all cases where persons of color, heretofore held as slaves in the State of Missouri, have cohabited together as husband and wife, it shall be the duty of persons thus cohabiting to appear before a justice of the peace of the township where they reside, or before any other officer authorized to solemnize marriages, and it shall be the duty of such officer to join in marriage the persons thus applying, and to keep a record of the same." The children previously born to such parties were thereby legitimized. A fee of fifty cents was received by the recorder and sent to the one who performed the ceremony. Those refusing to be thus married were to be criminally prosecuted (Statutes, 1865, ch. 113, secs. 12-16).

<sup>29</sup> "In this State marriage is considered a civil contract," said



Crime was existent among the negroes in the slavery period, although it is often asserted that the black man has degenerated since his emancipation and a mass of revolting crimes is cited in evidence. If more crimes are committed today than in slavery days, it must be remembered that there are three negroes in the South today to one in 1860, and that a massing of population in towns undoubtedly increases crime. It was to the financial advantage of the master to shield his slave and smother his crimes, while today the race problem and race feeling encourage an airing of the failings of the blacks.

While at times the misbehavior of the slave and the free negro worked the populace into mob violence, such action was of a local and temporary nature.<sup>30</sup> Neither the legisla-

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the court, "to which the consent of the parties capable in law of contracting is essential. In none of the States where slavery lately existed did the municipal law recognize the marriage rites between slaves. . . . They were responsible for their crimes, but unconditional submission to the will of the master was enjoined upon them. By common consent and universal usage existing among them, they were permitted to select their husbands and wives, and were generally married by preachers of their own race, though sometimes by white ministers. They were known and recognized as husband and wife by their masters and in the community in which they lived; but whatever moral force there may have been in such connections, it is evident there was nothing binding or obligatory in the laws. . . . The slave, in entering into marriage, did a moral act; and though not binding in law it was no violation of any legal duty. If, after emancipation, there was no confirmation by cohabitation or otherwise, it is obvious that there would be no grounds for holding the marriage as subsisting or binding. . . . That in his earlier days he was previously married can make no difference. His first marriage in his then state of servitude had no legal existence; he was at liberty to repudiate it at pleasure; and by his continuing to live with respondent and acknowledge her as his lawful wife after he had obtained his civil rights, he disaffirms his first marriage and ratifies the second" (45 Mo., 598). "Uncle" Henry Napper of Marshall stated that he knew many negroes who took advantage of the interpretation of the new statute to leave the neighborhood and marry a young wife.

<sup>30</sup> In 1837 the governor "unconditionally" pardoned a slave woman who had been condemned for murder. His action caused no popular criticism (House Journal [Journals of the General Assembly of Missouri, House and Senate Journals], 9th Ass., 1st sess., p. 319). But when in 1854 a slave, condemned by the supreme court for raping a white girl, was pardoned, the Republican of February 7 stated editorially: "We are at a loss to determine upon what grounds the Executive thought proper to exercise his clemency . . . it was

tion nor the court decisions seem to have been influenced by any crimes on the part of the slaves. Of the two negro cases which caused the most feeling, one, the McIntosh affair of 1836, concerned a free negro, and the other, that of "Jack" Anderson, was a murder committed by a slave who had resided for some time in Canada.<sup>31</sup> Consequently there was no such feeling toward the slave as there was throughout the period toward the free negro. The Missourian, though irritated by political interference with his property and bitter against those who sought to carry off his blacks, had a rough good humor, and apparently exercised a spirit of fairness toward his bondmen.

The old slave masters without exception declare that the system was patriarchal in Missouri and that the bond between the owner and the owned was very close. The small number of slaves held by the vast majority of the masters was one reason for this condition. When the young Virginian or Kentuckian and his negroes emigrated to far-off Missouri, they suffered in common the pangs of parting, and together went to develop the virgin soil amid common dangers and common hardships. Thus there undoubtedly grew up an attachment that the older communities had long since outgrown.

For the territorial period there is evidence that the rela-

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an outrage of the most flagrant character, and deserved the severest punishment." Even this criticism of the court seems very calm considering the color of the offender.

<sup>31</sup> Francis McIntosh, a powerful negro, stabbed two officers who were escorting him to prison. He was burned by a St. Louis mob. A full account of this event is given in J. F. Darby, *Personal Recollections of Men and Events in St. Louis*, pp. 237-242. See also below, p. 117. Anderson had escaped to Canada. While on a visit to Missouri to remove his family he was apprehended by Seneca Diggs of Howard County, whom he shot (September 24, 1859). This episode caused much excitement. His extradition was still pending when the Civil War opened, as he had again fled to Canada. On March 27, 1861, certain citizens of Howard County were petitioning for money advanced by them to prosecute Anderson (*Session Laws, 1860*, p. 534). There is also a short account of this episode in W. H. Siebert, *The Underground Railroad from Slavery to Freedom*, p. 352. This affair is discussed, and also the action of the Canadian authorities and courts, in the *Twenty-Eighth Annual Report of the American Anti-Slavery Society (1861)*, pp. 167-170.

tion between the races was friendly. Judge J. C. B. Lucas of St. Louis, a man who certainly had no love for the slavery system and who in 1820 advocated its restriction, admitted this fact. "I confess," he wrote, "that I do not entertain very serious apprehension of slaves as domestics . . . they are usually treated with a degree of humanity, and not infrequently of paternal affection. The opportunities they have to observe the conduct of the master's family, to attend public worship, and the satisfaction they receive from enjoying in a reasonable degree the comforts of life, generally induces them to respect the rights of others and be harmless."<sup>32</sup>

This condition of fellowship between master and man, made possible by deep respect on the part of the slave, continued on to the Civil War in many rural communities. "The Missouri slave holders," said Mr. Robert B. Price of Columbia, "were not such through choice. They inherited their negroes and felt duty bound to keep them." Colonel J. L. Robards of Hannibal stated that his father left him a number of slaves to whom he was fondly attached and whom he considered as a family trust. Mr. E. W. Strode of Independence claims that the negro was closely united to the master's family. Mr. Strode stated that his grandfather required in his will that the slaves be kept in the family, and that they were so held till the Civil War. "The children of the master," said Mr. Strode, "played and fought with the slave children with due respect, there being no need for race distinction."

The slave not only worshipped at his master's church and partook of the same sacraments as his master, but was ministered to by the same pastor and attended by the family physician.<sup>33</sup> In the quaint little cemetery south of Colum-

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<sup>32</sup> Letter in the Missouri Gazette of April 12, 1820.

<sup>33</sup> Although as property the slave was naturally well protected, yet the following item shows how really sincere the master generally was in the care of his slaves. This news item appeared in the Missouri Intelligencer in 1835: "We with pleasure announce for the benefit of the public, that on Wednesday last, Dr. William Jewell of this Town [Fayette], successfully performed the great operation of



bia, where lie William Jewell and Charles H. Hardin, rest also the family servants. The latter are buried together side by side under small marble markers in the further side of the lot. Nothing can give a better impression of the strong tie between the slave and his master. This presents an idea of the system in its ideal state and under men who both intellectually and politically made life brighter in Missouri. "My mother," said Mr. R. B. Price, "labored incessantly to clothe and nurse our slaves—with no thought of any ulterior motive." Thus there is presented a picture of the system in the hands of the responsible and the conscientious, but economic pressure, human depravity, and greed too often made the picture morbid and disgusting. Herein lay the weakness of the system. The comparatively unlimited power of the master might be used for the blessing of the slave, or for his misery.

A general view of the condition of the Missouri slave can be gained from the recollections of one of the most eminent antislavery statesmen of the period, General George R. Smith of Sedalia. "The negroes," he wrote, "had Saturday 'evenings' as the afternoons were called, in which to do work for themselves; and what they made during this time they could sell and so get a little money. For money, however, they had little need, as they had no opportunities for higher life. . . . The masters were usually humane and there was often real affection between master and slave—very often great kindness. There were merciful services from each to the other: there was laughter, song, and happiness in the negro quarters. . . . The old negroes had their comfortable quarters, where each family would sit by their own great sparkling log fires. . . . They sang their plantation songs, grew hilarious over their corn shuckings and did the bidding of their gracious master. Their doctor's

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Lithotomy, or cutting for stone in the bladder. . . . The individual operated upon by the Doctor was a little yellow boy, about eight years of age, the property of Archibald W. Turner, Esq." (quoted in the *Jeffersonian Republican* of May 2, 1835, from an unknown issue of the *Intelligencer*).



bills were paid; their clothing bought, or woven by themselves in their cabins, and made by their mistress; their sick nursed; and their dead laid away,—all without thought from themselves.”<sup>34</sup> “I was but a lad in slavery days,” says Mr. Dean D. Duggins of Marshall, “but my recollections of the institution are most pleasant. I can remember how in the evening at husking time the negroes would come singing up the creek. They would work till ten o’clock amidst singing and pleasantries and after a hot supper and hard cider would depart for their cabins. The servants were very careful of the language used before the white children and would reprove and even punish the master’s children.”<sup>35</sup> “How well I remember those happy days!” wrote Lucy A. Delaney. “Slavery had no horror then for me, as I played about the place, with the same joyful freedom as the little white children. With mother, father, and sister, a pleasant home and surroundings, what happier child than I!”<sup>36</sup>

The life of the slave was often made happy by privileges which a negro can appreciate as can no one else. Colonel R. B. C. Wilson of Platte City says that the happiest hours of his life were on Saturday afternoons in the slavery days when he and the negroes and dogs went tramping through the woods for game. The slaves had their dances under

<sup>34</sup> S. B. Harding, *Life of George R. Smith*, pp. 50–51. As General Smith spent his life in Kentucky and Missouri, it may be inferred that he here refers to slave life in these States.

<sup>35</sup> Major G. W. Lankford of Marshall stated that the old servants often made the master’s children behave. Captain Joseph A. Wilson of Lexington tells the following story: “One day my brother, a slave girl, and myself were playing with sticks which represented river boats. We had seen the boats run past the landing and then turn about and land at the dock prow foremost. But the slave girl insisted on running her boat in backwards. My mother, who was in an adjoining room, soon heard the slave girl give a great howl, screaming that Henry had slapped her. ‘Henry, why did you strike that child,’ said mother. ‘Well, she is always landing stern first,’ protested Henry. This anecdote shows how paternal the system was in our part of the state.”

<sup>36</sup> P. 13. Later Lucy Delaney had less humane masters and mistresses. Her book, few copies of which are now extant, gives a good picture of slave life in St. Louis, despite her hostile attitude toward the system.

regulations and with officers present. The circus was also open, occasionally at least, to the slaves, who with the children went in for half price.<sup>37</sup>

The treatment of the negro was seen from various angles by contemporaries. One general statement was that "the slaves were universally well treated, being considered almost as one of the other's family . . . and in all things enjoyed life about as much as their masters."<sup>38</sup> Frank Blair, who worked for emancipation and colonization throughout his career, said in a speech at Boston in 1859 that the Missouri slaveholder was kind to his negro.<sup>39</sup> Blair was certainly not a man to trim for political purposes by praising slave-owners, especially in Boston. Gottfried Duden, who visited Missouri in 1824-27, declared that the slave in the grain-producing States was well off—as well or better situated than the day laborer of Germany.<sup>40</sup> Another German, Prince Maximilian of Wied, who travelled about the State in 1832-34, remarked that "though modern travellers represent in very favorable colors the situation of this oppressed race, the slaves are no better off here than in other countries. Everywhere they are a demoralized race, little to be depended upon. . . . We were witnesses of deplorable punishments of these people. One of our neighbors at St. Louis, for instance, flogged one of his slaves in the public

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<sup>37</sup> The following advertisement is found in the *St. Joseph Commercial Cycle* of June 29 and July 6, 1855: "E. T. and J. Mabies' Grand Combined Menagerie. . . . Admission 50 cents: children and servants 25 cts." The word "servant" was applied through the South to the negro slave in polite language. In the law, however, as in formal language, the word "slave" was used.

<sup>38</sup> H. C. Levens and U. M. Drake, *A History of Cooper County, Missouri*, p. 120. A secondary authority gives a similar picture of the happiness and the close relation of the races in the territorial period. He even goes so far as to declare that "they [the master and his slave] counseled together for the promotion of their mutual interests: the slave expressed his opinion . . . as freely as his mistress or master; nor did he often wait to be solicited." No authority for this statement is given (D. R. McAnally, *A History of Methodism in Missouri*, vol. i, pp. 146-147).

<sup>39</sup> F. P. Blair, Jr., *The Destiny of the Races of this Continent*, p. 25.

<sup>40</sup> *Bereicht ueber eine Reise nach den Westlichen Staaten Nordamerika's*, p. 146.

streets, with untiring arm. Sometimes he stopped a moment to rest, and then began anew."<sup>41</sup>

The physical punishment of the slave was the joint of antislavery attack, and was undoubtedly an often abused necessity on the part of the owner. "We treated our slaves with all humanity possible considering that discipline had to be maintained," said Colonel D. C. Allen of Liberty. It has always been argued that corporal suasion alone could influence a creature as primitive as the slave. The law forbade unnecessary cruelty to slaves and public sentiment opposed it. The Reverend William G. Eliot, though having very decided antislavery views, stated that "the treatment of slaves in Missouri was perhaps exceptionally humane. All cruelty or 'unnecessary' severity was frowned upon by the whole community. The general feeling was against it."<sup>42</sup> Another antislavery clergyman, the Reverend Galusha Anderson, said that the St. Louis slaves were mostly well treated, but that he knew of several notorious cases of bad treatment.<sup>43</sup> Those who had no sympathy with the system easily found much that was revolting.<sup>44</sup> Reports coming from such sources make no mention of the benefits which partly counterbalanced the evils.

Exact knowledge of the treatment of the slave is difficult to reach. A wide difference of opinion is found even among

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<sup>41</sup> "Travels in the Interior of America," in R. G. Thwaites, *Early Western Travels*, vol. xxii, p. 216.

<sup>42</sup> W. G. Eliot, p. 39. He mentions several cases of very cruel treatment that he observed (*ibid.*, pp. 39, 91-94, 101-103).

<sup>43</sup> P. 170.

<sup>44</sup> Brown, pp. 28-38. He dwells upon several very disgusting instances which he witnessed as a Missouri slave. Dr. John Doy gives several tales of cruelty which he both saw and heard while a prisoner at Platte City and St. Joseph (pp. 61-62, 94-99, 102-103). The American Anti-Slavery Society tract, "American Slavery as It Is (1839)," is rich in revolting tales, and contains several accounts of events which it claims took place in Missouri (pp. 71, 88-89, 127, 158). A Virginia slaveholder on his way to Kansas, where he later joined a company of Southern Rangers, stopped in Missouri for a few weeks. He prevented a mule dealer named Watson from beating his negro with a chain. "If he had not been checked when he was so mad, he might have killed the poor darkey, and nothing would have been thought of it" (Williams, p. 69).



contemporaries living in the same locality. Colonel D. C. Allen of Liberty asserted that he had never witnessed any instances of bad treatment, while "Uncle" Eph Sanders, an old Platte County slave, stated that for every kind master there were two brutes who drove their negroes as they did their mules. "But my own master," said "Uncle" Eph, "was very good. The slaves were treated about like his own family. He allowed no one to mistreat us and hated the hard masters of the neighborhood." As it would be impossible to reduce the matter to mathematical exactitude, we must be content to generalize from the particular instances given.<sup>45</sup>

Self-interest naturally prevented treatment that was severe enough to affect the slave physically, except in the case of an owner blind to all sense of his own advantage. Captain J. A. Wilson of Lexington, a man of clear insight and one who saw the evils as well as the good in the system, says: "There was not much public whipping. It was an event which attracted a crowd and was thought worthy of comment. It made the slave resentful, if he was innocent, and but hardened him if he was guilty. If a slave bore the scars of the lash his sale would be difficult. In Lafayette county ill treatment of the slave was condemned. William Ish killed one of his slaves with a chisel for not working to suit him. The public sentiment was bitter against him. He spent a fortune to escape the penitentiary." J. B. Tinsley of Audrain County threatened to prosecute the patrol for whipping one of his slaves.<sup>46</sup> A slave was once whipped by the patrol as he was returning at night from the livery stable in Lexington where he was hired. The hirer sued the patrol, as the negro was on legitimate business.<sup>47</sup> From

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<sup>45</sup> Anice Washington of St. Louis said: "Some slaves were very bad and they deserved to be whipped. My master once struck me when I was a girl and I have the scar on my wrist yet. I refused to go and get the cows when he ordered. I was owned by two masters. One treated me much better than the other, but he was better off."

<sup>46</sup> Statement of Mr. J. W. Beatty of Mexico.

<sup>47</sup> "Uncle" Peter Clay of Liberty.



what could be learned the slaves, while by no means considered as equals or comrades, were very jealously guarded by their masters. Missouri was so surrounded by free territory that it was necessary to keep the negro in as good humor as possible.

The punishment of the slave for indolence, sedition, and other forms of misconduct was largely left to the master. The State punished the negro for crime, but could hardly be expected to enforce the master's personal demands upon him. However, in some cases the public took an interest in the matter. An ordinance of Jefferson City permitted owners having "refractory" slaves to require an officer to give them "reasonable punishment." The constable or other official so whipping the slave was to receive for his services fifty cents, which was collectable as were his other fees.<sup>48</sup>

The amount of labor required of the slave has already been considered.<sup>49</sup> Some were undoubtedly cruelly worked. William Brown, a slave who lived on a tobacco and hemp plantation "thirty or forty miles above St. Charles on the Missouri River," says that the slaves were given ten stripes with a loaded whip if not in the fields at four-thirty in the morning, and that their wounds were washed with salt water or rum.<sup>50</sup> This may be a true account, but it was exceptional. However, other cases of long hours have been found. Anice Washington stated that while a slave in Madison County she went to the fields at four, and after supper spun or knit till dark. "We had dinner at noon of meat and bread with greens or other vegetables in summer, and bread and milk for supper. While in St. Francis county I did not have enough to eat." "I had a good master," said a Saline County slave, "and had plenty to eat. We had three meals a day—bacon, cabbage, potatoes,

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<sup>48</sup> Mandatory Ordinance relative to the City Police, and to Prevent and Restrain the Meeting of Slaves, of June 16, 1836, sec. 5. (Jeffersonian Republican, June 25, 1836).

<sup>49</sup> Above, pages 26-27.

<sup>50</sup> Pp. 14, 20-24.

turnips, beans, and some times molasses, coffee, and sugar. We also had milk and some times butter. We got a little whiskey at harvest. We were in the field before sun-up but were not worked severely. One of the neighboring farmers had a lot of slaves and he was a hard man. He shoved 'em through. We had another neighbor who unmercifully whipped his slaves if they shirked."<sup>51</sup> A Platte County slave declared that he had a good master and had plenty to eat and wear. "We were given liquor in harvest and had no Saturday afternoon nor Sunday work. Christmas week was also a holiday. But all slaves were not treated so well. I have seen mothers go to the field and leave their babies with an old negress. They could go to them three times during the day."<sup>52</sup> This negro's wife stated that she was once hired out by her mistress, and often had only sour rice and the leavings of biscuits to eat. "Uncle" Peter Clay of Liberty said that he was well enough fed and was given whiskey at harvest, corn shuck-ing, and Christmas time.

Although bitterly opposed to slavery, the abolitionist, George Thompson, in order to prove that the negro was capable of making his own way, stated that while a prisoner in the Palmyra jail in 1841 he saw slaves who were certainly anything but oppressed. "The slaves here, on the Sabbaths, dress like gentlemen. They get their clothes by extra work, done on the Sabbaths and in the night, and yet they can't take care of themselves. Shame on those who hide under this leaf."<sup>53</sup> The War brought no immediate relief to many of the slaves, as the reports of the Western Sanitary Commission show. "At one time an order was

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<sup>51</sup> Henry Napper of Marshall. Thomas Summers of Cape Girardeau lived near Jackson in slavery days. "I was never exposed in such weather nor worked so hard while a slave as since I have been free," he said, "but I would rather be free and eat flies than be a slave on plenty." His mistress made the clothes of the slaves and they were well fed. He remembered few slaves being cruelly used in the county.

<sup>52</sup> Eph Sanders of Platte City.

<sup>53</sup> P. 42.

issued forbidding their payment [for excavating, teaming, and other camp work] on the ground that their master would have a claim against the Government for their services. All the while they were compelled to do most of the hard work of the place [St. Louis] and press gangs were sent out to take them in the streets. . . . Sometimes they were shot down and murdered with impunity. They were often driven with their families into 'Camp Ethiopia' with only cast off army tents to shield them. At one time an order was issued driving them out of the Union lines and into the hands of their old masters."<sup>54</sup>

So much has been written on the life of the slave, and so much of this has been argumentative, that little more than a brief sketch of the everyday life of the slave has been attempted here.

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<sup>54</sup> Rev. J. G. Forman, *The Western Sanitary Commission* (1864), pp. 111-112.

## CHAPTER IV

### THE SLAVERY ISSUE IN POLITICS AND IN THE CHURCHES

The motives behind the fight for statehood in Missouri during the years 1819-21 have been discussed by several writers.<sup>1</sup> The opinion of the majority of authorities on this subject is that the sentiment of Missouri in 1819 shifted from the old Jeffersonian dislike of slavery, or at least from a cold support of the system, to an avowed proslavery position. This change of attitude is said to have been caused by the attack of the northern representatives in Congress on Missouri's efforts to secure statehood, this northern opposition being based on avowed hostility to slavery extension. This is the orthodox view, and it is held by those who declare that the South at heart had no great solicitude for slavery till northern interference pricked her pride. At first glance this appears plausible, but a closer inspection of the materials relating to the period shows this opinion to be both superficial and unreasonable.

The people of Missouri were in favor of slavery from the earliest days of its existence as a Territory. Even before Missouri became a Territory her citizens had what appears to have been more than a mere nominal attachment to "the peculiar institution." On January 4, 1805, the settlers about

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<sup>1</sup> F. H. Hodder, "Side Lights on the Missouri Compromises," in *American Historical Association Reports*, 1909, pp. 151-161; L. Carr, *Missouri: A Bone of Contention*, ch. vi, vii; F. C. Shoemaker, *The First Constitution of Missouri*. The author of the present study treated this point briefly in his "Slavery in Missouri Territory," in *Missouri Historical Review*, vol. iii, no. 3, pp. 196-197. Governor Amos Stoddard in discussing slavery in Louisiana refers rather to the system as he viewed it on the lower Mississippi. Speaking of the slave States as a whole he says: "Their feelings, and even their prejudices, are entitled to respect; and a system of emancipation cannot be contrived with too much caution" (*Sketches Historical and Descriptive of Louisiana*, p. 342).



St. Louis protested warmly at being joined to the Indiana Territory under the title of "The District of Louisiana." Their pride was touched and their grievances were many, but of all their complaints the fear for their slave property seems to have been one of the most weighty. Their memorial to Congress reads as follows: "Slaves cannot exist in the Indiana Territory, and slavery prevails in Louisiana, and here your petitioners must beg leave to observe to your honorable Houses, that they conceive their property of every description has been warranted to them by the treaty between the United States and the French Republic. . . . Is not the silence of Congress with respect to slavery in the District of Louisiana, and the placing of this district under the government of a territory where slavery is proscribed, calculated to alarm the people with respect to that kind of property, and to create the presumption of a disposition in Congress, to abolish at some future day slavery altogether in the District of Louisiana?" Again they claimed that the treaty warranted "the free possession of our slaves, and the right of importing slaves into the District of Louisiana, under such restrictions as to Congress in their Wisdom will appear necessary."<sup>2</sup>

This last statement at least was no mere attempt to conserve existing property, but was an open desire to import blacks. The full force of the slavery issue, however, did not develop till the struggle for statehood opened. Petitions to this end are said to have been signed by citizens of Missouri Territory as early as 1817.<sup>3</sup> Apparently no mention of slavery was made in them. On January 8, 1818, the

<sup>2</sup> Representation and petition of the representatives elected by the Freemen of the territory of Louisiana. 4th January, 1805. Pp. 11-12, 22. This original printed petition is in the Library of Congress. The text of the petition can also be found in *American State Papers, Miscellaneous*, vol. i, pp. 400-405. One petition was signed September 29, and another September 30, 1804, at St. Louis (*ibid.*).

<sup>3</sup> L. Houck mentions one which was circulated in 1817 and was presented in 1818 (*History of Missouri*, vol. iii, pp. 243-245). Scharf quotes the *Missouri Gazette* of October 11, 1817, as stating that a memorial praying for statehood was being circulated (vol. i, p. 561, note).

speaker of the House of Representatives "presented a petition from sundry inhabitants of the Territory of Missouri praying that the said Territory may be admitted into the Union; on an equal footing with the original States."<sup>4</sup> John Scott, the territorial delegate, presented several similarly described papers on February 2 and March 16, 1818.<sup>5</sup> There is in the Library of Congress a printed petition signed by sixty-eight Missourians. It is not dated and makes no mention of slavery, though it deals extensively with territorial needs and abuses.<sup>6</sup>

That the Missouri of 1820 really had considerable slave property to fight for is evident. Between 1810 and 1820 the slave population of the Territory had grown from 3011 to 10,222.<sup>7</sup> That this gain was not simply the natural increase of the negroes of the old French settlers is learned from many sources. An item in the Missouri Gazette of October 26, 1816, says that "a stranger to witness the scene would imagine that Virginia, Kentucky, Tennessee, and the Carolinas had made an agreement to introduce us as soon as possible to the bosom of the American family. Every ferry on the river is daily occupied in passing families, carriages, wagons, [and] negroes." The same paper on June 9, 1819, gives the following report from St. Charles: "Never has such an influx of people . . . been so considerable, . . . flowing through our town with their maid servants and men servants . . . the throng of hogs and cattle, the whiteheaded children, and curlyheaded Africans." Another item in the same issue states that "170 emigrants were at the Portage des Sioux at one time last week." The papers for nearly every week from the above date are filled with similar statements. That the newcomers were of the kind to make

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<sup>4</sup> Annals of Congress, 15th Cong., 1st Sess., vol. i, p. 591.

<sup>5</sup> *Ibid.*, vol. ii, pp. 839, 1391. Alphonso Wetmore mentions a Missouri petition of 1818, but says nothing as to any slavery clauses being in it (*Gazetteer of the State of Missouri*, p. 212).

<sup>6</sup> This petition is in the Manuscripts Division. At least one signature has been removed and with it the lower right-hand corner, which perhaps also contained the date. It was printed by S. Hall of St. Louis.

<sup>7</sup> Federal Census, Statistical View, 1790-1830, p. 27.

Missouri a slave State there is no trouble in discovering. The *St. Louis Enquirer* of November 19, 1819, informs us that a citizen of St. Charles counted for nine or ten weeks an average of one hundred and twenty settlers' vehicles per week, with an average of eighteen persons per vehicle. "They came," it continues, "almost exclusively from the States south of the Potomac and the Ohio bringing slaves and large herds of cattle." The *Gazette* of January 26, 1820, states that "our population is daily becoming more heterogenous [sic] . . . scarcely a Yankee has moved into the country this year. At the same time Virginians, Carolinians, Tennesseans, and Kentuckians are moving in great force." The *St. Louis Enquirer* of November 10, 1819, claims that in October of that year two hundred and seventy-one four-wheeled and fifty-five two-wheeled vehicles passed "Mrs. Griffith's in the point of the Missouri," bound for Boone's Lick, and speculates that from ten to fifteen thousand people would settle in Missouri during the autumn. Timothy Flint, a New England clergyman, counted a hundred persons passing through St. Charles in one day. "I have seen . . . nine wagons, harnessed with from four to six horses. We may allow one hundred cattle . . . and from three or four to twenty slaves to each wagon. The slaves seem fond of their masters."<sup>8</sup>

This change in the character of the population is reflected in the personnel of the constitutional convention of 1820. According to one partisan paper there was not "a single confessed restrictionist elected."<sup>9</sup> At Mine à Burton the

<sup>8</sup> P. 201.

<sup>9</sup> *St. Louis Enquirer*, May 10, 1820. Benjamin Emmons of St. Charles is rumored to have been the only antislavery man in the convention. Vermont and New York are both said to have been his native State. If Emmons was marked as the only emancipationist in the convention, it is strange that he had the confidence of his fellow members to such an extent as he did. He was actually placed on the most important committee, considering the slavery agitation of the time,—the legislative committee, which drafted the slavery sections of the new constitution (*ibid.*, June 14, 1820). Emmons was later elected to the state Senate, and at a St. Charles mass-meeting of December 19, 1821, he was made chairman (*The Missourian*, January 24, 1822). Emmons was a tavern keeper, and his advertisement may be seen in the above issue.



"Manumission Men" were beaten by 1147 to 61 votes,<sup>10</sup> at St. Louis by about 3 to 1,<sup>11</sup> and in Cape Girardeau County by 4 to 3.<sup>12</sup> It therefore appears that this influx of newcomers had brought into the Territory many who had financial or hereditary reasons for favoring slavery. A letter of Judge J. B. C. Lucas of St. Louis, written October 27, 1820, confirms the fact that slavery was the basis, at least to a considerable extent, of the local struggle against restriction. "I was a candidate," wrote Judge Lucas, "for the state convention. I did not succeed because being requested to declare my sentiments on the subject of slavery, I expressed an opinion that it would be proper to limit the importation of slaves to five years or a short period from the date of the Constitution . . . the ardent friends of slavery, in all its extent and attributes, charged me, or suspected me to be hostile to the principles altogether, and contended that I dare not go the whole length of my opinion, knowing it to be unpopular. In fact I was called an emancipator and this is the worst name that can be given in the state of Missouri."<sup>13</sup> Judge Lucas also stated that as he was known to oppose the Spanish land claims these claimants, in order to procure his defeat—in which object they succeeded—spread the report that he opposed slavery.<sup>14</sup> If such an issue was raised to defeat a candidate, St. Louis at least must have been strongly proslavery in sentiment in 1820, but it was not the "Lawyer Junto" of that city alone which had this feeling, as will be seen later. It seems hardly possible that the hardheaded frontiersmen with their ten thousand slaves would thunder at Congress for two years on an abstract question of constitutional equality.<sup>15</sup>

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<sup>10</sup> St. Louis Enquirer, May 10, 1820.

<sup>11</sup> Missouri Gazette, May 20, 1820.

<sup>12</sup> St. Louis Enquirer, May 31, 1820.

<sup>13</sup> Lucas to Robert Moore (J. B. C. Lucas, Jr., comp., Letters of Hon. J. B. C. Lucas, from 1815 to 1836, pp. 28-29).

<sup>14</sup> Lucas to William Lowndes, November 26, 1821 (*ibid.*, p. 158); Lucas to Rufus King, November 16, 1821 (*ibid.*, p. 148).

<sup>15</sup> This view is somewhat stronger than that expressed in my former study of this period (see note 1 of this chapter). Professor Hodder is of the contrary opinion. He states regarding the sweep-



The immigration of southern settlers during the late territorial period changed the social complexion of Missouri. To this fact can be traced the real cause of the anxiety of the people to be admitted as a slave State. This lay at the heart of the outcry against the attempt of Congress to force conditions on the new commonwealth. The merits of the slavery question were soon obscured, and the excitement veered over into the constitutional field.<sup>16</sup> Slavery was theoretically condemned, and at the same time the right to import negroes was asserted. At least a denial of the right of Congress to prevent the introduction of slaves became the cry of the proslavery party. "No Congressional Restriction!" was the shibboleth of the day. "I regret as much as any person," declaimed John Scott, the territorial delegate in 1819, "the existence of Slavery in the United States. I think it wrong in itself, nor on principle would I be understood as advocating it; but I trust I shall always be an advocate of the people's rights to decide on this question . . . for themselves. . . . I consider it not only un-

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ing victory of the proslavery party in the constitutional convention election of 1820 that "the result seems to have been due not so much to any very strong sentiment in favor of slavery as to a fierce resentment bred by the Congressional attempt at dictation" (p. 155). Professor Woodburn agrees with this view. "It does not appear," he writes, "that any of those who argued for the free admission of Missouri ventured to defend the institution of slavery. . . . The defence for Missouri rested almost altogether on the constitutional phases of the question. They touched the evils of slavery only in minor and incidental ways" ("The Historical Significance of the Missouri Compromise," in *American Historical Association Reports*, 1893, p. 284). On the other hand, Frank Blair went so far as to say, "The effort [to restrict slavery] was defeated by the interposition of 10,000 slaves in Missouri, and the threat to dissolve the Union, unless permitted to constitute it a slave state" (*The Destiny of the Races of this Continent*, p. 7).

<sup>16</sup> This purely constitutional nature of the struggle is denied by a correspondent signing his name "X." He denies the charge that the slavery restrictionists favored congressional tyranny. "It is a notorious fact," he continues, "that many, if not all of the individuals who are opposed to slavery, were equally opposed to the interference of Congress on the subject." He also says that "every individual, who happened to believe slavery an evil, and its further introduction into Missouri prejudicial, have been indiscriminately abused" (*Missouri Gazette*, May 31, 1820).

friendly to the slaves themselves to confine them to the South, but wholly incompetent on Congress to interfere."<sup>17</sup>

In this same strain Henry Carroll, on presenting a resolution from Howard County against congressional interference, said: "There are none within my view, none it might be said in Boone's Lick country . . . who would not lend efficient co-operation to achieve all the good within their compass, and wipe from the fair cheek the foul stain which soils it . . . [but] a rejection of slavery cannot fail to shut out of our country those disposed to migrate hither from the southern states, under a repugnance to separate from the labor useful to them."<sup>18</sup> On September 11, 1819, the Baptist Association in session at Mount Pleasant Meeting House in Howard County adopted a petition to Congress in which these words are found: "Although with Washington and Jefferson . . . we regret the existence of slavery at all . . . and look forward to a time when a happy emancipation can be effected, consistent with the principles of . . . Justice . . . the constitution does not admit slaves to be freemen; it does admit them to be property . . . we have all the means necessary for a state government, and believe that the question of slavery is one which belongs exclusively to the people to decide on."<sup>19</sup>

The efforts of Congress to dictate the slave policy of Missouri raised a veritable tidal wave of antagonism in the Territory. On April 28, 1819, citizens of Montgomery County vigorously criticized Congress.<sup>20</sup> Resolutions followed to the same effect in Franklin County on July 5,<sup>21</sup> in Washington County on the 29th,<sup>22</sup> and in New Madrid County soon after.<sup>23</sup> In some cases the theory of limiting importations of negroes into the new State was advocated, but any tampering with the slaves already in the Territory

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<sup>17</sup> Missouri Intelligencer, July 16, 1819.

<sup>18</sup> Ibid., July 9, 1819.

<sup>19</sup> St. Louis Enquirer, October 20, 1819.

<sup>20</sup> Missouri Herald, August 20, 1819.

<sup>21</sup> Missouri Intelligencer, July 9, 1819.

<sup>22</sup> Missouri Herald, August 4, 1819.

<sup>23</sup> Ibid., August 20, 1819.

was condemned. Such a declaration was made at a meeting at Herculeum in Jefferson County in April, 1819,<sup>24</sup> and the grand jury of the county followed the example in July.<sup>25</sup> On April 11, 1819, nearly a hundred citizens of St. Louis met and condemned any further importations of slaves into the State, but decried any interference with the local system as it existed.<sup>26</sup>

Official bodies joined in the protest against Federal tyranny. The grand jurors of St. Louis on April 5, 1819, declared that "they believe that all the slave-holding states are virtually menaced and threatened with eventual destruction [if slavery is prohibited in Missouri]."<sup>27</sup> The grand jurors of Montgomery County in July said, "They view the restriction attempted to be imposed on the people of Missouri Territory in the formation of a State Constitution as unlawful, unconstitutional, and oppressive."<sup>28</sup> The Washington County grand jury put themselves similarly on record during the same month.<sup>29</sup> The editorials, the correspondence, and the general material of the press during these months bear witness to the interest which Missouri took in the slavery question.

If the mere naked words and phrases of the multitude of indignant resolutions and declarations of the period be accepted as the expression of honest opinion, we should be forced to the conclusion that the majority of the inhabitants of the Territory in 1820 thought less of slave labor than of constitutional rights. Nevertheless, the present writer and at least one other student of the period are forced by both internal and external evidence to the belief that the declara-

<sup>24</sup> Missouri Gazette, April 26, 1819. At this meeting at Herculeum a three-column argument against slavery in the abstract was drawn up. It was argued that a restriction of importations would ultimately wipe out the system. "This perhaps will be the only time that you will ever have in your power to oppose the Horrible system with effect," concludes this statement.

<sup>25</sup> Missouri Herald, September 10, 1819.

<sup>26</sup> Missouri Gazette, April 12, 1819.

<sup>27</sup> Ibid., May 12, 1819.

<sup>28</sup> Missouri Herald, September 4, 1819.

<sup>29</sup> Ibid., August 20, 1819.



tions of the press and of the various individuals and political bodies should not be taken on faith as being the real sentiments of the day.<sup>30</sup> No great liberties need be taken in interpreting the phraseology of the documents of these years to arrive at this view. The real solicitude of the "anti-restriction" men for slavery creeps out here and there with bald frankness.

On April 5, 1819, the "Grand Jury of the Northern Circuit of the Territory of Missouri," meeting at St. Louis, declared that congressional restriction of slavery was "an unconstitutional and unwarrantable usurpation of power over our unalienable rights and privileges as a free people. . . . Although we deprecate anything like an idea of disunion which next to our personal liberty and security of property is our dearest right . . . we feel it our duty to take a manly and dignified stand for our rights and privileges."<sup>31</sup> It appears that these jurors, at least, struck at the root of the whole matter when they advanced "personal liberty and security of property" as alone being dearer than the Union. Another illustration of this point appears in the account of the celebration at St. Louis on March 30, 1820, to commemorate the enabling act which Congress had just passed, admitting Missouri with slavery. Among other features of this celebration was one "representing a slave in great spirits, rejoicing at the permission granted by Congress to bring slaves into so fine a country as Missouri."<sup>32</sup> This

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<sup>30</sup> When the author of this study and Mr. Floyd C. Shoemaker compared conclusions, it was found that they were identical on this point. We had arrived at them independently. He had judged from internal evidence in studying the convention in detail and the constitution which resulted from its work. My own conclusions were largely gained from external evidence, a study of the make-up of the population, previous and subsequent expressions and events, and also by reflecting back the whole later slavery struggle in Missouri upon this period when not only Missouri but the entire South was finding its bearings on the slavery question. Mr. Shoemaker's study, an enlargement of his early study of the Constitution of Missouri of 1820, will soon appear in print.

<sup>31</sup> MS., signed by John McKnight, foreman, and the other jurors, and by Archibald Gamble, clerk, Dalton Collection.

<sup>32</sup> Missouri Gazette, April 5, 1820.



affair does not look like the celebration of a victory over a point of constitutional law.

The real strength of an immediate emancipation party during these years is not difficult to measure. Joseph Charless of the *Missouri Gazette*, who led the forces of those who opposed the introduction of slaves, stated editorially that he had spoken personally with all the convention candidates on his slate—Lucas, Bobb, Pettibone, and so forth. He said: "I am apprised of the sentiments of all those candidates who were favorable to the restriction of slavery. . . . They are decidedly opposed to any interference with the slaves now in the territory."<sup>33</sup> Judge Lucas, in a long statement in the *Gazette* of April 12, 1820, denied that he was an immediate emancipationist, but said that he did favor the limitation of the period allowed for the importation of negroes lest the State be filled with thieving slaves and with overgrown slaveholding "nabobs" who would corrupt the democratic institutions of Missouri. He also argued that slaves would cause white labor to shun the State, and so argued for restriction.

Of all the convention candidates whose cards appear in the four papers examined which cover the campaign period not one advocated any interference whatever with the slave property of the Territory.<sup>34</sup> Many were for the restriction of future importations, but none favored any meddling with the slaves already on the soil. Most of them condemned slavery in the abstract, but at the same time came out boldly for temporary importations. Pierre Chouteau, Jr., who is a fair example of these, declared that should he be elected

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<sup>33</sup> *Missouri Gazette*, April 12, 1820. Charless wrote this in answer to "A Farmer" who disclaimed any desire to see more slaves imported, but opposed emancipating those then in the Territory. The candidates of the various factions were listed in the *Gazette* of April 3, 1820, and other issues.

<sup>34</sup> The *Missouri Gazette* supported the "Restrictionists" and the *St. Louis Enquirer* the "Anti-Restrictionists." The *Missouri Herald* of Jackson, Cape Girardeau County, and the *Missouri Intelligencer* of Howard County—then in the extreme western part of the Territory—advocated no restriction also. The first issue of the *Missourian*, published at St. Charles, that could be found is dated subsequent to the election.

to the convention, "any attempt to prevent the introduction of slaves . . . will meet my warmest opposition."<sup>35</sup>

Not only in St. Louis was there strong proslavery feeling. James Evans, running for election in Cape Girardeau County, advertised as follows: "I frankly declare that I am in favor of the future introduction of slaves into the new State."<sup>36</sup> Thomas Mosly of the same county was for no "constitutional restriction on the subject whatever."<sup>37</sup> Several others advocated the same policy. A lone restrictionist came out in Cape Girardeau County. George H. Scripps declared that increased slave importations would keep free labor from the State, and would result in race amalgamation.<sup>38</sup>

In Lincoln County John Lindsay stated that "as to slavery, I shall be in favor of it."<sup>39</sup> Abner Vansant of Jefferson County did not deny that slavery affected morals and had other bad features, but considered that "perhaps it would be politic to permit the future introduction of them [slaves] for a short time."<sup>40</sup> Indeed several candidates, as, for example, Robert Simpson, were not strongly proslavery in feeling, but thought it expedient to "allow a reasonable time for those owning slaves and who may become interested in our soil, to emigrate to the state."<sup>41</sup> Rufus Pettibone also favored no restriction for a number of years "for the sake of encouraging emigration."<sup>42</sup> This economic motive was doubtless an important factor in arousing opinion against restriction. The broad prairies were there to be developed, and slave labor was to be the means of accomplishing the task.

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<sup>35</sup> Missouri Gazette, April 19, 1820. For the St. Louis candidates see the issues of April 5, 12, 19, 1820.

<sup>36</sup> Missouri Herald, April 8, 1820.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid., April 22, 1820.

<sup>39</sup> Missouri Gazette, April 12, 1820. Two candidates, Robert Simpson and John Robb, fearing lest Missouri later deal in slaves as an article of commerce, favored restriction in the period of importations (ibid., April 19).

<sup>40</sup> Ibid., April 26.

<sup>41</sup> Ibid., April 5.

<sup>42</sup> Ibid., April 12.

From the constitutional convention itself one may gain a clear-cut view of the sentiment of the period. The procedure of this assembly, together with the origin and development of the slavery clauses, has been minutely examined and analyzed by others, and the subject need not enter into the present discussion.<sup>43</sup> The slavery sections of the constitution will be set forth in the various chapters of this study according to their subject matter. In general it may be said that the document laid no restriction upon bonafide importations of slaves, and only by the consent of the master could they be emancipated.<sup>44</sup> Benton's claim to the authorship of the clause preventing emancipation without the owner's consent and without reimbursing him was not made by him until years after the convention had assembled. He repeatedly maintained that he secured the insertion of this provision, but his claim is backed by his own word alone.<sup>45</sup> The constitution apparently satisfied the pro-slavery element.<sup>46</sup> The question seemed legally settled,

<sup>43</sup> Shoemaker, pp. 49-51. The original published Journal of the convention is now very rare, but a photo-facsimile was printed in 1905.

<sup>44</sup> Art. iii, sec. 26, paragraphs 1, 2.

<sup>45</sup> "I was myself the instigator of that prohibition, and the cause of it being put into the constitution—though not a member of the convention—being equally opposed to slavery agitation and slavery extension" (*Thirty Years' View*, vol. i, pp. 8-9). Benton was exasperated when Frank Blair and Gratz Brown became active supporters of emancipation in the legislature. "They know perfectly well," he said, "that I introduced the clause against Emancipation into the Constitution of the state, with a view to keep this slavery agitation out of politics, and that my whole life has been opposed to their present course" (*Republican*, July 26, 1858). Benton wrote Gale and Seaton on February 29, 1856, that he was "most instrumental in getting that clause put in for the express purpose of keeping slavery agitation out of the State" (quoted in the *St. Joseph Commercial Cycle*, March 28, 1856).

<sup>46</sup> The *St. Louis Enquirer* was well pleased with the constitution, even calling it "immortal" on one occasion (issue of September 1, 1821). The *Gazette*, on the other hand, had no praise for the slavery sections (issue of July 21, 1820). "A Planter" sent to the *Missourian* of August 26, 1820, the following note of satisfaction as to the work of the convention: "What better security can slave holders have that their rights will be secured, and their habits respected in Missouri, than the provisions of the constitution. . . . I hear nobody advocating emancipation: all my neighbors say the question is set-



although the free-negro clause was to keep Missouri and the whole country roused for another year.

After the Compromise of 1820 Missouri sat down to enjoy the fruits of her effort, her legally secure black labor. The first decade of her statehood was one of development. With her great and pugnacious senator, Thomas Hart Benton, she was becoming influential in the land. In these years there occurred an episode which was so spontaneous and romantic and so long kept secret that but for the high authority who vouches for it one might well consider the whole story comparable to Jefferson's shimmering salt mountain and other airy legends of Mississippi Valley lore. This is the emancipation conspiracy of 1828 which was years after revealed by the Whig leader, Mr. John Wilson of Fayette. He, with Senators Benton, Barton, and other prominent statesmen of both parties, "representing every district of the State," met in secret to plan a movement for gradual emancipation. Candidates were to be canvassed, and both parties were to get memorials signed to be presented to the legislature. At this juncture appeared the widespread newspaper canard representing that Arthur Tappan of New York "had entertained at his private table some negro men and that, in fact, these negroes rode out in his private carriage with his Daughters." This report raised a storm of indignation in the State, and the scheme of the emancipationists was abandoned. Mr. Wilson claims that "but for that story of the conduct of the great original fanatic on this subject we should have carried, under the leadership of Barton and Benton, our project and begun the future emancipation of the colored race that would long since have been followed by Kentucky, Maryland, Virginia . . . our purpose after we got such a law safely placed on the Statute Book, was to have followed it up by a provision requiring the masters of those who should be born to be

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tled fairly, and they have no wish to renew it. . . . The worst sort of restrictionists are the men that wish to tie the people, neck and heels, to prevent them from injuring themselves."



free to teach them to read and write. This shows you how little a thing turns the destiny of nations."<sup>47</sup>

Assuming that the meeting took place, its first peculiarity is the really naïve confidence of the participants that but for the Tappan story "we should have carried, under the leadership of Barton and Benton, our project." The furor which convulsed Missouri during the Compromise debate would seem to have been sufficient to appal any one who might be minded to tamper anew with the slavery question. It hardly seems possible that Benton, who systematically smothered the slavery issue, should have pushed such a program, but the apparently permanent calm which followed the Compromise and the material prosperity of the State during these years may have warranted a venture at wiping out an institution which Benton considered a potential cause of bitter agitation and political unrest.

Again, one can scarcely believe that sentiment in Missouri had materially changed between 1821 and 1828 when it is considered that she more than doubled her slave population between 1820 and 1830.<sup>48</sup> It might be answered that Benton was clever enough to feel the public pulse, and that if he entered into any such project there must have been appearances to justify his hopes of success. But Benton was not an infallible reader of the signs of the times. It is known how he mistook popular sentiment when he made his disastrous "Appeal" to the voters of his party twenty years later. Another fact which appears to make the success of any such emancipation scheme doubtful in 1828 is that in

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<sup>47</sup> MS. Wilson to Thomas Shackelford, January 13, 1866, in the possession of the Missouri Historical Society. In his *Illustrated History of Missouri* (pp. 221-223) Switzler quoted this letter but took several liberties with the text which later writers have copied. From the text of the letter Wilson did not remember whether the meeting was held in 1827 or 1828. Meigs in his *Life of Benton* does not mention this episode. He even thinks Benton was the "devoted friend of Missouri" who published a long article in the *St. Louis Enquirer* of April 26, 1820, which advocated slavery in the State (p. 119).

<sup>48</sup> The Federal census of 1820 gave Missouri 10,222 slaves, and that of 1830, 25,091 (*Federal Census, Statistical View, 1790-1830*, p. 27).

January of the next year the Missouri General Assembly passed a resolution declaring it to be unconstitutional for Congress to vote money for the American Colonization Society.<sup>49</sup>

There was some antislavery sentiment in the State prior to the Garrisonian movement. As early as 1819 one Humphrey Smith was indicted by the Howard County grand jury for inciting slaves to revolt.<sup>50</sup> In 1820 certain ministers of the Methodist body were accused of preaching sedition to slaves. This was denied by one A. McAlister of St. Charles County, who declared that he had talked to them and had heard most of them preach. The "Methodist Church," he continued, "would no sooner countenance such conduct than they would any other gross immorality."<sup>51</sup>

There must have been some effective antislavery feeling in the General Assembly in these early years. On December 30, 1832, Lane submitted the following resolution to the House: "Resolved. . . . That the following amendment to the Constitution of this State be proposed. . . . That so much of the twenty sixth section of the third article of the Constitution, as declares that the General Assembly shall have no power to prevent BONA FIDE emigrants to this State . . . from bringing [their slaves] from any of the United States . . . shall be and is hereby repealed."<sup>52</sup> This amendment got as far as a second reading, but does not reappear in the journal. It must have had some supporters to have gone even as far as that. During the year 1835 there was a demand for a state convention to meet and settle various needs, among others to bring about emancipation.

An insight into the views of this precise period can be gained from a prominent citizen who had much at stake and great opportunities for observation. James Aull of Lexing-

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<sup>49</sup> Session Laws, 1828, p. 89. These resolutions passed January 23, 1829.

<sup>50</sup> St. Louis Enquirer, October 20, 1819.

<sup>51</sup> Missouri Gazette, May 24, 1820. McAlister's letter is dated May 5.

<sup>52</sup> House Journal, 7th Ass., 1st Sess., p. 126.

ton was a trader of considerable prominence throughout western Missouri. He had mercantile establishments at Lexington, Independence, Liberty, and Richmond. In answer to an antislavery Quaker firm, Siter, Price, and Company of Philadelphia, who refused to have business relations with any firm dealing in negroes, Aull wrote on June 15, 1835: "We are the owners of Slaves, . . . [but] it would gratify me exceedingly to have all our negroes removed from among us, it would be of immense advantage to the State, but to free them and suffer them to remain with us I for one would never consent to. I once lived in a town where about 1/10 of the whole population was free Negroes and a worse population I have never seen." Aull then discusses the emancipation movement of the time as follows: "At our August elections it will be proposed to our people the propriety of calling a convention, if the convention meet one of the most important subjects to be brought before it will be the gradual abolition of slavery. I have no doubt that we will have a convention and I have as little doubt that such steps will be taken as will free all our slaves in a limited number of years. Many of our Slave holders are the warm advocates of this doctrine but I have not conversed with a man who would consent to let them remain amongst us after they are free."<sup>53</sup>

From this letter it appears that from an early date one of the fundamental problems of emancipation was prominent,—the free negro. The slaveholder had before him not only the fear of losing, in case of legal emancipation, the only labor then available, but also the spectre of a great body of free blacks as his neighbors, who he felt would be both an economic and a social burden.

Although no convention met, despite the prediction of Mr. Aull, there seems to have been a somewhat widespread idea that gradual emancipation could be effected by this

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<sup>53</sup> In the collection of Messrs. E. U. Hopkins and J. Chamberlain of Lexington.



means.<sup>54</sup> The Missouri Argus states that several articles favoring gradual emancipation had appeared in various papers, although no sheet had definitely declared for it. Some papers opposed the meeting of any convention lest the slavery subject should be discussed. The Missouri Argus stated editorially that "the slave-holders cannot be frightened, as they know that they have the power in their own hands. They never will consent to turn their slaves loose among us. Some system of disposing of the blacks would have to be devised. . . . Such a question should be discussed at a time when the public-mind is entirely serene and peaceful."<sup>55</sup> Again, the Argus stated in the same issue that a discussion of slavery would tend to check southern immigration to the State and would cause restlessness and insubordination on the part of the slaves. "We are conversant with men in every section of the State, and fully believe that the proposition to abolish slavery at this time would be voted down by a majority of four or five to one. So exceedingly unpopular and illy received is it, that no candidate dare avow himself its advocate." Whether the Argus was wholly correct or not may be questioned, but the fact that the convention was never held makes it probable that the editor had well analyzed the situation.

At this period there seems to have been little race feeling. The Daily Evening Herald of St. Louis of June 9, 1835, in commenting on the burning of two Alabama negroes for murdering two white children, said: "We have no such punishment known to our laws, and it argues an evil state of public mind that can permit this punishment of feudal tyranny to be inflicted upon men, in defiance of the law, because they are black." Another statement which illustrates the broad feeling of the time and the strength of the emancipation party of the State is found in the following

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<sup>54</sup> The Daily Evening Herald and Commercial Advertiser of June 9, 1835, quotes an issue of the National Intelligencer of unknown date as follows: "Several of the leading Missouri papers are advocating the gradual emancipation of the slaves of the State."

<sup>55</sup> Issue of May 22, 1835. The abolition agitation was exciting the country.



editorial: "Is it not wonderful that the citizens of free States will not allow the doctrines of Abolition and negro equality to be lectured upon but at the risk of pelting with eggs, when here in Missouri we calmly allow a political party to subserve party ends, to attempt to break up the very foundations, the whole slave interests in Missouri?"<sup>56</sup> Such sympathy for the negro seems to have been the calm and judicial feeling in the State on the eve of a period in which anti-negro sentiment was as bitter and as violent in its demonstrations as any the State ever witnessed.

On April 28, 1836, the mulatto, Francis McIntosh, was burned by a St. Louis mob for stabbing an officer.<sup>57</sup> A young New England editor, the Reverend Elijah P. Lovejoy, of the *Observer*, already disliked for his anti-Catholic, antimob, and antislavery sentiments, severely criticized the mob and the judge who upheld their action.<sup>58</sup> By the fall of 1835 the agitation created by Lovejoy was at least strong enough to cause apprehension on the part of his friends. On October 5 of this year a letter was sent to the *Observer* by several prominent citizens, among whom was Hamilton R. Gamble, later the Union governor and the champion of gradual emancipation. These men suggested that "the

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<sup>56</sup> *Missouri Argus* [St. Louis], May 22, 1835.

<sup>57</sup> There are several contemporary accounts of this episode. The mayor of St. Louis at the time was J. F. Darby. He mentions the affair in his *Personal Recollections* (pp. 237-242). Perhaps the fullest account, although a biased one, is found in the *Quarterly Anti-Slavery Magazine* for July, 1836 (vol. i, pp. 400-409). This narrative claims that some of the St. Louis aldermen even aided in McIntosh's death (p. 403). Accounts can also be found in the *Fourth Annual Report of the American Anti-Slavery Society* (pp. 78-79), and in *Niles' Register* (vol. 1, p. 234). The *Missouri press* of the months of May and June contains scattered fragments of news on the subject. Judge L. E. Lawless's statement of his action is found in the *Missouri Argus* of July 1, 1836. He here calls Lovejoy a "sanctimonious enthusiast."

<sup>58</sup> The career of Lovejoy is well discussed by N. D. Harris, *History of Negro Slavery in Illinois and of the Slavery Agitation in that State*, ch. vi, vii. His account, although antislavery in tone, is based on newspapers and other local sources. Some of Lovejoy's papers can be found in the *Memoir* by his brothers and in Thomas Dimmock's *Address at the Church of the Unity, St. Louis, March 14, 1888*. A very eulogistic account of Lovejoy can be found in E. Beecher, *Narrative of the Riots at Alton*.

present temper of the times require a change in the manner of conducting that print [The Observer] in relation to the subject of domestic slavery. The public mind is greatly excited, and owing to the unjustifiable interference of our Northern brethren in our social relations, the community are, perhaps, not in a situation to endure sound doctrine on this subject . . . we hope that the concurring opinion of so many persons having the interest of your paper and of religion both at heart, may induce you to distrust your own judgment, and so far change the character of the OBSERVER as to pass over in silence everything connected with the subject of slavery."<sup>59</sup>

Lovejoy, however, would not be silenced. His criticism of Judge Lawless and the McIntosh mob brought a storm of indignation, and he prepared to move up the Mississippi to Alton, Illinois, after a mob had pillaged his office. It is said that Lovejoy's criticism of the Catholics, and of Judge Lawless as such, added to his attacks on mob rule and slavery, caused this affair,<sup>60</sup> and the slavery issue is therefore not to be considered as the only cause of the feeling which compelled his flight. To follow Lovejoy's career to his violent death would be of no immediate pertinence in this con-

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<sup>59</sup> Quoted by Dimmock, p. 7. Whatever may have been Lovejoy's early conservatism in his antislavery crusade, he became fanatical later on. After removing to Alton, he wrote to the editor of the *Maine Christian Mirror* as follows: "I have seen the 'Recorder and the Chronicle' with column after column reasoning coldly about sin and slavery in the abstract, when the living and awful reality was before them and about them; disputing about . . . the precise amount of guilt to . . . be attached to this or that slave-holder as coolly and with as much indifference, as if no manacled slaves stood before them with uplifted hands . . . beseeching them to knock off their galling, soul-corroding chains . . . how long, oh! how long shall these beloved, but mistaken brethren continue to abuse their influence . . . and retard the salvation of the slave?" This plea is certainly strong, and in the temper in which the State was in these years any such sentiments would hardly be endured (quoted in the Fourth Annual Report of the American Anti-Slavery Society, pp. 81-82, note).

<sup>60</sup> See Judge Lawless's statement in the *Missouri Argus* of July 1, 1836.

nection.<sup>61</sup> His retirement to Alton has been considered to mark the close of an epoch in Missouri history. This period is said to have been characterized by a somewhat general demand for gradual emancipation. That there was such a movement is evident, but it seems improbable that those who favored the issue were numerous enough to have been successful at any time.

Lovejoy's expulsion from St. Louis was looked upon as justifiable by most of his local contemporaries. "As I remember," wrote the Reverend W. G. Eliot, "very few persons, even among the best citizens, expressed either regret or condemnation."<sup>62</sup> The Bulletin of St. Louis expressed the sentiment of a considerable number when it stated editorially that "we have read, with feelings of profound contempt and disgust a paragraph in the Alton Observer . . . in which . . . Elijah P. Lovejoy, the fanatic editor . . . spits his venom at the Judge [Lawless]. . . . We in common with every honest man consider this 'Reverend' libeler to have disgraced . . . the town which has the misfortune to have him for an inhabitant. . . . The epithet of 'infamous' which this fanatic bestows upon Judge Lawless, is properly applied to himself alone. Such vile language sufficiently explains his expulsion from this city."<sup>63</sup>

The reformer's efforts apparently did little to better the lot of the Missouri slave. Unfortunately he made his plea just when the Garrisonian movement was agitating both the country and Congress. Lovejoy's program was naturally considered a part of the general abolition movement, so that the people were prejudiced against him when he began his preaching.

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<sup>61</sup> Lovejoy was killed by a mob at Alton on the night of November 7, 1837. Mayor John M. Krum of Alton made an official statement of the affair which can be found in Niles' Register, vol. liii, pp. 196-197.

<sup>62</sup> W. G. Eliot, p. 111.

<sup>63</sup> In quoting the above from an unknown issue of the Bulletin the editor of the Missouri Argus remarks, "We . . . need hardly add that we fully coincide with the Editor of the Bulletin" (issue of December 9, 1836).



The same year that the anti-abolition feeling drove Lovejoy from St. Louis an episode growing out of the slavery situation convulsed Marion County. Dr. David Nelson, president of Marion College, who was a Southerner and a former slaveholder, read at a religious meeting a paper presented to him by Colonel John Muldrow "proposing to subscribe \$10,000 himself and asked others to subscribe, to indemnify masters for their slaves when government should think proper to abolish slavery in that way." This led to a personal encounter between Muldrow and a certain extreme pro-slavery citizen named John Bosley, in which Bosley was severely injured. The people were highly incensed, and the college president was forced to flee the State.<sup>64</sup> Muldrow was tried at St. Charles and was acquitted, Edward Bates acting as his counsel.<sup>65</sup> It is interesting to note that his proposition was in harmony with the twenty-sixth section of the third article of the constitution of 1820 which provides that slaves were not to be emancipated "without the consent of their masters; or without paying them." The incident indicates that this clause had become unpopular, at least in Marion County.

Two other men, Williams and Garrett, were ordered from Marion County the same year for receiving literature from the American Colonization Society. The feeling became so warm that upon Dr. Nelson's return to attend his sick son a public meeting was called at Palmyra, May 21, 1836, and it was resolved "That we approve the recent conduct of a portion of our citizens towards Messrs. Garrett and Williams

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<sup>64</sup> Among the contemporary accounts of this turmoil, which convulsed Marion County in 1836, is the rather biased but full one sent by a correspondent of the *New York Journal of Commerce*, which was quoted in the *Fourth Annual Report of the American Anti-Slavery Society*, pp. 78-81, note. This same narrative is also found in the *Quarterly Anti-Slavery Magazine* for July, 1837 (vol. ii, pp. 395-397). R. I. Holcombe outlines the story (pp. 203-207). He gained his information from old newspaper files and the statements of contemporaries. His account agrees with the above in most particulars.

<sup>65</sup> Bosley soon recovered, and the excitement "blew off" within a month, according to the anonymous writer of a letter dated Palmyra, June 8 (printed in the *Missouri Argus* of July 29, 1836).



(two avowed advocates and missionaries of abolition) who came among us to instruct our slaves to rebellion by the use of incendiary pamphlets . . . eminently calculated to weaken the obligations of their obedience."<sup>66</sup> The faculty of Marion College were suspected because of Dr. Nelson's course. Conscious of the public temper, they exhibited a resolution passed by them the day before this meeting, in which it was resolved "That the faculty of Marion College utterly disapprove, as unchristian and illegal the circulation of all books, pamphlets, and papers, calculated to render the slave population of the State discontented." They had taken even such definite action as to forbid the students to talk sedition to slaves, circulate any antislavery literature, hold any antislavery meetings or discuss slavery matters before the public, or instruct slaves without the consent of their masters.<sup>67</sup>

The feeling exhibited in the events just recounted persisted in Marion County for years. In July, 1841, the Illinois abolitionists, George Thompson, James Burr, and Alanson Work, were betrayed near Palmyra by slaves whom they attempted to entice into Canada.<sup>68</sup> After a stormy imprisonment and trial they were sentenced to the penitentiary for twelve years, but were pardoned before their terms expired.<sup>69</sup> This event caused the formation of a vigilance

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<sup>66</sup> Fourth Annual Report of the American Anti-Slavery Society, p. 80.

<sup>67</sup> *Ibid.*, p. 81.

<sup>68</sup> *Republican*, July 23, 1841, quoting from the *Missouri Courier* of unknown date. See also the *Daily Evening Gazette* of July 26, 1841. The *Gazette* claims that these abolitionists attended the "Mission Institute near Quincy." Holcombe says that the citizens raised \$20.62½ for the slaves who betrayed Thompson and his colleagues (p. 239). An account of the affair can also be found in Thompson, *passim*.

<sup>69</sup> A Palmyra correspondent of the *Republican* declared that this trial caused "Great Excitement" in that city. The defence argued that they simply "attempted" to entice the slaves, used no force, and had no idea of profit in mind. This it was claimed did not come within the statute. The attempt to escape on a technicality inflamed the citizens. "Our informant," continues the report, "states that it was the general understanding that they could not be indicted: and if it should so turn out, there would probably be worse fare for the prisoners than if they went to the penitentiary" (*Republican*, September 11, 1841).

committee in each township of the county to examine strangers who could not well explain their business, and suspected persons were expelled from the county and were also threatened with a penalty of fifty lashes should they return.<sup>70</sup> Some doubtful sympathy seems to have been felt for Thompson and his companions by certain Missourians. The *Daily Evening Gazette* lamented that Missouri had no "Lunatic Asylum," as "the poor, deluded creatures" were victims of "monomania—a case not where the morals are stained, but where the mind is disordered."<sup>71</sup> At the same time anti-abolition feeling in Marion County continued. On March 8, 1843, citizens set fire to the institute of the Quincy abolitionist, Dr. Eels. They were not prosecuted.<sup>72</sup>

While these events were occurring in eastern Missouri, the western portion of the State was in an uproar over the "Mormon War." The extent of the slavery element in the Mormon troubles is debated, but the citizens of western Missouri were convinced that their slave property was endangered by the sectaries, whether the Mormons deserved the imputation or not. On July 20, 1833, a large meeting of "Gentiles" was held at Independence. It is said that nearly five hundred were present. A manifesto was published by this meeting, a portion of which is as follows: "More than a year since, it was ascertained that they [the Mormons] had been tampering with our slaves, and endeavoring to rouse dissension and raise seditions among them. . . . In a late number of the *STAR* published at Independence by the leaders of the sect, there is an article inviting free negroes and mulattoes from other states to become Mormons, and remove and settle among us. This exhibits them in still more odious colors . . . [this] would corrupt our blacks, and instigate them to bloodshed."<sup>73</sup>

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<sup>70</sup> Holcombe, p. 263.

<sup>71</sup> Issue of September 16, 1841.

<sup>72</sup> Holcombe, p. 266.

<sup>73</sup> Quoted by W. A. Linn, *The Story of the Mormons*, p. 171. Another portion of this manifesto reads: "Elevated as they [the Mormons] mostly are but little above the condition of our blacks either in regard to property or education, they have become a subject

Other meetings were called to take action against the Mormons. In the summer of 1838 citizens of Carroll County condemned "Mormons, abolitionists, and other disorderly persons."<sup>74</sup> This implies that the slavery issue in some cases entered into the "Mormon War." On the other hand, citizens of Ray County, meeting about the same time, passed seven resolutions against Mormon shortcomings, but did not mention slavery among these.<sup>75</sup> The Mormons asserted that nothing but the bitter prejudice of the Missouri "Gentiles" and their greed for the well-improved Mormon farms was the motive underlying the trouble. Etzenhouser, writing with a strong pro-Mormon bias, quotes General Doniphan as denying that the slavery question "had anything to do with it [the Mormon War]."<sup>76</sup>

The position of the Mormons on the slavery issue is said to have shifted at different periods.<sup>77</sup> Be that as it may, the

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of much anxiety on that part, serious and well grounded complaints having been already made of their corrupting influence on our slaves" (quoted by Elder R. Etzenhouser, From Palmyra, New York, 1830, to Independence, Missouri, 1894, p. 328).

<sup>74</sup> Southern Advocate (Jackson), September 1, 1838. The date of this meeting is not given.

<sup>75</sup> Southern Advocate, September 8, 1838. The date of this meeting is not given. The editor did not seem to be aware of the slavery issue entering into the Mormon troubles. "What is the precise nature of the offence of this deluded people," he said, "and in what particular they are troublesome neighbors, we are uninformed" (*ibid.*, September 1). This paper was published in Cape Girardeau County, far from the seat of the Mormon difficulties.

<sup>76</sup> Etzenhouser quotes from the Kansas City Journal (date not given): "Question: 'Do you think, Colonel, that the slavery question had anything to do with the difficulties with the Mormons?' Colonel Doniphan, 'No, I don't think that matter had anything to do with it. The Mormons, it is true, were northern and eastern people, and "free soilers," but they did not interfere with the negroes and we did not care whether they owned slaves or not'" (p. 304).

<sup>77</sup> The Utah Mormons took a novel stand—a sort of compulsory neutrality—on the slavery question. About 1850 the official organ of the Church declared: "We feel it our duty to define our position in relation to slavery. . . . There is no law in Utah to authorize slavery, neither any to prohibit it. If a slave is disposed to leave his master, no power exists here either legal or moral, that will prevent him. But if a slave chooses to remain with his master, none are allowed to interfere between the master and the slave. . . . When a man in the Southern States embraces our faith, and is the owner of slaves, the Church says to him: If your slaves wish to remain



consideration here is of the effect of the negro question on the Missourians of the day. Whether real or alleged, activity relative to slavery on the part of the Mormons was used by the western Missouri people during the thirties as a campaign slogan, and the issue must therefore have been vital and important. That the Missourians thought the Saints were negro thieves seems certain. When Burr, Work, and Thompson attempted to entice slaves from Marion County in 1841, the people thought at once that they were Mormons.<sup>78</sup> As late as 1855 a St. Joseph editor, in quoting Brigham Young's denial that the Mormons had ever stolen slaves, remarked: "We think that the latter day saints are not so bad after all."<sup>79</sup> Evidently Young's statement was a surprise.

In another quarter at this period a movement less violent but of enormous consequences to the slave interests of the State was developing. This was the Platte Purchase, which added six very rich counties to the slave power. Benton and Linn pushed the measure in the Senate, the former always taking great pride in its accomplishment, both because of the magnitude of the undertaking and because of

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with you, put them not away; but if they choose to leave you, or are not satisfied to remain with you, it is for you to sell them, or to let them go free, as your own conscience may direct you. The Church on this point assumes the responsibility to direct. The laws of the land recognize slavery; we do not wish to oppose the laws of the country" (The Frontier Guardian [date not given], quoted in the Eleventh Annual Report [1851] of the American and Foreign Anti-Slavery Society, pp. 94-95).

<sup>78</sup> Republican, July 23, 1841, quoting from an issue of the Missouri Courier (Palmyra): "On Tuesday morning of the present week our town was thrown into considerable excitement by the arrest of three white men (supposed to be disciples of the Mormon Prophet Jo. Smith) who were caught in the act of decoying from their rightful owners several slaves of the neighborhood." The issue of the Courier is not given.

<sup>79</sup> St. Joseph Commercial Cycle, May 18, 1855. "Formerly the rumor was," said Young, "that they [the Mormons] were going to tamper with the slaves . . . we never had thought of such a thing. . . . The blacks should be used like servants, and not like brutes, but they must serve." The Cycle gives no reference for this statement of Brigham Young.



its importance to Missouri.<sup>80</sup> In his message of November 22, 1836, Governor Boggs stated that the General Assembly had memorialized Congress on the subject, and that Congress had agreed to grant the request when the Territory should be secured from the Indians.<sup>81</sup>

That the State was anxious to obtain the rich river bottoms of this region cannot be doubted. It does not seem likely that this was a preconcerted grab for more slave territory as von Holst asserts,<sup>82</sup> and as Horace Greeley apparently believed. The latter says that the bill passed "so quietly as hardly to attract attention."<sup>83</sup> Either the North

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<sup>80</sup> "This was a measure of great moment to Missouri. . . . The difficulties were three-fold: 1. To make still larger a State which was already one of the largest in the Union. 2. To remove Indians from a possession which had just been assigned to them in perpetuity. 3. To alter the Missouri Compromise line in relation to slave Territory, and thereby convert free soil into slave soil. . . . And all these difficulties to be overcome at a time when Congress was inflamed with angry debates upon abolition petitions. . . . The first step was to procure a bill for the alteration of the compromise line and the extension of the boundary: it . . . passed the Senate without material opposition. It went to the House of Representatives; and found there no serious opposition to its passage. . . . The author of this view was part and parcel of all that transaction—remembers well the anxiety of the State to obtain the extension—her joy at obtaining it—the gratitude which all felt to the Northern members without whose aid it could not have been done" (Benton, *Thirty Years' View*, vol. i, pp. 626-627). Switzler claims that the idea originated at a militia muster at Dale's farm, three miles from Liberty, in the summer of 1835, and that the originator was General Andrew S. Hughes. "At this meeting," he says, "and in public addresses, he proposed the acquisition of the Platte country; and the measure met with such emphatic approval that the meeting proceeded at once by the appointment of a committee to organize an effort to accomplish it." Among others the committee was composed of D. R. Atchison and A. W. Doniphan. Missouri had, however, agitated the annexation for several years prior to 1835.

<sup>81</sup> *House Journal*, 9th Ass., 1st sess., p. 36. The bill granting the cession and providing for the Indian treaties necessary for its consummation was signed by the President June 7, 1836. The treaties were secured, and were proclaimed February 15, 1837.

<sup>82</sup> H. Von Holst, *Constitutional and Political History of the United States*, vol. ii, pp. 144-145. "The matter was disposed of quietly and quickly. . . . The legislative coach of the United States moved at a rapid rate when the slavery interest held the whip" (*ibid.*).

<sup>83</sup> *A History of the Struggle for Slavery Extension or Restriction in the United States*, pp. 30-31. Greeley says that the bill "floated through both Houses without encountering the perils of a division."

wished to win the favor of Benton and his constituents, or, as Carr says of the act, "It did not and could not add to the voting strength of the South in the Senate."<sup>84</sup> Whether or not this accession contravened the Missouri Compromise has no direct bearing on the discussion of the local slavery system, and consequently will not be considered here.

During the late thirties and early forties the slavery question began to affect the religious bodies of the country. In Missouri the change did not fail to manifest itself,<sup>85</sup> but the scope of this study will limit the discussion to a few of the denominations in which the struggle occurred. The Methodist Church labored heavily in this storm. As early as 1820 little patience was manifested toward those who instigated negroes to discontent or preached to them anything that might cause sedition.<sup>86</sup> In 1835 the Missouri Annual Conference, while praising the Colonization Society, at the same time condemned the "Abolition Society" and its agents, declaring the latter to be "mischievous in character,

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<sup>84</sup> P. 186.

<sup>85</sup> During the earlier period the feeling against the colored race was far from inhuman in Missouri. Judge R. C. Ewing states that as late as 1836 he heard a mulatto preacher, the Reverend Nicholas Cooper, speak from the same pulpit with the prominent Cumberland Presbyterian ministers in the Bethel Church at the Boone County Synod. Cooper had been a slave (*History and Memoirs of the Cumberland Presbyterian Church in Missouri*, p. 18). The Baptists of Illinois and Missouri had in the territorial days an organization called the "Friends of Humanity." When "Father" John Clark visited Boone's Lick in 1820, he found some families belonging to this society. This organization is said not to have opposed slavery in all its forms, but to have sought gradually to bring about emancipation ("An Old Pioneer" [pseudonym], *Father John Clark*, pp. 256-257). This society allowed the holding of slaves by certain persons: (1) young owners who intended to emancipate their negroes when older; (2) those who purchased slaves in ignorance and would let the church decide on the date of emancipation; (3) women who were legally unable to emancipate; (4) those holding old, feebleminded, or otherwise incapacitated slaves. Another authority says that Clark came to St. Louis a Methodist in 1798, but that he and one Talbot immersed one another and became "The Baptized Church of Christ, Friends of Humanity." They had strong anti-slavery feeling, Clark even refusing his salary if it came from slaveholders (W. B. Sprague, *Annals of the American Pulpit*, vol. vi, pp. 492-493). Some deny that Father Clark was a real Baptist.

<sup>86</sup> Letter of A. McAlister in the *Missouri Gazette* of May 24, 1820.

and not calculated to better the situation of the people of color of the United States."<sup>87</sup>

The Missouri feud stirred up a general and bitter discussion elsewhere, and, indeed, was the immediate cause of the slavery issue being injected into debates of the church. The question was transmitted to wider circles by the appeal of the Reverend Silas Comfort in 1840 from the Missouri to the General Conference of that year. The Missouri Conference had adjudged him guilty of maladministration in admitting the testimony of colored members against a white member in a church trial. On May 17, after a protracted debate, the General Conference reversed the decision of the Missouri Conference. Much bitterness was aroused, and when the next General Conference met at New York in 1844, the sectional break was imminent. Despite the protests of the southern members, Bishop Andrew was suspended for indirectly holding slaves through his wife.<sup>88</sup> In the following spring the Southern Methodist Church was formed at Louisville.

The Missouri Conference of 1844, held after the session of the General Conference, remained firm in its position on slavery. "We are compelled to pronounce the proceeding

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<sup>87</sup> Resolutions of the conference in the *Daily Evening Herald* of October 1, 1835. D. R. McAnally discusses the early Methodist Church in the State at some length. Without giving any authority, he speaks of the close relation between the races in the missionary period of the territorial and early statehood days. He declares that the negroes often led in the singing and in the testimony meetings (vol. i, pp. 147-148).

<sup>88</sup> Debates in the General Conference of the Methodist Episcopal Church During its Session at New York, May 3 to June 10, 1844. George Peck, editor, pp. 190-191. Bishop Soule was very influential in this conference. He does not appear as a radical. While Bishop Andrew's case was before the conference, he declared (May 9) that there could be no compromise if the Northern Methodists held slavery to be a "moral evil" (ibid., pp. 166-172). On May 31 he and Bishops Hedding, Waugh, and Morris petitioned the conference to drop the matter till the next conference and thus permit time to heal the trouble (ibid., pp. 184-185). On June 1 Bishop Andrew was suspended by a nearly sectional vote, the result being 111 to 69. All the Missouri delegates voted in the negative (ibid., pp. 190-191). However, when the Reverend Francis A. Harding was suspended for a similar offence, one of the Missouri members voted against him (ibid., p. 240).



of the late General conference against Bishop Andrew extrajudicial and oppressive," said one of the resolutions of the committee of nine who reported on October 4, 1844.<sup>89</sup> But the conference does not seem to have been very bitter against the Northern Methodists at this time. It even condemned some of the southern agitators for their "violent proceedings." The resolutions of the conference contain the following worthy clause: "We do most cordially invite to our pulpits and firesides all our bishops and brethren who, in the event of a division, shall belong to the northern Methodist Church."<sup>90</sup> The members of the conference deeply regretted "the prospect of separation," and declared that they most sincerely "pray that some effectual means, not inconsistent with the interests and honor of all concerned, may be suggested and devised by which so great a calamity may be averted." Nevertheless, they approved the call of the Southern Methodist Convention to be held at Louisville the following May, and requested the individual churches to state their position regarding a separation from the Northern Methodists.<sup>91</sup>

The Annual Conference assembled at Columbia on October 1, 1845, under the presidency of Bishop Soule. The Southern Church had already been formed, and a great deal of interest and heat was manifest in the debates on the action to be taken by Missouri. By a vote of 86 to 14 the conference decided to separate, and a new organization was thereupon effected.<sup>92</sup> Some ministers refused to accede,

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<sup>89</sup> Report of the Missouri Conference on Division (Committee of Nine), resolution no. 2. This can be found in the official Southern Methodist source, *History of the Organization of the Methodist Episcopal Church, South, Comprehending all of the Official Proceedings*, pp. 124-127. It can also be found in the official Northern Methodist account by the Reverend Charles Elliott, entitled, *History of the Great Secession in the Methodist Episcopal Church*, p. 1065.

<sup>90</sup> Report of the Committee of Nine, resolution no. 9.

<sup>91</sup> *Ibid.*, nos. 3, 4.

<sup>92</sup> *Jefferson Inquirer* of October 16, 1845, quoting the *Missouri Statesman* of October 10. "The debate was a protracted one," according to the official account in the *Missouri Statesman*. The members who were dissatisfied with the action of the conference were given



and an active antislavery minority continued to flourish in the State.<sup>93</sup> It was ambitious, and was so tenacious of purpose that it was accused of courting martyrdom. These so-called "Northern Methodists" came out openly against slavery, and their propaganda caused intense bitterness until, in the fifties, hostility to the ministers of this organization became implacable. In Fabius township, Marion County, a public meeting on February 18, 1854, protested against these persons, and demanded that they refrain from preaching in the county.<sup>94</sup> On October 11, 1855, resolutions were passed by citizens of Jackson County requesting the Northern Methodists not to hold their conferences in the county,<sup>95</sup> and public meetings in Andrew, Cass, and other counties uttered condemnations.<sup>96</sup>

The Northern Methodists, however, would not be silenced or driven from the field. At times they denied that they preached abolition doctrines. At their quarterly conference at Hannibal in 1854 they declared that the opposition to them was "a base persecution. . . . That, while we regard

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leave to join the northern body if they wished, and were dismissed "without blame" as to their moral position. Each member arose in the conference and stated his individual position on the issue (*ibid.*). The Northern Methodist account claims that the St. Louis churches were especially opposed to a division of the church. When the author of this statement visited the city in October, 1846, he considered that a majority of the members were still in the old church, the northern body comprising two English churches with 200 members, two German churches with 284 communicants, and two colored churches with 180 members (*Elliott, History of the Great Secession in the Methodist Episcopal Church, p. 593*).

<sup>93</sup> One of the dissenting ministers, Lorenzo Waugh, states that his charge at Hermon Mission was unanimously opposed to separation. Immediately after the New York General Conference of 1844, the Missouri Conference met at St. Louis. Waugh says that there was "some excitement," and that a number wished a new church. At the Columbia Conference he claims that "most of the older preachers" were determined to "go South," and that those who opposed them were unfairly restricted in debate (*A Candid Statement of the Course Pursued by the Preachers of the Methodist Episcopal Church South in Trying to Establish Their New Organisation in Missouri, pp. 7-8*).

<sup>94</sup> *Elliott, A History of the Methodist Episcopal Church in the South West, pp. 39-42.*

<sup>95</sup> *Ibid., pp. 68-69.*

<sup>96</sup> W. Leftwich, *Martyrdom in Missouri, vol. i, pp. 102-104.*

the system of slavery as a great moral, social, and political evil, we do most heartily protest against any attempt, directly or indirectly, at producing insubordination among slaves; we do heartily condemn . . . the underground railroad operation, and all other systems of negro stealing."<sup>97</sup> At a Warrensburg meeting in May, 1855, they protested that "the constitution and the laws guaranteeing to us the right to worship God according to the dictates of conscience we regard as sacred, and the course pursued at meetings held in our own and sister counties in proscribing ministers of the Gospel of certain denominations, is tyrannical, arbitrary, illegal and unjust."<sup>98</sup>

The struggle soon degenerated into a hatred which long outlasted slavery days. Northern Methodist ministers were expelled. Benjamin Holland was killed at Rochester in Andrew County in 1856,<sup>99</sup> and Morris and Allen were driven from Platte County.<sup>100</sup> "The whole course of this Northern Methodist Church since the separation, has been faithless and dishonorable," declared an editorial of 1855. "They are sending preachers into this State against an express agreement and plighted faith. . . . They send them . . . not for the purpose of propagating the Christian faith

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<sup>97</sup> Elliott, *A History of the Methodist Episcopal Church in the South West*, p. 42. The proslavery party refused to believe that the Northern Methodists were not abolitionists. The following letter from a Rhode Island Methodist to the Hannibal Courier appeared in the *Richmond Weekly Mirror* of September 8, 1854: "You are right in charging our Missionaries in Missouri with laboring for the overthrow of slavery; or else we are deceived at the East. According to the published report we have forty-one charges or circuits in Missouri, and only two self-supporting. We have been told again and again at the east, that it is for our highest interest as abolitionists to keep these missionaries there to operate against slavery."

<sup>98</sup> *The History of Clay and Platte Counties*, p. 174.

<sup>99</sup> R. R. Witten, *Pioneer Methodism in Missouri*, pp. 17-18.

<sup>100</sup> *History of Clay and Platte Counties*, p. 644. W. M. Paxton mentions the treatment accorded Morris (p. 198). In April, 1855, a proslavery meeting was held in Parkville to protest against abolitionism. One of the resolutions adopted reads as follows: "Resolved, That we will suffer no person belonging to the Northern Methodist Church to preach in Platte county after date, under penalty of tar and feathers for the first offence; and a hemp rope for the second" (*Missouri Statesman*, April 27, 1855).

. . . but to overthrow slavery."<sup>101</sup> When the press was declaring itself in this manner we cannot wonder that the populace detested the name.

In 1857 the Northern Methodists petitioned the legislature for a charter to found a university. A bill was introduced in the House on November 4 to grant such a charter.<sup>102</sup> After being amended, it was tabled on November 12 by a vote of 95 to 16.<sup>103</sup> This action of the General Assembly called forth at the Annual Conference at Hannibal the following year this protest: "While we are aware that our anti-slavery sentiments were well known, we knew our peaceable and law-abiding character was equally well known. . . . Could we with reason have anticipated that a hundred ministers, and ten thousand members of our church, and a population of fifty thousand . . . would be denied a charter because their views of the peculiar institution did not correspond with those of a majority of the Legislature?"<sup>104</sup>

The slavery question gave rise to many peculiar situations. Men found their positions perplexed by conflicting elements of religion, politics, and social status. The stand of the Reverend Nathan Scarritt well illustrates this point. His biographer says: "The division of his Church [the Methodist] left him connected with the Southern branch, where he has ever since remained, because, although opposed to slavery, he agreed with the Church South in her views of the relations of the Church to slavery as a civil institution."<sup>105</sup> Such confusion of interests makes it very unsafe to attribute absolute party alignment to the slavery issue.

<sup>101</sup> Weekly Pilot (St. Louis), March 10, 1855. A similar editorial also appears in the issue of March 17.

<sup>102</sup> House Journal, 19th Ass., Adj. Sess., p. 110.

<sup>103</sup> *Ibid.*, p. 169. Twelve members were absent or sick. On March 10, 1860, the House of Representatives refused its hall to a Northern Methodist preacher (Missouri Statesman, March 16, 1860).

<sup>104</sup> Minutes of the Eleventh Session of the Missouri Annual Conference of the Methodist Episcopal Church, meeting at Hannibal May 6 to 10, 1858, pp. 17-18.

<sup>105</sup> C. R. Barns, ed., The Commonwealth of Missouri, Biographical section, p. 770.



Dr. Scarritt, for instance, was a Whig, a Southern Methodist, in theory but not in practice opposed to slavery, and a strong Union supporter in 1860.<sup>106</sup>

The Presbyterian Church also divided on the slavery issue, but much later than the Methodist. "The whole New School Church," wrote an influential clergyman who was a witness of the events of the period, "was known to be opposed to slavery, and continued discussion was had at every meeting of the General Assembly until 1857, when such decisive action was taken as led to a separation from the General Assembly of all the synods in slaveholding states. In the Old School there was but little discussion on the subject, and the generally understood public sentiment of Missouri was that nothing was to be said against the institution, and consequently, so far as Missouri was concerned there was a constant tendency on the part of those of the New School, who wished for quiet, to leave that body and enter the Old." The New School was embarrassed by its connection with the American Home Missionary Society, for this organization would not commission a slaveholder or aid a church which contained slaveholding members. "Out of this struggle the New School Synod came out a very small band."<sup>107</sup>

The Congregational Church was known in the State as an abolitionist body, and was regarded with little favor in Missouri as a whole, although it was fairly strong in St. Louis.<sup>108</sup> In 1847 the Reverend Truman M. Post was called

<sup>106</sup> Barus, p. 770. Dr. Scarritt pleaded for the Union in 1860.

<sup>107</sup> Reverend T. Hill, *Historical Outlines of the Presbyterian Church in Missouri*, A Discourse delivered at Springfield, Mo., Oct. 13, 1871. Pp. 27-28. Hill states that the Missouri Home Missionary Society permitted slaveholders to represent them, but that the American Home Missionary Society demanded that even this society conform to its regulations. This resulted in the formation of the Home Missionary Committee, "which entered upon its work with immediate success" (*ibid.*).

<sup>108</sup> A good idea of this feeling toward the Congregational Church can be gained by reading the "Ten Letters on the Subject of Slavery" (1855), by the Reverend N. L. Rice of the Second Presbyterian Church of St. Louis; note especially p. 24. He argued that all agitation of the slavery issue should be suppressed.



to the Third Presbyterian Church of St. Louis. This organization became the First Congregational Church, and was very antislavery in feeling. Dr. Post, because of his slavery views, looked upon the call with some misgivings, whereupon two of the leading members, Dr. Reuben Knox and Mr. Moses Forbes, wrote him advising his acceptance. Dr. Knox even alleged that the few slaveholding members were "mostly as anti-slavery as you or I, and long to see the curse removed."<sup>109</sup> Even before foreign immigration came to St. Louis in such large numbers there was apparently a strong antislavery body in the city which had migrated thither from the Northern and the border States.<sup>110</sup>

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<sup>109</sup> Reuben Knox to Post, February 15, 1847. "You may perhaps be of the number," he wrote, "who suppose we are not allowed to speak for ourselves and hardly think our own thoughts in the slave state and among slaveholders, but you need not fear. Though we have three or four families who own slaves, they are mostly as antislavery as you or I, and long to see the curse removed" (T. A. Post, Truman M. Post, p. 151). The same day Moses Forbes wrote Dr. Post: "You are looked upon as opposed to the system and as feeling it your duty to preach upon the subject as upon the other great moral and political evils and sins, and that for the wealth of the Indies you would not consent to be muzzled. At the same time you are not viewed as being so exclusive as to suppose there are no Christians who own slaves, or so unwise as not to use good judgment and sound discretion as to times and seasons, ways and means of treating the subject and removing the evil" (*ibid.*, pp. 151-152).

<sup>110</sup> A portion of the St. Louis press from the middle forties on was antislavery. It was apparently not until the fifties that the distinction between the abolitionists and the mere antislavery sympathizers was denied. The Kansas struggle largely caused this revulsion of feeling against any one not pronounced in his proslavery views.

## CHAPTER V

### SENATOR BENTON AND SLAVERY

Returning to the field of politics, it may be observed that the state legislature took little official notice of the Garrisonian program till the congressional debates raging about the abolition petitions and the use of the mails to scatter antislavery literature had stirred the whole land. On February 1, 1837, a law was passed which subjected to fine and imprisonment "any person [who] shall publish, circulate, or utter by writing, speaking, or printing any facts, arguments, reasoning, or opinions, tending directly to excite any slave or slaves, or other person of color, to rebellion, sedition, . . . or murder, with intent to excite such slave or slaves." The punishment for the first offence was to be a fine of one thousand dollars and imprisonment for not more than two years, for the second offence imprisonment for not more than twenty years, and for the third, imprisonment for life.<sup>1</sup> Although several individuals were punished for attempts to run slaves over the borders, there is a dearth of records dealing with prosecutions under the statute of 1837, but what the law failed to accomplish popular feeling effected, and several persons were forced to flee the State for airing their antislavery views.<sup>2</sup>

An idea of the feeling of insecurity caused by the abolition crusade can be gained from the fact that the above law passed the House of Representatives by a vote which was unanimous—61 to 0.<sup>3</sup> George Thompson states that while he and his companions were prisoners at Palmyra in 1841,

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<sup>1</sup> Session Laws, 1836, p. 3.

<sup>2</sup> See above, pp. 118, 120.

<sup>3</sup> House Journal, 9th Ass., 1st Sess., p. 383. This law passed the House on January 28, 1837, and the Senate on December 23, 1836 (Senate Journal, 9th Ass., 1st Sess., p. 147). The vote in the Senate is not given.

their counsel informed them that it was a violation of the Missouri law to read even the Declaration of Independence or the Bible to a slave.<sup>4</sup> On February 12, 1839, the Assembly passed resolutions protesting against the efforts of the North to interfere with "the domestic policy of the several states." Each slave State would be forced to "look out for means adequate to its own protection, poise itself upon its reserved rights, and prepare for defending its domestic institutions from wanton invasion, whether from foreign or domestic enemies, peaceably if they can, forcibly if they must."<sup>5</sup> On February 2, 1841, the Assembly in joint session voted an address of thanks to President Van Buren for his "manly and candid course on the subject of abolitionism." For some unknown reason the vote was close—47 to 43, ten members being absent.<sup>6</sup> Two weeks after this vote of thanks the legislature passed a series of resolutions condemning Governor Seward of New York for having demanded a jury trial before consenting to the rendition of fugitive slaves. The Assembly declared that such a jury "frequently would be Abolitionists," and character-

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<sup>4</sup> P. 60.

<sup>5</sup> Session Laws, 1838, p. 337. These resolutions read as follows: (1) As the Constitution does not deprive States of power to regulate domestic slavery, it is a reserved right. (2) Interference by citizens of non-slaveholding States "is in direct contravention of the constitution of the United States . . . derogatory from the dignity of the slaveholding states, grossly insulting to their sovereignty and ultimately tending to destroy the union, peace and happiness of these confederated states." (3) They approved the course of the southern representatives in Congress. (4) They viewed "the active agents [abolitionists] in this country in their nefarious schemes to subvert the fundamental principles of this government" as destructive of our "domestic peace and reign of equal law." (5) The slave States had "no other safe alternative left them but to adopt some efficient policy by which their domestic institutions may be protected and their peace, happiness, and prosperity restored." (6) Copies were to be sent to each governor and member of Congress.

<sup>6</sup> House Journal, 11th Ass., 1st Sess., pp. 342-343. In his reply to Goode on February 2, 1855, J. S. Rollins said that the Democrats voted unanimously for this Address (*ibid.*, p. 14). Most of the Whigs must therefore have opposed the measure, undoubtedly rather through enmity to Van Buren and Van Buren politics than through any love for abolitionists.

ized Seward's action as "frivolous and wholly unworthy of a statesman."<sup>7</sup>

Some conception of the grip with which the State was held by slavery can be gained from the action of the constitutional convention which assembled at Jefferson City in November, 1845. A reporter at the convention wrote as follows on November 24: "Mr. Ward presented a petition from one solitary individual, on the subject of the abolition of slavery. He remarked that he arose to perform a delicate duty—present a petition on the subject of abolition, containing 27 reasons. Every person who knew him, was aware of his opposition to abolitionism in every shape. He wanted to get rid of the petition, and therefore he moved to lay it on the table." Mr. Ewing then moved that it be not received. The vote was unanimously in favor of this motion—64 to 0. "Mr. Hunter called for ayes and noes that the world might know the sentiment of this body on the subject of abolitionism."<sup>8</sup> The subjects of abolition or of emancipation did not again appear before the convention. The actual provisions of the constitution of 1845 relating to the negro deserve some further consideration.

Although this constitution was defeated, its failure was due to causes other than the slavery sections, which were identical with those of the constitution of 1820. The changes were leveled at the free negro rather than at the slave. For example, to article iii, section 26, paragraph i, was added a clause compelling the removal of newly emancipated negroes from the State. The same clause was also

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<sup>7</sup> Session Laws, 1840, pp. 236-237.

<sup>8</sup> Jefferson Inquirer, November 26, 1845. See also the Journal of the Constitutional Convention of 1845, p. 38. Two members were absent when the above vote was taken. The proceedings of the convention are briefly given in the above Journal. The full debates can be found in the Jefferson Inquirer of November 19, 22, 26, 29, December 3, 6, 10, 12, 15, 19, 23, 31, 1845, January 5, 9, 1846. The constitution can be found in the Journal and in the Jefferson Inquirer of January 21, 1846. This constitution was defeated by "about 9000 votes" in a poll of "about 60,000" (Switzler, p. 259).



added to paragraph iv of the same section.<sup>9</sup> This evident satisfaction of the convention with the old provisions implies that the public may have been similarly minded. The vote on the various paragraphs cannot be learned as they were not passed on singly.

Reviewing the discussion thus far as a whole, and bringing it to a point, it is evident that from the later territorial days Missouri was largely inhabited by a citizenship which came from slaveholding communities. Arriving in Missouri already acclimated to the economic and social atmosphere of a slave society, and themselves possessing considerable slave property, it can hardly be conceived that these people would immediately turn their backs on the traditions which they so dearly loved and renounce a system which not only involved a great amount of capital, but was the only source of labor then available.

This early period of Missouri slavery sentiment and its influence upon politics and religion conveniently closes with the opening of the Mexican War. It is marked by western good humor and fair play toward the negro, if not always toward the political opponent. One event after another set the populace in a furor. Emancipationists and even a few abolitionists there were in the State throughout these years, and the Colonization Society was fairly well supported.<sup>10</sup> But agitation for emancipation was more common among individuals than in political parties, and that general emancipation could have taken place before 1861 does not seem probable to the present writer.

The annexation of Texas early engaged the attention of the State. On November 18, 1844, Governor Marmaduke in his last message to the legislature made a plea for annexation. He argued that many Missourians had settled in

<sup>9</sup> Journal of the Convention, app., p. 43. The vote on article iii is given in *ibid.*, pp. 241-242. It is interesting to note that the old trouble-making clause forbidding free negroes to enter the State was placed in this constitution (art. iv, sec. 2, par. i), but with the condition that it was not to "conflict with the laws of the United States" (*ibid.*).

<sup>10</sup> See ch. vii of this study.

Texas,<sup>11</sup> that its markets were valuable, and that if the United States did not act it might either become a prey to the English or to the savages. In this message there is no reference to slavery.<sup>12</sup> Two days later the new governor, Edwards, sent his message to the Assembly, but it took no notice whatever of the Texas question.<sup>13</sup> The thoughts of the State, however, were on the new republic, for on November 26, 1844, Ellis introduced in the Senate joint resolutions relative to annexation.<sup>14</sup> These strongly favored that action, approved Senator Atchison's vote on the Texan treaty in the Federal Senate, opposed a division of Texas into free and slave States, and declared that the decision of the question of slavery should be left to the citizens of Texas.<sup>15</sup> Resolutions appeared in the House on November 29, December 9, and December 12, also favoring annexation.<sup>16</sup> After various amendments and substitutes had been proposed, Gamble, on December 12, offered ten resolutions which condemned the Texan treaty as "an intrigue for the Presidency," provided that the boundary of Texas should not exceed in extent the largest State in the Union, and declared that Benton's vote against the treaty "was in strict conformity with the sovereign will of Missouri."<sup>17</sup> After a protracted debate these resolutions were rejected on December 18 by a vote of 63 to 27, ten members not being present.<sup>18</sup> These resolutions were so conglomerate that this vote cannot be taken as a gauge of sentiment against Benton.

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<sup>11</sup> "During the last two weeks, a vast number of families have passed through this place for Texas. . . . They are principally from . . . this State and Illinois" (*Jefferson Inquirer*, November 6, 1845). A party of from fifty to a hundred was solicited in St. Louis in 1840 to settle on a tract of land near Nacogdoches (*Daily Pennant* [St. Louis], November 3, 1840).

<sup>12</sup> *House Journal*, 13th Ass., 1st Sess., pp. 18-19.

<sup>13</sup> *Ibid.*, pp. 27-37.

<sup>14</sup> *Ibid.*, p. 56. The vote on these resolutions in the Senate varied from 26 to 6 on the second and third ballots to 18 to 14 on the sixth. There were eight in all (*ibid.*, pp. 100-102).

<sup>15</sup> *House Journal*, 13th Ass., 1st Sess., pp. 108-111. The above Senate Resolutions are given in full on these pages.

<sup>16</sup> *House Journal*, 13th Ass., 1st Sess., pp. 70, 108-111, 120-122.

<sup>17</sup> *Ibid.*, pp. 120-122.

<sup>18</sup> *Ibid.*, p. 136.

On the same day that Gamble's resolutions failed the original Senate resolutions relative to annexation passed by a margin of 55 to 25, nineteen members being absent.<sup>19</sup>

In this Texas agitation the legislature was following rather than leading the State. On June 8, 1844, the Democracy of St. Louis city and county passed resolutions demanding the "reoccupation of Oregon and the reannexation of Texas at the earliest practicable period." "We pledge ourselves," they boasted, "not to be behind the foremost in the contest . . . until the stars and stripes shall wave in triumph over the Union with Texas included."<sup>20</sup> It will soon be seen that their jingoism was not mere froth. Not only Democrats but Whigs as well were most enthusiastic in the cause of Texas from this time till the close of the Mexican War.

The demand of Missouri, and in fact of the whole Southwest, for Texas was probably due in greater degree to native love of expansion for its own sake than to any desire for new slave territory. The poverty of the exhausted soil and the need of fresh acres might have influenced portions of the old South, but Missouri was in 1844 still in the exploitative stage, and the economic pressure could not have been severe. This western democracy was indignant at outside, and especially at northern, dictation. Annexation made a good campaign issue, even for home use. There is indication that it was employed for this purpose in the resolutions of a meeting in favor of the annexation of Texas held in Greene County in April, 1845. The declaration runs: "Resolved, That we look upon the re-annexation of Texas to the United States as a measure calculated to reunite the democratic party of this State."<sup>21</sup>

The later course of the Texan question and the war in which it culminated appealed with particular force to the

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<sup>19</sup> House journal, 13th Ass., 1st Sess., p. 140. This vote has been analyzed by H. Tupes, *The Influence of Slavery upon Missouri Politics*, pp. 21-25. The Whigs and nine Democrats voted in the negative.

<sup>20</sup> *Western Pioneer (Liberty)*, June 21, 1844. This newspaper strongly advocated annexation.

<sup>21</sup> *Jefferson Inquirer*, April 17, 1845.



Missourians. Switzler mentions the enthusiasm with which the State raised troops for this conflict.<sup>22</sup> Irrespective of party affiliation, the flower of Missouri enlisted. Such prominent Whigs as A. W. Doniphan were among the leaders of the State in this war. Missouri furnished 6733 of the 71,309 volunteers who enlisted during the Mexican War. Only two States, Louisiana and Texas, furnished more, and they were much closer to the seat of war than was Missouri.<sup>23</sup> In 1840 the white population of Missouri was but one forty-fifth of that of the whole country, nevertheless that State furnished one eleventh of the nation's volunteers in the Mexican War.<sup>24</sup>

The Wilmot Proviso was most distasteful to the Democratic party of Missouri. Benton disliked the act because it stirred up the slavery issue. The proslavery wing of the party was indignant because the bill sought to restrict the system in the Territories. The General Assembly on February 15, 1847, passed instructions to the Missouri senators in Washington to vote according to the spirit of the Missouri Compromise, which of course was considered as at variance with the Wilmot Proviso.<sup>25</sup> Popular sentiment, however, seems to have viewed the proviso with less fear than did the legislature. On January 8, 1848, a meeting of St. Louis

<sup>22</sup> Pp. 260-263. Switzler speaks from personal observation.

<sup>23</sup> Adjutant General's Report of April 5, 1848 (Executive Documents, 30th Cong., 1st Sess., vol. viii, pp. 45, 76, Doc. no. 62). Louisiana furnished 7728 volunteers, Texas 7313, Georgia 2047, Kentucky 4800, Virginia 1303, Illinois 5973, Ohio 5530, New York 2665, Massachusetts 1047, and so on (ibid., pp. 28-49). For the enthusiasm of the South and the West for the Mexican War see W. E. Dodd, "The West and the War with Mexico," in *Journal of the Illinois State Historical Society*, vol. v, no. 2, p. 162.

<sup>24</sup> The white population of the United States in 1840 was 14,581,453, and that of Missouri 323,888 (Sixth Federal Census, Population, pp. 476, 418).

<sup>25</sup> "Be it enacted: 1. That the peace, permanency and welfare of our National Union depend upon the strict adherence to the letter and spirit" of the Compromise of 1820. 2. "That our Senators in the Congress of the United States are hereby instructed and our Representatives requested, to vote in accordance with the provisions and spirit of the said . . . act, in all questions which may come before them in relation to the organization of new Territories or States" (Session Laws, 1846, pp. 367-368). These resolutions were considered a victory for Benton and his faction.



Democrats was held in the court house rotunda. Truett Polk and Frank Blair were among those present. Judge Mullanphy offered the following special resolution: "Resolved, That the declaration of the Congress of the United States 'that war existed by act of Mexico' 'IS TRUE.'" Regarding the proviso this meeting made a declaration which was evidently so worded as to save Benton, whose attitude upon the question had caused much criticism in the State. The fifth of the thirteen resolutions read as follows: "Resolved, That as we are now approaching a period when the struggle for the control of the Government is again to be contested by the Federalists, we think it time to give over disputes in Congress; upon such abstractions as the Wilmot Proviso . . . we think this [absurd Proviso] has lived long enough, and time sufficient has elapsed to enable every man to perceive the folly of it."<sup>26</sup>

A bitter struggle, however, developed over the proviso. Some in the State even favored disunion, if a prominent contemporary, Colonel W. F. Switzler, interpreted the period correctly.<sup>27</sup> This intense feeling is reflected in a

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<sup>26</sup> The Address, Resolutions, and Proceedings of the Democracy of St. Louis, in the Rotunda of the Court House, January 8, 1848, pp. 6-8. Attached to the account of this meeting are comments from the Daily Union of January 10. One of these reads as follows: "The Wilmot proviso is properly stigmatized by the St. Louis Democracy as an act of folly—a miserable stalking horse, on which a few small politicians have mounted. . . . The true doctrine on the Slavery question, is:—The Federal Government must keep hands off—leave it to be controlled by the people in the several States and Territories, as a local matter" (*ibid.*, p. 8). Regarding local opinion relative to the justice of the Mexican War, this strong statement is made: "Here [in St. Louis] no Democrat hesitates for a moment, to declare that the war in which we are now engaged, was forced upon us by Mexico. . . . Indeed, that feeling extends beyond the Democratic ranks; and many of the most intelligent and patriotic Whigs openly avow their detestation of Clay, Webster, and Corwin's sentiments" (*ibid.*, p. 7).

<sup>27</sup> "It was quite natural," says Switzler, "that a large portion of the people of Missouri without regard to party distinctions, should share these convictions with varying degrees of intensity. Some, it is true, were so wedded to the institution of slavery that rather than abandon it in Missouri even through the process of gradual emancipation or submit to an act of Congress prohibiting it in the territories they seemed willing to abandon, and even to adopt measures to disrupt, the National Union itself" (pp. 264-265). Some idea of

letter written by F. P. Blair, Sr., in January, 1849: "Frank [F. P. Blair, Jr.] writes me from St. Louis that his legislature will instruct him against the Wilmot Proviso—in which case Frank insists he ought to resign or . . . make an appeal to the people of Missouri."<sup>28</sup> This declaration was made about the same day that the so-called "Jackson" Resolutions against Benton were introduced into the Missouri Senate (January 1), and brought to pass the "Appeal" of that senator from his legislative instructions to the people of the State.

The protracted debate and intense excitement growing out of the pertinacity of the Wilmot Proviso brought Benton's political record squarely before the people on the eve of his sixth attempt to represent Missouri in the United States Senate. Since the events leading up to and concerning Benton's defeat have been treated by several authorities,<sup>29</sup> it will be the province of this study to take up the various political struggles only in so far as they are affected by the slavery issue. Some writers maintain that slavery in itself was the cause of Benton's fall, while others would have it that those of the rising generation who had political ambitions, jealous of his dictatorship, and grieved by their exclusion from public affairs, had most to do with overturning

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the feeling of the radical element in Missouri can be gained from a resumé of Senator Atchison's speech against the proviso in the Federal Senate as it is given in the *Jefferson Inquirer* of June 22, 1850. In the same year a Clay County meeting bitterly condemned both abolitionists and disunionists, and also declared that they regarded the "Wilmot Proviso and all kindred measures with the most perfect abhorrence" (quoted in the *History of Clay and Platte Counties*, pp. 155-156). The date of this meeting is not given.

<sup>28</sup> MS. F. P. Blair, Sr., to Van Buren, January 6, A. L. S. [Autograph Letter Signed], Van Buren Papers, vol. lvi.

<sup>29</sup> The best account is that of P. O. Ray, *The Repeal of the Missouri Compromise, Its Origin and Authorship*, ch. i. Ray, however, used no manuscript sources, and the questionable thesis that Atchison originated the repeal engages most of his attention. The subject is also treated by W. M. Meigs, *The Life of Thomas Hart Benton*, ch. xxi. Meigs's materials were also limited. In his *Thirty Years' View* Benton makes no comments on his retirement from the Senate. Switzler does not give much light on the subject. Neither does Roosevelt or Rogers in his biography of Benton. The press of the period is too bitterly partisan to be of great assistance.

his power. The arguments of this chapter will go to show that both of these elements enter into the fight. The slavery question seems to have been the real vital force behind the struggle, although the personal equation of Benton's imperiousness cannot be overlooked.

It was said that of all his colleagues in the Senate Dr. Linn alone was treated with consideration by Benton. The man who dared to look Andrew Jackson in the eyes and who would as soon meet his opponents with pistols as with eloquence was not the man to brook criticism from local politicians. His arrogance is said to have been supreme. "In 1828," declared Lewis V. Bogy, "Col. Benton sent a series of instructions addressed to Spencer Pettus, then Secretary of State, in his own hand writing, and told the Legislature that they were not to cross a T or dot an I, but they must be passed as sent."<sup>30</sup> Benton's friend, the editor of the *Jefferson Enquirer*, lamented that his enemies had seized "upon his traits of character, and upon what they call his vanity, egotism, and self conceit," and admitted that he was not "infallible" on these points.<sup>31</sup> The Whigs had had little use for Benton for a generation. One Whig editor warned his party not to aid the Benton wing of the Democrats. "Benton," he wrote, "has ruled this state, for thirty years with a despotism rarely equalled, in any country."<sup>32</sup>

From 1820 to 1844 Benton's control was hardly questioned. His hold on his party, despite the fact that he took little interest in Missouri politics, was undoubtedly due to the pride which his constituents felt in a statesman whose national prominence shed such lustre on a new and western State. The old settlers worshipped a Missourian who was

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<sup>30</sup> Speech of Colonel Lewis V. Bogy, the Democratic nominee for Congress. . . . Delivered at the Rotunda [of the Court House] May 27, 1852, pamphlet, p. 11. President Polk in his *Diary* for March 29, 1847, speaks of Benton's "domineering disposition and utter impatience of contradiction or difference of opinion" (*The Diary of James K. Polk During His Presidency*, vol. ii, p. 445).

<sup>31</sup> Issue of January 18, 1851.

<sup>32</sup> *Weekly Missouri Sentinel*, August 28, 1852.



the equal of Clay and Webster in debate and who feared not to castigate Calhoun for his nullification program, but with the debate on the Texan Treaty of 1844 and the Wilmot Proviso a radical proslavery wing of the Democratic party developed which realized that its first task was to unseat Benton. The situation is very hard to analyze because of the bitterness on both sides. Benton's enemies covered whatever personal animus and rivalry they might have borne him with the cloak of the slavery issue. To extricate the slavery needle from the haystack of political furor which buried Missouri from 1849 to 1852 is most difficult. That Benton's whole slavery vote and policy were contrary to those of a large portion of his own party in Missouri is certain. To what extent this fact was used by his enemies both within the State and without deserves some attention.

Benton's position on the various great political struggles revolving about the slavery issue was quite consistent. He opposed the Texan Treaty of 1844 which all knew meant war with Mexico. "Atlantic politicians," he said on June 10, 1844, "hot in pursuit of Texas, may have no sympathy for this Mexican trade, but I have! and it is my policy to reconcile the two objects—acquisition of Texas and the preservation of the Mexican trade—and, therefore, to eschew unjust war with Mexico as not only wicked but foolish. . . . I am for treating her with respect, and obtaining her consent fairly and honorably . . . to the annexation of Texas."<sup>33</sup> Benton opposed the war with Mexico up to its declaration.<sup>34</sup> "Col. Benton called . . . and I gave him a copy of the message 'declaring war on Mexico,'" wrote President Polk in his diary for May 11, 1846. "I found he did not approve it in all its parts. He was willing to vote

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<sup>33</sup> T. H. Benton, *Abridgment of the Debates of Congress*, vol. xv, p. 145.

<sup>34</sup> Polk, who loved the Texan Treaty much and Benton little, says that the latter was sorry for his opposition to the treaty. "Col. Benton feels he has lost cast[e] with Democracy on the Texan question, and feels sore and dissatisfied with his position" (*Diary for March 4, 1846*, vol. i, p. 265).



men and money for defence of our territory, but was not prepared to make aggressive war on Mexico. . . . I inferred too, from his conversation that he did not think the territory of the United States extended west of the Nueces River."<sup>35</sup> After war had been declared, however, Benton became quite enthusiastic. He advised Polk that a general-in-chief should be appointed, "a man of talents and resources as well as a military man," and modestly intimated to the President that "if such an officer was created by Congress, he would be willing to accept the command himself." Polk continues: "He [Benton] alluded to what was apparent to every one, that the Whigs were endeavoring to turn this war to party account. . . . I [Benton] have returned. . . to Washington to render you any aid in my power."<sup>36</sup> Benton received an appointment but without the plenary powers which he desired. Congress was unwilling to create the office of lieutenant-general, to which Polk intended to appoint Benton. Polk did, however, appoint him major-general and his appointment was confirmed by the Senate, but Benton refused to accept unless he was placed in supreme command and also given full diplomatic powers. Polk concluded that he had no right to put him over the four major-generals already in the field.

Benton played the patriot and supported the war when it actually took place, but he was never reconciled to either the justice or the expediency of the enterprise, and repeatedly accused Calhoun of causing it.<sup>37</sup> From the day he opposed the Texan Treaty his enemies gave him no peace. "There is cogent logic," ran an editorial of June, 1844, "as well as a severe rebuke in the . . . letter of the 'Hero of New Orleans' [Jackson's letter of February, 1843, favoring annexation, which was published in 1844] that must have been gall and wormwood to Benton. Jackson has fixed the

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<sup>35</sup> *Diary*, vol. i, p. 390.

<sup>36</sup> *Ibid.*, for November 10, 1846, vol. ii, pp. 227-228.

<sup>37</sup> See Benton's speech in the Senate, February 24, 1847 (*Congressional Globe*, 20th Cong., 2d Sess., pp. 497-498); also his Jefferson City Speech of May 26, 1849 (see note 44 of this chapter).

stigma on Benton's recreant brow—let it rest there forever."<sup>38</sup> Other papers and individuals as well were disgusted with Benton's stand on the whole Texan question.<sup>39</sup>

The Compromise of 1850 was generally popular with the Missouri Democracy. Benton, however, opposed most of its provisions. He decried compromise on principle. "Clay is destroying the Union with his humbug compromises," he wrote Clayton in December, 1850.<sup>40</sup> Among the provisions of the Compromise of 1850 which he disliked was that which dealt with slavery in the District of Columbia. He maintained that Congress had the power to abolish slavery in the District, "but," he said, "I am one of those who believe that it ought not to be touched while slavery exists in the States from which the District was ceded."<sup>41</sup>

Benton was also against "mixing up the question of admitting California with all the questions which slavery agitation has produced in the United States. . . . I asked for California a separate consideration."<sup>42</sup> He argued that slavery was already abolished in the territories acquired from Mexico. He then read the Mexican Decree of Emancipation of 1829 and the article of the Mexican constitution of 1843 which forbade slavery in all the Mexican territories. "The practical application which I make of this exposition of law is," he continued, "that the proviso

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<sup>38</sup> *Western Pioneer*, June 21, 1844. The *Pioneer* likewise spoke of Benton's Texas position as giving him the nature of a "self-executioner" (*ibid.*).

<sup>39</sup> A mass-meeting held at St. Genevieve on January 8, 1845, passed resolutions favoring "the principles of the Tyler Treaty." They praised Atchison's and condemned Benton's vote on the treaty, claiming that the latter "did not cast the vote of Missouri" on that occasion. "We approve the vote of our State Senator, Hon. C. Detchemendy, against the reelection of Col. Benton" (*Missouri Reporter* [St. Louis], January 18, 1845). This sheet spoke of Benton's Texan position as "treason," and condemned him for not obeying his instructions on annexation (*ibid.*, January 4, 1845).

<sup>40</sup> MS. Benton to John M. Clayton, December 8, 1850, A. L. S., Clayton Papers, vol. viii, p. 1803.

<sup>41</sup> *Congressional Globe*, 31st Cong., 1st Sess., pt. i, p. 712. Speech of April 11, 1850.

<sup>42</sup> *Ibid.*, p. 656. Speech of April 8, 1850.

[Wilmot's] of which we have heard so much is of no force whatever—unnecessary from any point of view—and of no more effect, if passed, than a blank piece of paper pasted on the statute book." He declared that positive law alone could introduce slavery into California and New Mexico.<sup>43</sup> Distasteful as this whole argument, with its conclusion, must have been to many of his constituents, Benton continued to preach it, and even elaborated it in his Jefferson City speech of May 26, 1849.<sup>44</sup>

As to a fugitive slave law, Benton urged an "efficient and satisfactory" act, but "it must be as a separate and independent measure." He believed that the seduction of slaves was "the only point . . . at which any of the non-slaveholding States, as States, have given just cause of complaint to the slave-holding States."<sup>45</sup>

When the movement for the acquisition of the 54:40 line and the demand for "all of Oregon" appeared, Benton was likewise in opposition while the Missourians clamored for the Columbia River country.<sup>46</sup> In his speech at Jefferson City, mentioned above, Benton said that his position on the slavery question had been consistent. "In my vote on the Oregon bill," he declared, "in which I opposed the introduction of slavery there—and, again in my letter to the people of Oregon . . . I declared myself to be no propagandist of slavery." He did not stop here, but openly decried the system: "My personal sentiments, then, are against the institution of slavery, and against its intro-

<sup>43</sup> *Ibid.*, pp. 430-432. Speech of February 27, 1850.

<sup>44</sup> Speech Delivered by the Hon. Thomas H. Benton at Jefferson, the Capital of Missouri on the 26th of May, 1849, pamphlet, pp. 11-12. This speech can also be found in Niles' Register, vol. lxxv, pp. 390-392, 397-399.

<sup>45</sup> Congressional Globe, 31st Cong., 1st Sess., pt. i, p. 657.

<sup>46</sup> Resolutions favoring the "reoccupation" of Oregon were common throughout the State. On January 8, 1846, a great mass-meeting was held at Jefferson City where the state constitutional convention was then in session. Many of the convention delegates were present. Governor Marmaduke acted as chairman and J. S. Green as secretary. Resolutions demanding all of Oregon and endorsing the Monroe Doctrine were passed. President Polk was congratulated on the success of his Texas policy (Jefferson Inquirer, January 14, 1846).



duction into places in which it does not now exist. If there was no slavery in Missouri today, I should oppose its coming in . . . as there is none in New Mexico and California I am against sending it to those territories."<sup>47</sup>

Regarding the question of slavery in, and the power of Congress over, the Territories, Benton gave out what must have been unpalatable doctrine to his Jefferson City hearers. "It is absurd," he said, "to deny to Congress the power to legislate as it pleases upon the subject of slavery in the territories. . . . Congress has power to prohibit, or to admit slavery, and no one else. . . . Congress has the constitutional power to abolish slavery in [the] territories."<sup>48</sup>

Benton was no sentimental antislavery enthusiast. He had considerable slave property himself. "I was born to the inheritance of slaves," he said, "and have never been without them. I bought some but only at their own entreaty. . . . I have sold some, but only for misconduct. I had two taken from me by the Abolitionists, and never inquired after them; and liberated a third who would not go with them. . . . I have slaves in Kentucky. . . . I have slaves in Washington City—perhaps the only member of Congress who has any there."<sup>49</sup>

Benton's whole attitude toward slavery was open to the world, and must have been anything but satisfactory to an influential portion of his party. There is, therefore, a reasonable basis for supposing that the opposition to him might well have been based, not immediately perhaps, but certainly ultimately, on the slavery issue. Of course this was by no means the only motive that caused his defeat. The personal and political bitterness was deep-seated, but Benton himself always thought that it was the disunion faction headed by Calhoun which brought about his downfall.

To the southern radicals, with their doctrine of nullification and their hatred for his stalwart defence of the Union,

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<sup>47</sup> Jefferson City Speech, p. 17.

<sup>48</sup> *Ibid.*, p. 11.

<sup>49</sup> *Ibid.*, p. 17.



Benton laid the charge of seeking his ruin by undermining him at home. From the day when he and Jackson "were made friends together" the rift between the Jacksonian Unionists and the Calhoun "Nullifiers" was never closed. In the open Senate on March 2, 1847, Benton formally charged Calhoun with conspiring to consummate his defeat.<sup>50</sup> His speeches of the following years are burdened with the most abusive denunciations of Calhoun and the latter's famous Resolutions of 1847, the prototype of the so-called "Missouri" or "Jackson" Resolutions to which attention will be called later.<sup>51</sup> Benton so hated and abominated Calhoun that he severely criticized President Shannon of the State University for placing Calhoun's newly published works in the University library.<sup>52</sup> Calhoun, on his part, denied any complicity in the imaginary conspiracies to unseat Benton. "He [Benton] seems to think," wrote the former, "I stand in his way, and that I am ever engaged in some scheme to put him down. I, on the contrary, have never for a moment thought of raising him to the level of a competitor, or rival; nor considered it of any importance to me whether he should be put down or not."<sup>53</sup>

There is some evidence, however, that Calhoun and other extreme southern leaders were at least corresponding with Benton's enemies at home who had his defeat as their chief political goal. Judge W. C. Price of Springfield, who claims to have been Benton's arch-opponent in Missouri, states that he opened the fight against Benton in 1844. The judge, according to his own story, was in constant communication with Calhoun, Davis, Benjamin, and other extremists of the South. He declared that it was in 1844, at a time when Benton refused to aid in the repeal of the Missouri Com-

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<sup>50</sup> Congressional Globe, 29th Cong., 2d Sess., p. 563.

<sup>51</sup> See the whole of the Jefferson City Speech, and that delivered at Fayette on September 1, 1849, which may be found in the Jefferson Inquirer of October 6, 1849.

<sup>52</sup> Letter of Shannon of July 26, 1852, in the Missouri Weekly Sentinel of August 12, 1852.

<sup>53</sup> John C. Calhoun to the People of the Southern States, Or Reply to Benton, pamphlet, p. 1.

promise in order to save Missouri from a free-soil neighbor to the west, that he declared war on the latter and worked incessantly to undermine him.<sup>54</sup> These reminiscences need not be taken too seriously. Benton's stand on the Texan Treaty had already given him bitter enemies,<sup>55</sup> and even earlier than this there was an active faction against him in his own party in the State. So perhaps Judge Price overestimated his own importance in claiming to be the "original" anti-Benton man.

There was in fact a distinct anti-Benton movement within the Democratic ranks of Missouri before the Texan Treaty came up. On July 5, 1843, one V. Ellis, a St. Louis Whig, wrote to George R. Smith relative to the appointment of certain Indian agencies, that "Benton's days are numbered. V. Buren has no chance for the nomination . . . it shall not be my fault if things do not work right. Select Democrats in all cases, & such as are opposed to Benton."<sup>56</sup> In March, 1844, Charles D. Drake sent out printed instructions for the Whigs in the approaching presidential election. The Whigs were to launch an aggressive campaign, and, by dividing the Democrats, win. "Is there, or can there be created, such a division," said a portion of this suggestive query, "as would enable the Whigs by their votes to elect an anti-Benton man, . . . or if no anti-Benton man can be found, one who will go with us on these measures?"<sup>57</sup>

Nevertheless, the stand of Benton on the Texas question can be considered as the real cause of the organized opposition. "Ever since 1844, when Mr. Benton commenced opposing the Democratic party and its great measure . . . the annexation of Texas," said a published letter of 1857, "his followers have never doubted his position."<sup>58</sup> On

<sup>54</sup> Statement made by Price to W. F. Connelley and quoted by Ray, pp. 248-249.

<sup>55</sup> See the *Western Pioneer* of June 21, 1844, quoted above.

<sup>56</sup> MS. Smith Papers.

<sup>57</sup> Printed letter in the Smith Papers. Dated March 19, 1844, and circulated by Drake as "Cor. Sec. St. Louis Clay Club."

<sup>58</sup> Printed letter of William Palm to C. C. Zeigler of the state legislature. Dated St. Louis, January 25, 1857. This same idea is

October 1, 1844, Benton was severely criticized at Hannibal by one Davis, who answered him from the platform, and declared that "he was dissatisfied, and others were dissatisfied . . . with the Colonel's [Benton's] position on the subject of Texas."<sup>59</sup>

There is very substantial ground for presuming that Benton's enemies took advantage of his position on the slavery question in general and used it as a lever. Senator Atchison implied as much in a speech at Platte City on September 26, 1849. He said: "I have been and am now making war on him [Benton], Free Soilism, Abolitionism, and all similar isms . . . and if he is not driven from the United States Senate, it will be no fault of mine."<sup>60</sup> The observations of Montgomery Blair, a shrewd man of affairs, leave the impression that the slavery issue was by no means the sole root of Benton's trouble. "I have no doubt," he wrote Martin Van Buren from St. Louis early in 1849, just after the passage of the "Jackson" Resolutions, "but that we can sustain Col. Benton . . . his enemies are in the ascendant now in this State & it requires something potent to physic them with. Fortunately for him, I think, they have taken the Slavery chute, imagining that the safe channel, while the course of his old associates and his own

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given in the official anti-Benton campaign pamphlet of 1856, entitled, *A Statement of Facts and a Few Suggestions in Review of Political Action in Missouri*, p. 6.

<sup>59</sup> The *Mill Boy* (St. Louis), October 12, 1844. This was a St. Louis Whig organ. The account of the above meeting is as follows: On October 1 Benton spoke to a large audience at Hannibal, after which "Mr. Jamison, of Callaway, followed. . . Mr. Jamison remarked that if there were any persons present who were not satisfied with Col. Benton's course on the Texan question . . . the Colonel would be pleased to give further explanation. . . Thereupon, Mr. Davis took the stand, and announced that he was dissatisfied, and other Democrats were dissatisfied . . . with the Colonel's position upon the subject of Texas, and especially with reference to the subject of instructions by the legislature." Benton replied "that he did not desire instructions, and would not hold his seat when he believed he was not acting in conformity with the views of his party."

<sup>60</sup> Republican, October 6, 1849.



vote on the Oregon bill would they think effectually destroy him."<sup>61</sup>

As above quoted, Montgomery Blair is casually stating to a personal friend that Benton's enemies had chosen the "Slavery chute" as the most convenient exit by which to discharge him, evidently believing that Benton's slavery policy was not the real cause of the attack upon him. Even one of Benton's opponents, W. C. Price, acknowledged that it was not only because of their honest displeasure with his stand against slavery, but as much because of their jealousy of his dominance, that the enemies of Benton sought his downfall.<sup>62</sup> Benton himself thought that the slavery issue was a mere subterfuge to place him in a bad position. Calhounism and secession appeared to him as the sole inspiration of his enemies. "The slavery question," he wrote Clayton in 1855, "is a cover for the real motives which, with the politicians, [is] ambition—with the masses, [is] a belief that the Union works to the disadvantage of the South."<sup>63</sup>

The means used to force Benton to declare himself was the passage of the so-called "Jackson" Resolutions of 1849.<sup>64</sup> Frank Blair and his St. Louis Bentonites openly charged the anti-Benton faction with this intent. "His [Benton's] friends will see at once," was the statement by Blair, "that those most busy in Missouri, in denouncing the proviso, are none others than Benton's old enemies, and although many of them are northern men, and must therefore be disinclined to the extension of slavery . . . it is

<sup>61</sup> MS. Van Buren Papers, dated St. Louis, March 12, vol. lvi, pp. 13161-13162.

<sup>62</sup> Statement of Price, quoted by Ray, pp. 248-249.

<sup>63</sup> MS. Benton to Clayton, July 21, 1855, Clayton Papers, vol. xi, pp. 2107-2108.

<sup>64</sup> Regarding this point the Jefferson Inquirer stated editorially on August 20, 1853, that "the Jackson nullification resolutions were gotten up for this purpose [getting rid of Benton] and every Democrat who would not join in the crusade against Missouri's beloved statesman, was denounced as a free soil traitor." "The object of the anti-Benton proceedings, as we infer from the St. Louis Republican," comments Niles' Register, "[is] to cut off Col. Benton from, or commit the [democracy] against any appeal or justification which he may have to make for his course in the Senate on the Wilmot Proviso" (vol. lxxv, p. 288).



enough . . . that Benton voted for the proviso for Oregon, and denounced the attempt . . . to carry slavery to the Pacific shore."<sup>65</sup>

The "Jackson" or "Jackson-Napton" Resolutions have been discussed by almost every writer on Missouri history, hence elaborate consideration of the text of them would be out of place in a study merely of the slavery issue. Their origin, however, deserves attention. By chance Claiborne F. Jackson has often been given credit for these resolutions, but Judge William B. Napton of Saline County, an old enemy of Benton, deserves the honor of originating them. The copy of a letter dated August 8, 1849, from Sterling Price to Benton conclusively proves that Napton was the author, although at the time he seems to have denied it. In this letter Sterling Price asserted that Napton drew them up during the winter of 1848-49 and told him (Price) that he expected that either Carty Wells or Claiborne F. Jackson would introduce them in the legislature.<sup>66</sup>

On January 1, 1849, the resolutions were introduced in the Senate by none other than Carty Wells of Marion

<sup>65</sup> F. P. Blair, Jr., and thirty-seven others, "Address to the Democracy of Missouri," pamphlet, p. 14. Date 1850(?).

<sup>66</sup> This letter was published by Benton in the *Weekly Republican* (St. Louis) of May 25, 1852. It is as follows:—

"VAL VERDE, Aug. 8, 1849.

HON. THOS. H. BENTON :

"*Dear Sir*; having very recently seen a communication from Judge W. B. Napton, replying to your charge, touching the points of issue between you, in which he evidently conveys the idea that he was not the author of the Missouri Resolutions, I feel constrained to offer my testimony; and thereby comply with the promise made when I last saw you. The facts are these:

"During my visit to Jefferson City, last winter, Judge Napton invited me into his room and showed me a set of resolutions which he informed me had been prepared by himself, and which I believe are the same which passed the Missouri Legislature. I will merely add that another gentleman of high respectability and credit was also invited to hear them, and that he too had prepared a set of resolutions, which were laid aside and Judge Napton's accepted. I conceive it unnecessary to give his name . . . and I am sure he stands ready to corroborate, by his testimony my statement. In connection with my visit to Judge Napton's room he informed me that his resolutions would be presented by either Carty Wells or Claiborne F. Jackson. I remain, with regard, your obedient servant,  
STERLING PRICE."

County.<sup>67</sup> They were referred to the committee on Federal relations, and on January 15 were reported by its chairman, Claiborne F. Jackson.<sup>68</sup> This caused Jackson's name to be associated with them. Parallel resolutions were introduced in the House of Representatives on January 5.<sup>69</sup> Amendments, substitutes, and counter-resolutions were offered by the Whigs, who opposed the measure in both houses. On March 6 Jones proposed that Benton be commended for his "long and brilliant career in the Senate," whereupon Wilkerson offered an amendment approving of Senator Atchison's political record "generally, and particularly his course in reference to the subject of slavery."<sup>70</sup> On January 26 the resolutions<sup>71</sup> as a whole passed the Senate by a

<sup>67</sup> Senate Journal, 15th Ass., 1st Sess., p. 64.

<sup>68</sup> *Ibid.*, p. III.

<sup>69</sup> House Journal, 15th Ass., 1st Sess., p. 82.

<sup>70</sup> *Ibid.*, pp. 490-491.

<sup>71</sup> These resolutions are as follows:—

*Resolved, by the General Assembly of the state of Missouri,*

"1st. That the Federal Constitution was the result of a Compromise between the conflicting interests of the states which formed it, and in no part of that instrument is to be found any delegation of power to Congress to legislate on the subject of slavery, excepting some special provisions having in view the prospective abolition of the African slave trade and for the recovery of fugitive slaves. Any attempt therefore on the part of Congress to legislate on the subject so as to affect the institution of slavery in the States, in the District of Columbia, or in the Territories, is, to say the least, a violation of the principle upon which that instrument was founded.

"2d. That the territories acquired by the blood and treasure of the whole nation ought to be governed for the common benefit of the citizens of all the states; and any organization of the territorial governments excluding the citizens of any part of the Union from removing to such territories with their property would be an exercise of power by Congress inconsistent with the spirit upon which our federal compact was based, insulting to the sovereignty and dignity of the States thus affected, calculated to alienate one portion of the Union from another, and tending ultimately to disunion.

"3d. That this General Assembly regard the conduct of the Northern States on the subject of slavery as releasing the slaveholding States from all further adherence to the basis of compromise fixed on by the act of Congress of the 6th of March, 1820, even if such act ever did impose any obligation upon the slaveholding States, and authorizes them to insist on their rights under the Constitution; but, for the sake of harmony and the preservation of our Federal Union, they will still sanction the application of the principle of the Missouri Compromise to the recent territorial acquisitions, if by such concession future aggression upon the equal rights of the States

vote of 23 to 6, four members not being present.<sup>72</sup> They passed the House on March 6 by a vote of 53 to 27, thirteen members being absent and sick.<sup>73</sup> Of these twenty-seven voting nay, Switzler, who was a Whig member, says that all but four were Whigs, and that seventeen members, all Whigs but two, voted "from first to last" against the resolutions.<sup>74</sup>

Benton refused to stand by the instructions which the resolves embodied, and made his celebrated "Appeal" to the voters of the State.<sup>75</sup> On May 26 he delivered his

may be arrested and the spirit of antislavery fanaticism be extinguished.

"4th. The right to prohibit slavery in any territory belongs exclusively to the people thereof, and can only be exercised by them in forming their constitution for a State government, or in their sovereign capacity as an independent State.

"5th. That in the event of the passage of any act conflicting with the principles herein expressed, Missouri will be found in hearty co-operation with the slaveholding States in such measures as may be deemed necessary for our mutual protection against the encroachments of Northern fanaticism.

"6th. That our Senators in Congress be instructed, and our Representatives be requested, to act in conformity with the foregoing resolutions."

These resolutions may be found in *Session Laws*, 1848, p. 667; and in the *Congressional Globe*, 31st Cong., 1st Sess., pp. 97-98. They can also be found in almost any history of Missouri or biography of Benton.

<sup>72</sup> Senate Journal, 15th Ass., 1st Sess., p. 176. The vote on the individual resolutions was: first, 24 to 6, 3 absent; second, 25 to 5, 3 absent; third, 23 to 7, 3 absent; fourth, 23 to 6, 4 absent; fifth, 23 to 6, 4 absent; sixth, 23 to 6, 4 absent.

<sup>73</sup> House Journal, 15th Ass., 1st Sess., pp. 479-483. The vote on the individual resolutions was: first, 59 to 25, 9 absent; second, 63 to 21, 9 absent; third, 56 to 27, 9 absent; fourth, 62 to 29, 11 absent; fifth, 53 to 29, 12 absent; sixth, 54 to 27, 12 absent.

<sup>74</sup> See Switzler, pp. 267-268. Switzler himself was one of these. The committee of the House on Federal relations failed to agree; the proslavery minority report which was neutralized by an expression of loyalty to the Union was defeated the day before this vote, March 5, by a vote of 62 to 20 (*ibid.*, p. 267). This report can be found in *House Journal*, 15th Ass., 1st Sess., app., pp. 219-222.

<sup>75</sup> His formal "Appeal" was dated St. Louis, May 9, 1849. It is given among other places in *Niles' Register*, vol. lxxv, p. 332. Benton's enemies claim that he was far from consistent on the question of legislative instruction. L. V. Bogy asserted that Benton had once written a Missouri friend that "the Legislature had a right to instruct, and the Senator was in duty bound to obey the resolutions, or resign" (Bogy's Speech of May 27, 1852, at St. Louis, p. 11). Benton was very sensitive on the whole question, and sharply criti-



famous "Calhounic" at Jefferson City. He accused the South Carolinian of undermining him in Missouri, castigated his local enemies, and gave an exposition of his own views regarding slavery.<sup>76</sup> When Benton made his "Appeal," not only he but as astute a politician as Montgomery Blair thought that he would be successful. "I have no doubt," wrote Blair, "but that we can sustain Col. Benton in the doctrines here ascribed to him. . . . I think now that they [Benton's enemies] have no longer the fostering care of Mr. Polk at Washington if Col. Benton will carry out his determination to visit the whole state [he will be able to] annihilate them with the questions which only need to be explained to be as strong with the people as the Bank question was. It must be confessed however that the work remains to be done, but I am strong in the faith that it will be accomplished."<sup>77</sup> Two months later Blair was still sanguine, though he could not overlook the obstacles with which the old warrior's way was beset. He wrote Van Buren: "I still think he will succeed although he has great difficulties to contend against," the greatest of these difficulties being his absence from and loss of touch with local politics; in fact he had not "been in the State or made a political speech out of it for two years."<sup>78</sup> Just after his Jefferson City speech Benton was full of cheer, and wrote to F. P.

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cized President Shannon in 1852 for permitting a student at the last commencement to deliver an oration on The Right of Appeal. Shannon, however, denied that Benton's name had been mentioned in the speech (*Weekly Missouri Sentinel*, July 30, 1852).

<sup>76</sup> Printed in pamphlet form, as well as in the press, from which quotations have already been given in this chapter.

<sup>77</sup> MS. Montgomery Blair to Van Buren, dated St. Louis, March 12, 1849, A. L. S., Van Buren Papers, vol. lvi, pp. 13161-13162.

<sup>78</sup> MS. *ibid* to *ibid.*, May 12, 1849, A. L. S., Van Buren Papers, vol. lvi, pp. 13180-13182. Blair emphasizes this last point relative to Benton's loss of contact with the local situation: "The greatest of his difficulties has heretofore been that his feelings were so engrossed in another quarter as almost entirely to withdraw his attention from politics, & if he is defeated it will be mainly owing to that cause. For during the time when his enemies have possessed the general and State Governments & have been using incessant efforts against him, he has written but one private political letter and that containing but a few lines & he has not been in the State or made a political speech out of it for two years."



Blair, Sr., "that he was never better received by his constituents."<sup>79</sup> In December even the hopeful Blairs were anxiously fearing a coalition of Whigs and anti-Bentonites,<sup>80</sup> but as late as November, 1850, Benton wrote from Missouri that he was "victorious there." The two younger Blairs, however, were fearing that the "best that can happen will be no election."<sup>81</sup> Although Benton was defeated and a Whig took the seat he had so honored for thirty years, he was far from politically dead, as he himself viewed the situation. The fierce torrent which swirled about his "Appeal" was to convulse Missouri and split his party beyond repair.

It is not the aim of this paper to follow Benton's campaign during 1849-50, but it is of importance to learn something of the influence of his "Appeal" in moulding later politics. In his Jefferson City speech he admitted that he had "no idea that the mass of the members who voted for the resolutions in the last General Assembly, had any idea that they were Calhoun's, or considered the dissolution of the Union which they announced, as a thing in actual contemplation. But they are not the less injurious on that account. They are the act of the General Assembly, and stand for the act of the State, and bind it to the car of Mr. Calhoun."<sup>82</sup> Nevertheless, in his speech at Fayette on September 1, 1849, he took a different view. "The whole conception, concoction, and passage of the resolutions," he said, "was done upon conspiracy, perfected by fraud. It was a plot to get

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<sup>79</sup> MS. F. P. Blair, Sr., to Van Buren, June 10, 1840, A. L. S., Van Buren Papers, vol. lvi, pp. 13193-13194. On August 8 F. P. Blair, Sr., wrote Van Buren that "Benton plays his part like a great Bear surrounded by a yelping pack of whelps. He slaps one down on this side—another on that—and grips a third with his teeth—then tosses him with his snout" (A. L. S., *ibid.*, pp. 13216-13218).

<sup>80</sup> MS. F. P. Blair, Sr., to Van Buren, December 3-4, 1849, A. L. S., Van Buren Papers, vol. lvii, pp. 13250-13251; also see *ibid.* to *ibid.*, August 1, 1850, A. L. S., *ibid.*, pp. 13352-13353.

<sup>81</sup> MS. *ibid.* to *ibid.*, November 12, 1850, A. L. S., Van Buren Papers, vol. lvii, p. 13376.

<sup>82</sup> Jefferson City Speech, p. 9.

me out of the Senate and out of the way of the disunion plotters."<sup>83</sup>

During this campaign Benton was at once so extravagantly lauded and so scorchingly condemned that it is very hard to discern the real motives of the contestants. "We have already noticed the difficulty," said an editorial in the *Missouri Republican* of September 10, 1849, "which attends our purpose to give a faithful history of the quarrels between Benton and his enemies in this State." A fair idea of the furor which swept over the State can be gained from the following account of a meeting held in St. Louis, February 12, 1849. "The meeting was organized amid much confusion," and a committee was appointed to draft resolutions. The committee reported a series of resolutions declaring for the power of Congress over the Territories, denouncing the late Washington convention of southern men as a "Hartford Convention," and praising Benton for seeing the imminent danger which was threatening the Union. Amid confusion Mr. Hoyt offered the late ("Jackson") resolutions of the legislature. These were laid on the table by "a large majority." After this the Benton resolutions were carried.<sup>84</sup> Throughout the State, resolves were drafted favoring Benton and condemning him. Letters attacking him and letters taking his part and prints of speeches pro and con crowd the press of the years 1849-53. The editorial comments are at times so vitriolic as to appear amusing to those living in an age when personalities are not so important in politics.<sup>85</sup>

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<sup>83</sup> *Jefferson Inquirer*, October 6, 1849. At this meeting he was not well received, but at other points he evidently was. "Col. Benton was here in Boonville making speeches in the vicinity," reads a letter of June, 1849, "and creating great excitement and confusion in the democratic ranks. I heard him yesterday at the Choteau Springs—his speech was very well rec[eive]d" (MS. Freeman Wing to Mrs. E. Ashley, June 24, A. L. S., J. J. Crittenden Papers).

<sup>84</sup> *Niles' Register*, vol. lxxv, pp. 239-240.

<sup>85</sup> At a Platte County meeting in July, 1849, among other resolutions passed was one calling upon Benton to obey his legislative instructions or else resign (*Republican*, July 16, 1849, quoting the *Weston Platte Argus* of unknown date). It was openly charged that Benton was in alliance with the abolitionists (letter dated St. Genevieve, September 30, 1849, in *ibid.*, October 3). Such accusa-

The swirl of excitement engulfed even the Whigs themselves. "And the Whigs," wrote a contemporary, "were to some extent divided into Benton and Anti-Benton Whigs, designations which attached to the one segment or the other according to the intensity of its pro-slavery or anti-slavery sentiments."<sup>86</sup> One gets a good deal of light on the position of the Whigs in this contest from the reply of James S. Rollins to Goode, a St. Louis Whig.

Mr. Goode: "Though there was nothing in the resolutions ["Jackson"] in which he did not heartily concur, yet he deemed their introduction at the time was inexpedient."

Mr. Rollins: "Every Whig in the General Assembly except the gentleman from Scott, (Mr. Darnes) voted against those resolutions when they were introduced. Their action was endorsed by every Whig newspaper in the State. Every Whig of prominence and distinction in Missouri sustained the action of their Representatives in this hall. Including our distinguished candidate for the Senate (Col. Doniphan)."

Mr. Darnes said that the Whigs had approved his vote (above) and that "at public meetings of Whigs held shortly after the resolutions were passed in support of the Jackson resolutions and of his action in that hall."

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tions were common. Atchison so criticized him September 26, 1849 (*ibid.*, October 6, 1849). Adam Klippel of St. Joseph wrote S. P. Chase, September 14, 1849, that "nine out of 22 democratic papers in the State, it appears, are out against Benton, and are unbounded in villifying him" (Chase Correspondence, in *American Historical Association Reports*, 1902, vol. ii, pp. 471-472). During the session of 1850-51 resolutions were introduced into the House condemning Benton for not obeying his instructions (House Journal, 16th Ass., 1st Sess., app., p. 240). So bitter became the struggle that Frank Blair of the Republican and L. Pickering of the Daily Union almost came together with bowie knives on January 28, while the resolutions were still before the legislature (Daily Union, February 3, 1849). On March 5 they met on the corner of Olive and Second Streets and jabbed at one another with their umbrellas. Pickering received an injury to one of his eyes (*ibid.*, March 6). The trouble had started by Pickering's declaring that Blair's statement calling Benton a true Democrat was "twaddle at least, and only shows the littleness of the writer" (*ibid.*, February 3).

<sup>86</sup> Switzler, p. 273. Colonel Switzler was in the legislature when the "Jackson" Resolutions were passed. As an editor he keenly observed the situation.



Mr. Rollins: "But on that particular occasion I was with Col. Benton. The Whig party of Missouri was with Col. Benton upon that question, and against the anti-Benton wing of the Democratic party. I condemned the Jackson resolutions because they sprung a baleful agitation upon the State, and also because they embodied nullification and tended to disunion . . . the Whigs were united almost to a man on this question."<sup>87</sup>

The effects of Benton's "Appeal" were most important. The Democratic party was so riven by hatred and bitterness that the cleavage between slavery and antislavery became more and more distinct. Benton's failure of reelection in 1851 but aroused him and his friends to carry the war to the last extremity. To "put down Benton" was easier than to eradicate the force and pertinacity of his followers. Henceforward the anti-Bentonites became the active proslavery organization, although by no means a secession party.

For years the Democratic party was in a precarious condition. The Napton Resolutions were the rocks on which the party was shattered. Yet despite dangers at the hands of the jubilant Whigs, one wing of the Democrats, led by Frank Blair, risked party success to repeal them. The Claiborne F. Jackson faction held solid for no retraction. The legislative session of 1852-53 was disrupted by the "irrepressible" resolutions and by the three-cornered fight for the speakership between Bentonites, anti-Bentonites, and Whigs. The power of Congress over slavery in the Territories also embittered the partisans, "the animus of the discussion foreshadowing to many the terrible catastrophe in which our national troubles culminated in 1861."<sup>88</sup>

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<sup>87</sup> Jas. S. Rollins, Speech in Joint Session of the Legislature, Feb. 2, 1855, in reply to Mr. Goode of St. Louis, pamphlet, p. 17. Also given in the Missouri Statesman, March 16, 1855.

<sup>88</sup> Switzler, pp. 275-277. Switzler was in the legislature off and on during this period. Some idea of this bitterness within the party can be gained from the Speech of L. V. Bogy of May 27, 1852. "Col. Benton appealed from those resolutions, and since that time the party has been divided. . . . This division spread throughout the length and breadth of the State, and a feeling of hostility—a deadly feud, sprung up between the two wings of the party" (p. 6).



The Democratic party longed for peace but found it not. On December 22, 1851, the Democracy of Oregon County passed resolutions declaring that, whereas the divisions in the party had given the Whigs a senator and three congressmen, "unless these unhappy divisions are amicably adjusted . . . the Whigs will have both the executive and the legislature of the State."<sup>89</sup> A Platte County gathering of January 8, 1852, begged for a healing of the schism.<sup>90</sup> For weeks the press was full of accounts of similar pleas. But as much as they loved peace and harmony they loved principle more. The Democrats of Ray,<sup>91</sup> Osage, Cooper, Boone, Lafayette, Randolph, Monroe,<sup>92</sup> and other counties determined "to lay aside personal animosities and petty bickerings," but at the same time declared plainly that the instruction of senators and even of representatives was "a vital principle of republicanism."

The Democratic state convention met at Jefferson City on April 5, and the party seemed again united.<sup>93</sup> Candidates were nominated, and a solid front was arrayed to meet the Whigs. Colonel Lewis V. Bogy was nominated to represent St. Louis in Congress. Even the St. Louis Democracy on April 24, under the leadership of Frank Blair, B. Gratz Brown, and Trusten Polk, swore to support the ticket.<sup>94</sup> But the pipe of peace was rudely knocked from the lips of the sanguine politicians. Benton announced his independent candidacy for Congress. The whole conflict now reopened.

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<sup>89</sup> Jefferson Inquirer, January 31, 1852.

<sup>90</sup> Ibid. In July, 1854, the anti-Benton candidate for the state Senate for Clay and Platte Counties begged his Bentonite rival to come to an agreement so that one could withdraw, lest the Whigs should win (Republican, July 25, 1854).

<sup>91</sup> Jefferson Inquirer, January 31, 1852.

<sup>92</sup> Ibid., February 14, 1852.

<sup>93</sup> This convention was by no means harmonious. One delegate, Dr. Lowry, thus expressed himself: "He said he was an anti-Benton man all over, and he expected to stand on the Jefferson platform, that he came to the Convention for the purpose of fraternizing, etc." (Weekly Missouri Sentinel, April 8, 1852).

<sup>94</sup> Quoted by Bogy in his Speech of May 27 from the Daily Union of unknown date (pp. 14-15).

The Bentonites struck at the Napton Resolutions.<sup>95</sup> On February 1, 1853, Frank Blair in a long speech moved the repeal of the resolutions, declaring they "did not express the sentiments of the people of this State."<sup>96</sup> A week later Claiborne F. Jackson reviewed Benton's whole career as an antislavery statesman.<sup>97</sup> On the 15th the rescinding resolution was tabled by a vote of 72 to 49.<sup>98</sup> The resolutions therefore remained, and along with them the ill-feeling.

The Whigs loved not the Napton Resolutions, but they loved still less Democratic peace and harmony. "We always opposed making these questions [Napton Resolutions] a test of orthodoxy in the whig ranks," declared the Hannibal Journal. "Besides, if the whigs were to repeal these resolutions, the only bone of contention would be taken from the democratic ranks, and the cohesive power of public plunder would bring their disjointed ranks together, and then the Whigs might bid adieu to all hope of ever getting power in this State."<sup>99</sup> Other Whig papers agreed with the Journal, while some favored the repeal of the resolutions.<sup>100</sup>

With his election to Congress in 1852 Benton opened his agitation for the "Central National Highway to the Pacific." But even this popular issue could not save him. In 1854 he was defeated for reelection to Congress, and two years later failed in his efforts to become governor. Benton was a

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<sup>95</sup> For an account of this action of Benton as told by his opponents see their pamphlet entitled *A Statement of Facts and a Few Suggestions in Review of Political Action*, pp. 8-9.

<sup>96</sup> *Jefferson Inquirer*, March 5, 1853.

<sup>97</sup> *Ibid.*, February 12, 19, 1853. For a review of Benton's slavery record also see the printed letter of James S. Green to Messrs. Farish, Minor, Roberts, and Burks, December 10, 1849.

<sup>98</sup> *Jefferson Inquirer*, February 19; or in *House Journal*, 17th Ass., Extra Sess., p. 519. Nine members were absent and sick. On February 25, 1857, the fifth resolution was rescinded by a vote of 20 to 7 in the Senate, eight members either being absent or not voting (*Senate Journal*, 19th Ass., 1st Sess., p. 340).

<sup>99</sup> Quoted from an unknown issue of the *Journal* by the *Weekly Missouri Sentinel* of August 28, 1852.

<sup>100</sup> The *Sentinel* cautioned the Whigs to "keep hands off," and criticized the *Boonville Observer* and the *Missouri Statesman* for favoring repeal (May 16, 1852).

fighter and never knew when he was beaten. His Jacksonian Unionism was out of date. His revenge, however, was sweet, for David R. Atchison, his inveterate enemy, was as politically dead as himself,—so dead that, as Frank Blair said, “We have ceased to look at the spot where he went down.”<sup>101</sup> Against Benton’s protests the Missouri Compromise was repealed, but his enemies merely dug their own pit, for Kansas was soon filled with abolitionists. So passes Thomas Hart Benton from the field of Missouri politics, of which for thirty years he had been the master. With him passed the Democrats who believed in the Union at any price. Following Benton came the most passionate period of Missouri history.<sup>102</sup>

The Whigs were the conservative force in Missouri politics, but the Kansas convulsion loosened many of them from their ancient moorings. On the slavery issue that party, like Benton, largely favored moderation. They prided themselves on their sound financial tenets. Agitation they naturally shunned. “Resolved, That we are equally opposed to the abolitionists of the North, and the Nullifiers of the South, as enemies of the Union, and will hold no political communion with either,” said the Daviess County Whig convention declaration of 1852.<sup>103</sup> Fifty of the sixty Whig members of the legislature met on Christmas day, 1854, and, after condemning those who opposed the Kansas-Nebraska Bill and those who sought to defeat the purpose of the Fugitive Slave Law, declared unanimously that they would support no candidates tarred with the free soil or the abolition stick.<sup>104</sup>

James S. Rollins was the intellectual leader of the Whigs for years. His statement of the orthodox Whig position on slavery is as follows: “I will reiterate what I consider to be the correct doctrine upon the subject of slavery,” he said to a joint session of the legislature in 1855; “Congress . . .

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<sup>101</sup> Speech delivered by Blair in St. Louis, date not given (St. Joseph Commercial Cycle, March 23, 1855).

<sup>102</sup> See ch. vi of this study.

<sup>103</sup> Convention held at Gallatin, April 12, 1852 (Republican, April 24).

<sup>104</sup> Richmond Weekly Mirror, January 5, 1855.



has the power to legislate in the territories. . . . But if Congress has the power, as I believe it has, to legislate upon the slavery in the territories, justice, honor and expediency forbid its exercise. . . . Upon the question of slavery, I think, I may safely say, that the great Whig party of Missouri, is sound and conservative, ready to resist illegal Northern aggression and abolitionism on the one hand, and to suppress Southern fanaticism and nullification on the other. Above all things the people want repose upon this question. The safety of their property, the integrity of the Union, and the permanency of the Government itself, cries aloud against further agitation! Let it cease!" Mr. Rollins then read a resolution which had been previously drawn up for a Boone County meeting, and "which," he said, "I believe embodies on this question the Whig sentiments of this State." This document is as follows: "Resolved, That although the people of this State have always been willing to abide by the Missouri Compromise, yet believing the best and only method of settling the slavery question is to submit it to the judgment of the people; we approve of the establishment of the territories of Kansas and Nebraska with the power of the people who settle in those territories to regulate the subject of slavery within their limits according to their own pleasure."<sup>105</sup>

The Whigs as a party never admitted that slavery was anything but a personal matter. They would not allow their party to become an instrument for or against it. "There is a Whig ticket for the City of St. Louis," caustically remarked an antislavery German editor, "upon which appear the proud names of slave-raising millionaires, and millionaire slave-raisers, and at the head of them is Luther M. Kennett."<sup>106</sup>

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<sup>105</sup> Speech in Reply to Goode, February 2, 1855, pp. 14, 16.

<sup>106</sup> *Anzeiger des Westens* of July 7, 1854, quoted by the Republican of July 8. The position of the Whigs on the slavery issue has been analyzed by Tupes (pp. 17-18). His thesis as a whole is somewhat too statistical, as the analysis of the vote on certain measures has been too strictly interpreted as measuring public as well as personal sentiment. He takes little account of the complexity of conflicting issues entering into each measure.



The American party of Missouri, composed largely of old-time Whigs, was also far from favorable to the antislavery program. At a Boone County meeting held on February 4, 1856, resolutions were adopted condemning congressional interference with slavery in the Territories, advocating the enforcement of the Fugitive Slave Law, and pleading for a cessation of slavery agitation.<sup>107</sup>

A great force in Missouri politics, especially during the fifties, was the German element of St. Louis. Detesting slavery and slaveholders on the one hand, and hating still more what they thought slavery stood for—disunion—they became active antislavery agitators. The old southern portion of the State was both shocked and outraged by these uncouth iconoclasts, many of whom had little respect for a slaveholding aristocracy, Calhoun politics, or the Puritan Sabbath.<sup>108</sup> Boernstein of the *Anzeiger des Westens* was exceptionally obnoxious to the proslavery people. "The tremendous majority of the citizens of our State are tired of the improper influence of the Slavocratic interest. They are not willing any longer to be tyrannized by a few thousand slaveholders," declared the *Anzeiger* in 1854.<sup>109</sup> The

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<sup>107</sup> W. F. Switzler's *Scrapbook*, 1856-57, p. 31. Switzler himself submitted these resolutions. "The American party has therefore nowhere spoken its views on the subject of Emancipation," he said at a joint session of the legislature on January 25, 1857 (*Missouri Statesman*, April 10, 1857).

<sup>108</sup> On January 14, 1857, Akers of Missouri complained in Congress that the board of aldermen of St. Louis, "consisting in part" of Germans, had voted to repeal the Sabbath laws (*Congressional Globe*, 34th Cong., 3d Sess., app., p. 151). But practical politics demanded that the slaveholder be not too squeamish when votes were needed from the contemptible "Dutch." In his message of December 29, 1858, Governor Stewart endeavored to wean the Teuton away from the new Republican party by honeyed words. Slavery, and in fact all labor systems, he said, were the result of climatic conditions and of experience. The governor declared that he had no apprehension from foreigners. He hinted that the North was endeavoring to make labor a slave to capital as had been done in England (*Senate Journal*, 20th Ass., 1st Sess., pp. 33-36).

<sup>109</sup> *Anzeiger*, July 21, 1854, quoted by the *Republican* of July 24, 1854. "We must oppose the extension of slavery over the Territories," continued the editor. "Slavery is a perfect pestilence to the State of Missouri. No one denies it, but . . . the establishment of slave States on our western borders will make the abolition of

Germans do not seem to have advocated an unqualified abolition program. "We are for the abolition of slavery in Missouri, but only constitutionally and in a manner to pay due respect to the just claims of the citizens of the State," explained the *Anzeiger*.<sup>110</sup> "On the subject of slavery, being an institution recognized by the laws of the country," stated the *Volksblatt* in 1856, "although we would favor a plan for gradual emancipation, we are against any forcible and unconstitutional interference for its abolition. And, therefore we are decidedly opposed to the Abolition party."<sup>111</sup>

The Germans even held slaves in some cases. In 1860 nineteen Germans of St. Louis paid taxes on forty out of the thirteen hundred and eighty-three slaves taxed in the city. Of these German slavemasters O. C. Schauenburg led with six negroes, C. W. Gauss was second with five, and George Heise and J. R. Lienberger were taxed on three each.<sup>112</sup> When the South seceded, the Germans, with hardly an exception, supported the Union. Of the 10,730 Federal

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slavery in our own State still more difficult, if not entirely impossible. We are for the abolition of slavery in Missouri, but only constitutionally . . . we demand of the Northern States that they constitutionally fight the South for every foot of land that has not yet been conquered for slavery!"

<sup>110</sup> *Anzeiger*, July 21, 1854, quoted by the *Republican* of July 24, 1854.

<sup>111</sup> *Volksblatt* of unknown date quoted by the *Weekly Pilot* of April 26, 1856.

<sup>112</sup> These Germans and the number of slaves on which they paid taxes in 1860 were as follows: Richard K. Bechtel, 1 slave (*MS. Tax Book, St. Louis City, 1860, Book A to B, p. 81*); Edward Benkendorp, 1 slave (*ibid.*, p. 87); C. B. Fallenstein, 1 slave (*ibid.*, Bk. C to F, p. 207); George Heise, 4 slaves (*ibid.*, Bk. G to K, p. 122); C. W. Gauss, 5 slaves (*ibid.*, p. 18); Jacob Iseler, 2 slaves (*ibid.*, p. 149); Charles Hoeser, 2 slaves (*ibid.*, p. 248); John Knipperberg, 1 slave (*ibid.*, p. 238); J. R. Lienberger, 4 slaves (*ibid.*, Bk. L to O, p. 41); Louis I. Mantz, 1 slave (*ibid.*, p. 42); Samuel Myerson, 2 slaves (*ibid.*, p. 197); Robert Ober, 2 slaves (*ibid.*, p. 218); George Schaffner, 2 slaves (*ibid.*, Bk. P to S, p. 139); O. C. Schauenburg, 6 slaves (*ibid.*, p. 141); N. J. Strautman, 2 slaves (*ibid.*, p. 253); R. C. Weinck, 1 slave (*ibid.*, Bk. T to Z, p. 84); Thomas H. Weit, 1 slave (*ibid.*, p. 122); Z. F. Wetzell, 1 slave (*ibid.*, p. 125), and A. Weisman, 1 slave (*ibid.*, p. 137). Naturally it is difficult to distinguish between German immigrants and Pennsylvania German settlers. But if the latter held slaves it would also be a matter of interest.

volunteers raised in St. Louis in 1861 four fifths, according to the state adjutant general's report of that year, were Germans.<sup>113</sup> One German writer boasts that his countrymen who did not support the Union could be counted on his fingers.<sup>114</sup>

Throughout the slavery period the subject of emancipation was unceasingly preached by an ever active minority, while, on the other hand, a mighty effort was made to keep the agitation out of politics. "Our own representative, the Hon. Willard P. Hall, is a slave holder both in theory & practice," wrote Adam Klippel of St. Joseph to Salmon P. Chase in 1849, "and although his constituents, by a large majority, are non-slaveholding, yet he never dares to speak a word in favor of freedom."<sup>115</sup> "We do not apprehend much trouble from the slavery question," said a St. Louis editor the same year, "for . . . the great majority of our citizens look upon the subject as we do: that it is more dangerous for the politicians than for the people at large."<sup>116</sup> On the other hand, the St. Louis newspaper, the *Organ*, in this same year claimed that there was a widespread desire for emancipation in the State and that "not a single paper in Missouri, out of St. Louis, condemns or disapproves the agitation of the question."<sup>117</sup> From the evidence touched upon in foregoing pages it is clear that this editor did not know the rural press of the State. The conservative old paper, the *Republican*, ever counseled caution and deprecated agitation.

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<sup>113</sup> Adjutant General's Report, 1861, p. 6.

<sup>114</sup> W. Kaufman, *Die Deutschen im amerikanischen Bürgerkriege*, p. 194. Another German says that of the 85,400 Federal volunteers raised in Missouri the Germans furnished 30,899 (A. B. Faust, *The German Element in the United States*, vol. i, p. 523). E. D. Kargau states that the first four Union regiments of the State were composed entirely of Germans ("Missouri's German Immigration," in *Missouri Historical Society Collections*, vol. ii, no. 1, p. 33). On this point see also J. F. Hume, *The Abolitionists*, p. 182, and W. G. Bek, *The German Settlement Society of Philadelphia, and Its Colony*, Hermann, Missouri, pp. 124-126.

<sup>115</sup> Chase Correspondence, p. 473.

<sup>116</sup> *Daily Union*, February 17, 1849.

<sup>117</sup> Quoted from an issue of the *Organ* of unknown date by Niles' Register, vol. lxxvi, p. 259.



In spite of all caution, the activity of the great anti-slavery leaders, Frank Blair, B. Gratz Brown, Boernstein, and George R. Smith, continually brought the disagreeable spectre before the people. Evidently Gratz Brown's electorate in St. Louis favored his views. "I sent you a few days since a copy of my remarks upon the Emancipation resolutions," he wrote George R. Smith in 1857. "It was a startling speech to the House in some respects, and took the opposition members by surprise. In St. Louis I hear it raised quite a furor. . . . It was framed principally as you will see from reading it to suit my own meridian, but I am sanguine enough to hope that it will not be without good effect even in other counties of Missouri."<sup>118</sup>

The extent of emancipation sentiment during the last years of the slavery regime in Missouri cannot be measured either in its volume or in its intensity. The opinion is often advanced that the State was ready for emancipation at any time between 1804 and 1860, but that the attitude of the antislavery faction caused justifiable resentment on the part of the slaveholders. "Let it be understood," said a pro-slavery contemporary many years later, "that Missourians did not so much oppose the emancipation of their slaves as they did the means used to accomplish it. For thousands of slave holders believed that the abolition of slavery would be a blessing both to the slave and to the master, if it could be done in a lawful and peaceable way. . . . For ten years before the war it was a foregone conclusion with intelligent classes that slavery would be abolished in Missouri, and a system of free labor adopted that would be more successful in developing the resources of the State."<sup>119</sup> It is doubtful if this writer would have made the above statement in slavery days. Such musings were common after slavery was dead and the success of free labor realized in Missouri. The mass of slave-owners were well satisfied with their property, and bitterly resented any hint that emancipation

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<sup>118</sup> MS. Brown to Smith, dated Jefferson City, March 3, 1857, Smith Papers.

<sup>119</sup> Leftwich, vol. i, pp. 96-97.



was either advisable or possible, especially if the negroes were to remain in the State after being liberated.

The proslavery leaders at the time denied that slavery was a burden either economically or socially. The Address of the Lexington Pro-Slavery Convention to the People of the United States, drawn up by Sterling Price, Judge W. B. Napton, and others, mentioned the fact that the idea was prevalent "that Missouri contained but a small slave population, and that the permanence of this institution here was threatened by the existence of at least a respectable minority of her citizens . . . we think it proper to state, that the idea above alluded to is unfounded; and that no respectable party can be found in this State, outside of St. Louis, prepared to embark in any such schemes. In that city . . . it will not seem surprising that its wild and heterogeneous population should furnish a foothold for the wildest and most visionary projects."<sup>120</sup>

One of the great slavery advocates of the State in the late fifties was Senator Green. In the United States Senate on May 18, 1858, he said: "It has been my privilege to live there [in Missouri] nearly twenty years, to mix freely with the people of all classes. . . . I know it [sentiment in Missouri] to be exactly the reverse of what he [Senator King] represents it. . . . The public common sentiment of the people of the State is for peace, for law, . . . and to abide by our institutions as they are, . . . I undertake to say that the sentiment to which the Senator alludes in the State of Missouri is exceptionally small."<sup>121</sup> "Emancipation! a new word in our political discussions; a new theme in this State for the contemplation of the people," exclaimed W. F. Switzler in a joint session of the legislature in 1857.<sup>122</sup> The following year Switzler repeated his statement, and claimed that not fifteen thousand voters could be found in the State who favored emancipation.<sup>123</sup>

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<sup>120</sup> Proceedings of the Convention, p. 4.

<sup>121</sup> Congressional Globe, 35th Cong., 1st Sess., part 3, p. 2207.

<sup>122</sup> Speech of January 25 (Missouri Statesman, April 10, 1857).

<sup>123</sup> Ibid., July 30, 1858.

Although the active emancipation party in Missouri in the late fifties was comparatively small, it was menacing. The General Assembly felt called upon to denounce the movement. On February 10, 1857, Carr introduced the following resolution in the Senate: "Be it therefore Resolved, That the emancipation of all the slaves held as property in this State, would not only be unpracticable, but any movement having such an end in view, would be inexpedient, impolitic, unwise, and unjust, and should, in the opinion of the General Assembly be discountenanced by the people of the State." This declaration passed the Senate by a vote of 25 to 4, seven members being absent or not voting.<sup>124</sup> It passed the House by a majority of 107 to 12, thirteen members being absent or not voting.<sup>125</sup>

A general spirit of intolerance toward agitators was manifested during the last decade of the slavery regime in Missouri. The State University was in a condition of unrest for years. President James Shannon, who had served as a minister of the Christian Church and as president of a denominational college in Kentucky, was accused of preaching sectarianism and proslavery politics in the classroom. On December 22, 1852, a committee was appointed by the Senate, and on January 25, 1853, one was named by the House, to examine the university.<sup>126</sup> A report was made on February 24, signed by five of the faculty and many students, declaring that the charges were false.<sup>127</sup>

Early in 1856 a student of Bethany College named Barns lectured on "Liberty." A reporter stated that Barns was offensive to the proslavery people, and fled after receiving threatening letters. The reporter, however, declared that

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<sup>124</sup> Senate Journal, 19th Ass., 1st Sess., pp. 213-214.

<sup>125</sup> House Journal, 19th Ass., 1st Sess., p. 303. The resolutions passed the House February 13.

<sup>126</sup> Senate Journal, 17th Ass., 1st Sess., p. 107; House Journal, 17th Ass., 1st Sess., p. 381.

<sup>127</sup> House Journal, 17th Ass., 1st Sess., app., pp. 349-365. There was also a minority report. One student declared that President Shannon disagreed with a text-book which condemned slavery and referred the students to his own Philosophy of Slavery. This student, however, admitted that the president was fair-minded and argued as he did purely for the sake of argument (*ibid.*, p. 364).

Barns was not badly used, but craved martyrdom.<sup>128</sup> One Ross, a temperance lecturer, in 1855 created "quite a row" in Howard, Boone, and Cooper Counties by his antislavery utterances, but there was no proof that he was an abolitionist. His relatives were told to watch him lest he get into trouble.<sup>129</sup> In April, 1855, at Chillicothe, a Christian minister, the Reverend David White, was ordered to leave the county as his sermons were "strongly tinged with Abolition sentiments." A vigilance committee was appointed to carry out the decrees of the protesting citizens.<sup>130</sup>

Even some of the most ardent emancipationists of the Civil War period, the "Charcoalers" of 1863, were far from being abolitionists at this time. General George R. Smith, who with Charles D. Drake led the unconditional emancipationists later, resented bitterly being styled an abolitionist in 1856. "I have never either published or charged you privately with being an abolitionist," indignantly wrote Silas H. Woodson to Smith on July 1, 1856; "I am mortified and astonished that you should become so evidently disaffected toward me on the strength of rumor."<sup>131</sup>

One fact which should always be kept in mind is that secession and slavery bore no close relation to one another in Missouri. Out of a total poll of 166,518 in 1860, Breckinridge received but 31,317 votes, while Lincoln received but 17,028.<sup>132</sup> A year later, however, the Camp Jackson affair considerably changed sentiment in favor of the South. It is very unsafe to gauge sentiment by count of votes, especially at a presidential election, yet to realize the conservative nature of the Missourians when it came to a clear division one has but to glance at the combined vote of the radicals, Breckinridge and Lincoln, in comparison with the 117,173 votes received by Douglas and Bell, or to turn back to 1857

<sup>128</sup> St. Joseph Commercial Cycle, February 22, 1856.

<sup>129</sup> Ibid., November 2, 1855. In July, 1851, Mr. Wyman of St. Louis was widely praised for refusing to rent his hall to an abolition lecturer (Daily Intelligencer [St. Louis], July 7, 1851).

<sup>130</sup> Missouri Statesman, April 27, 1855. The public meeting referred to was held on April 8.

<sup>131</sup> MS. dated Independence, Smith Papers.

<sup>132</sup> Switzler, p. 297.

when Stewart defeated Rollins by only 334 votes for governor in a State which was considered strongly Democratic.<sup>183</sup> The slaveholding Missourian of the fifties valued his property, and he longed for peace. If national issues—the tariff, the currency, internal improvements—were temporarily submerged, the slaveholder turned to a candidate who would secure the integrity of existing conditions. Slavery may have been the ultimate but it certainly was not the immediate cause of the Civil War as far as Missouri was concerned.

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<sup>183</sup> Switzler, p. 271. It is not within the scope of this study to deal with party politics, as the slavery issue was a small factor in influencing struggles between Whig and Democrat. James S. Rollins had been a staunch Whig. His son, Mr. Curtis B. Rollins, gave the present writer a description of his father. He worshipped the doctrines of the Whig party. His friends claim, and some Democrats have admitted, that Rollins was really elected in 1857, although he was defeated by nearly fifteen thousand votes in 1848 (*ibid.*, p. 255). Despite the wild excitement of the Kansas troubles, Rollins's efforts to calm the storm may have driven many proslavery voters to him for security. "Rollins is sweeping everything before him in this part of the State," gleefully wrote Silas Woodson to George R. Smith from Independence in July, 1857. "His position, and past personal history upon the slavery issue, though highly conservative was altogether acceptable to the most of the ultra pro-slavery men of our party [Whig], and I believe he will not lose five old time Whigs in our County" (MS. dated July 26, Smith Papers). Mr. George Carson of Fayette says that Rollins was the most polished orator he ever heard. He was not only eloquent but was brilliant. Mr. Carson remembers hearing Benton when he delivered his famous speech at Central College, Fayette, in 1849. He declared that Benton spoke very slowly and deliberately. He was not eloquent, but was a convincing speaker.



## CHAPTER. VI

### MISSOURI AND KANSAS

To understand the great movements which excited Missouri and agitated the entire country on more than one occasion—the Compromise of 1820, the Kansas-Nebraska Act and the resulting struggle in Kansas, and the Dred Scott Case—one must get a picture of the State which gave them birth. The exposed position of Missouri—“a slave-holding peninsula jutting up into a sea of free-soil”—was primarily the cause of her continued unrest. This peninsula, unnaturally formed for political reasons to reconcile irreconcilable sections, was exposed still more by the two great rivers. The Missouri, coming out of free territory, flowed past free Kansas for a hundred miles and then swerved off through the heart of Missouri’s great slave counties. The Mississippi for hundreds of miles alone separated Missouri from an ever-watchful abolitionist minority in Illinois. The great interstate shipping along the Mississippi offered a chance of freedom to any plucky black who might be hired as a boat hand or stowed away by a sympathetic or a venal crew till a free port was reached. The Underground Railroad was busy on three borders of the State. The spectre of a “horde of negro-stealing Abolitionists” permanently settled in Kansas with the avowed purpose of strangling the “peculiar institution” was both irritating and economically appalling to the hardheaded, self-made frontiersman, who resented any interference with his God-given institution. Slave-stealing was abhorrent to his idea of fair play and sacrilegious in the light of his interpretation of the Constitution. Despite present-day claims to the contrary, the newspapers, the journals of the General Assembly, and contemporary correspondence prove that Missouri was from its very inception in a state

of unrest and feverish apprehension which subsequent events seem to have justified.

Throughout the slavery period most of the Missouri law dealing with the absconding black was concerned with the recovery of the fugitive. The Code of 1804 fined any person five dollars and costs for harboring a runaway negro.<sup>1</sup> In 1817 a form of procedure for seizing a fugitive was passed. He was to be taken first before a justice of the peace. The sheriff was then to serve notice on the owner. If the latter refused to pay the summons fee, the justice might "issue execution as in ordinary cases." For the benefit of non-resident owners the names of escaped slaves were to be published for ninety days in a territorial paper. The master was to pay costs before receiving his property. If the slave was not claimed within ninety days, he was to be sold to the highest bidder for "ready money." After deducting the jail fees and five dollars for apprehending the negro, the residue was to be deposited in the treasury to satisfy the future claims of the master.<sup>2</sup> The punishment of the slave for absconding seems to have been left entirely to the owner.

A law of 1823 gave any person the right to apprehend a slave and place him in the "common gaol" of the county,<sup>3</sup> unless the owner or employer of the fugitive resided in the county, in which case the negro could be directly delivered to the claimant. Any slave found twenty miles from home without a pass was to be deemed a fugitive. On suspicion of an escaped slave lurking about the county a justice was to direct the sheriff or the constable to lodge him in prison. The negro, after being advertised for twelve months, was to be sold, and if the claimant did not appear within five years

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<sup>1</sup> Territorial Laws, vol. i, ch. 3, sec. 9.

<sup>2</sup> *Ibid.*, ch. 187, secs. 1, 2.

<sup>3</sup> On January 23, 1865, a committee was appointed by the House to investigate the rumor that the state penitentiary was being used for the safekeeping of slaves (House Journal, 22d Ass., 1st Sess., p. 143). On February 28, 1848, Mrs. Francis A. Sublette paid jail fees to the amount of \$6.75 for the keeping of her negro named London for twenty-four days, at the rate of twenty-five cents per day, and a fee of seventy-five cents for the turnkey (MS. Sublette Papers).

the money was to go to the State University. The master must prove his property by witnesses, and, in addition to any reward which may have been offered, must pay the apprehending fee of ten cents a mile for the distance traversed in returning the slave. If after seizing a negro the justice was satisfied that he was not a fugitive, he could be discharged by habeas corpus proceedings. In cases where a negro died in jail or was discharged from custody the State was to pay these fees.<sup>4</sup> The provisions of the Revised Code of 1835 were very similar to the above, but were more precise as to the method of claiming the slave.<sup>5</sup> This law, with some modifications, remained as the working statute till slavery disappeared in the State. It was reenacted in 1845, again ten years later, and finally again in 1861, at a time when the escapes of slaves were increasingly numerous.<sup>6</sup>

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<sup>4</sup> Revised Laws, 1825, vol. ii, p. 747, secs. 1-10.

<sup>5</sup> Revised Laws, 1835, p. 589, art. iv, sec. 12. The claimant was to prove that he had lost a slave and that the negro in question was the same, and he had to give bond to indemnify the sheriff for his services, and give a certificate of proof and security under seal of court. Examples of the sheriffs' notices of the sale of fugitives are numerous in the newspapers of the period. The following is an illustration: "NOTICE OF A RUNAWAY SLAVE. There was committed to the common jail of St. Louis County . . . as a runaway slave, a negro who says . . . that he belongs to Milton Cooper of Ashland in the State of Arkansas. Said negro is about thirty one years of age. . . . The owner of the above slave is hereby required to make application for him . . . and pay all charges incurred . . . otherwise I will, on Tuesday, the 25th day of January next . . . at the north door of the Court House . . . sell the said negro . . . to the highest bidder for cash, pursuant to the statute in such cases made and provided. John M. Wiener, Sheriff of St. Louis Co." (*Jefferson Inquirer*, November 27, 1852).

<sup>6</sup> Revised Statutes, 1845, ch. 167, art. iii; Revised Statutes, 1855, ch. 150, art. iii; Session Laws, 1860, p. 90. A law of 1835 gave the method by which an out-of-state slaveholder could recover his property. Such a claimant was to secure a warrant from some "justice or justice of the peace" requiring the sheriff to present the fugitive to some court or magistrate. "The proof to entitle any person to such warrants shall be by affidavit, setting forth, particularly and minutely, the ground of such claim." After the court had heard the testimony he could return the negro to jail if further testimony was thought necessary. If the negro in question was not a fugitive, the one causing his arrest was to pay him \$100 and pay all costs (Revised Laws, 1835, p. 286). A law of 1845 granted the sheriff a fee of \$100 for taking a fugitive without the State if he was over twenty years of age, if under twenty half that amount, in addition to the reward.



Toward slave-stealing the law was very severe, whether the deed was perpetrated through sentiment or for profit. In the Code of 1804 either the selling of free negroes into slavery or the stealing of slaves was punished by death without benefit of clergy.<sup>7</sup> In 1843 it was declared grand larceny to "decoy or carry any slave" from the State, whether done as a theft or to free the negro. The offender was to suffer five years' imprisonment, whether the attempt succeeded or failed.<sup>8</sup> This statute was reenacted in 1845 and again in 1861.<sup>9</sup> That this provision was enforced is learned from the inspectors of the penitentiary, who in 1854 reported that there were seven inmates in that institution for the "attempt to decoy slaves."<sup>10</sup> In 1858 there were six,<sup>11</sup> and in 1860 ten such prisoners.<sup>12</sup> Seemingly none of these efforts had succeeded, as all are reported as being "attempts," nor is it possible to tell whether the convicts were abolitionists or

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The fee was to be \$25 and the reward if the slave was taken within the State. After a slave had been advertised for three months he was to be sold and the residue kept for the claimant, after the sheriff's claims had been settled (Revised Statutes, 1845, ch. 168, secs. 1-6, reenacted in Session Laws, 1860, p. 90). For apprehending a slave within his own county the sheriff was to receive \$5, or \$10 if in an adjoining county over twenty miles from the home of the fugitive (Revised Statutes, 1845, ch. 169, sec. 1). The question of the legal recipient of the reward must have been a subject of some dispute. In *Daugherty v. Tracy* the state supreme court held that "a person who actually apprehends the slave, makes the affidavit and has the slave committed to jail, is to be deemed the taker of the slave." If a private person called in an officer to take up a slave, the latter was entitled to the reward if he committed the slave (11 Mo., 62).

<sup>7</sup> Territorial Laws, vol. i, ch. 3, secs. 21, 22. A law of 1825 reduced the punishment for enslaving a free person or for decoying such out of the State to a maximum of thirty lashes and imprisonment for ten years, unless the kidnapped negro was meanwhile returned, in which case the punishment was to be a fine of one thousand dollars and costs (Revised Laws, 1825, vol. i, p. 283, sec. 13).

<sup>8</sup> Session Laws, 1842, p. 133, secs. 1, 2, 3.

<sup>9</sup> Revised Statutes, 1845, ch. 168, sec. 7. The same punishment was given a white or a free negro for forging a pass so that a slave could escape (*ibid.*, secs. 7, 9).

<sup>10</sup> Senate Journal, 17th Ass., 1st Sess., app., p. 223.

<sup>11</sup> Senate Journal, 20th Ass., 1st Sess., app., p. 138.

<sup>12</sup> House Journal, 21st Ass., 1st Sess., app., p. 314. In 1846 there was one such prisoner (House Journal, 14th Ass., 1st Sess., app., p. 54). In 1856 there were two such inmates (Senate Journal, 18th Ass., 1st Sess., p. 284).



mere thieves. Two very famous cases of slave abduction were that of Burr, Work, and Thompson in Marion County in 1841,<sup>13</sup> and that of "old" John Doy of Kansas at St. Joseph and Platte City in the late fifties.<sup>14</sup>

Missouri's great rivers had early caused both legislation and litigation. The Code of 1804 forbade the master of a vessel to carry a slave from the "district" of Louisiana without permission.<sup>15</sup> The Codes of 1825, 1835, 1845, and 1855, which were based on a law of 1822, fined a ferryman the full value of the slave and costs for taking him across the Mississippi without a special permit, and a shipmaster for the same offense was fined one hundred and fifty dollars, to be recovered by the owner by action for debt. He might be further subject to common-law action.<sup>16</sup> A statute of 1841 made any "master, commander or owner of any boat or other vessel" liable for the value of the slave "without prejudice to the right of such owner to his action at common law," for carrying any slave from one point to another within the State without permission.<sup>17</sup>

This statute was the result of a feeling that abolitionists and free blacks were using the shipping as a means of systematically running off Missouri slaves. A contemporary editorial illustrates the dangers and fears of the time and

<sup>13</sup> Thompson, *passim*. In August, 1841, these three Illinois abolitionists came over from Quincy to take certain slaves to Canada. The slaves betrayed them, and they were sent to the penitentiary after an exciting trial. The term was to be twelve years, but was later reduced. An account of this episode can also be found in the *Bulletin* (St. Louis), September 13, 1841. See also pp. 121-122, above.

<sup>14</sup> Doy, *passim*. Doy was caught in Kansas by a crowd of Missourians in an attempt to take to Canada some negroes of Lawrence, who feared kidnapping. The Missourians claimed that these were fugitives and not free blacks. Doy was imprisoned for several months, but was finally taken from the St. Joseph jail by a band of antislavery Kansans. His account, like Thompson's, is bitter, but gives a good idea of the struggles of the period.

<sup>15</sup> Territorial Laws, vol. i, ch. 3, secs. 35, 36.

<sup>16</sup> Revised Laws, 1825, vol. ii, p. 747; Revised Laws, 1835, p. 581, art. i, sec. 36; renewed in Revised Statutes, 1845, ch. 167, art. i, sec. 28; also in Revised Statutes, 1855, ch. 150, art. i, secs. 28, 29.

<sup>17</sup> Session Laws, 1840, p. 146. A law of 1823 had fined a ferryman the value of the slave, in addition to the damages and costs, for carrying him over the Mississippi (Revised Laws, 1825, vol. ii, p. 747, sec. 2).

the price which St. Louis paid for her great and boasted river commerce. "Recent events demonstrate the fact that the employment of free negroes, mulattoes, and free slaves who hire their own time, on board of steamboats on the western waters, is a cause of serious loss and danger to the slave states and slave owners. . . . These have the opportunity of constant communication with slaves of Missouri, Kentucky and the other southern States, and have also very frequent communication with the free negroes and abolitionists of Illinois, Indiana, Ohio, and Pennsylvania. This communication renders the slaves restless and induces them to run away, and furnishes them a means of escape. . . . The negro hands on board the steamboats can frequently conceal runaway negroes . . . without the consent of the captain . . . their association with the slaves is not a cause of suspicion and discovery, as a similar association between white emissaries and slaves would certainly be."<sup>18</sup>

The coming of the railroad furnished a new means of escape for slaves. Captain J. A. Wilson of Lexington claims that the people of western Missouri were apprehensive lest the Pacific Railroad, for which Benton and his constituents had fought for years, should run their slaves to Kansas. The old boat law with some changes was applied to railways in 1855. The offenders were liable for double the value of the escaped slave and for common-law action as well.<sup>19</sup> A number of negroes evidently escaped by rail. In 1857 the people of Franklin County complained of their slaves escaping by this means.<sup>20</sup> The trouble must have continued, for on March 1, 1860, a resolution was introduced into the House of Representatives that the General Assembly should "vote for no bill knowingly granting state aid to railroads whose Board of Directors is composed of a majority of Black Republicans." The resolution was tabled by a vote of 82 to 17, and may simply have been a general thrust at

<sup>18</sup> Daily Evening Gazette, August 18, 1841.

<sup>19</sup> Session Laws, 1854, p. 169. Repealed February 6, 1864 (Session Laws, 1863, p. 41).

<sup>20</sup> House Journal, 18th Ass., 1st Sess., p. 233 (February 7).

antislavery activity.<sup>21</sup> Apparently fewer slaves used the railroads as a means of escape than the river shipping, as the newspapers of the day do not contain many notices of such absconding, while the press and court records note many escapes by boat.

Assemblies of slaves, both public and private, were more or less carefully regulated. The Code of 1804 brought pressure to bear on both the slave and the master. If the slave left his master's "tenements" without leave, he could be punished with stripes at the discretion of a justice of the peace. If he entered another's plantation, that planter could give him ten stripes. If a free colored person or a slave carried a gun, powder, shot, or a club, the justice could punish him with a maximum of thirty stripes, but if living on the frontier the latter could give him permission to carry such weapons. All "riots, routs, unlawful assemblies and seditious speeches" were to be punished at the discretion of the justice.<sup>22</sup> For allowing more than five slaves to gather on his plantation at one time a fine of one dollar per slave was to be levied against the offending planter, and for permitting a slave, without the owner's permission, to remain on his plantation for more than four hours he was to be fined three dollars.<sup>23</sup> This did not prevent slaves from assembling at a public mill "with leave" except at night or on Sunday. They could also go to church by written consent.<sup>24</sup> Passes,

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<sup>21</sup> House Journal, 20th Ass., Called Sess., p. 31. Absent and not voting, 32.

<sup>22</sup> Territorial Laws, vol. i, ch. 3, sec. 7. This provision is found word for word in a Virginia statute of 1785 (Hening, vol. xii, p. 182, sec. 4).

<sup>23</sup> An ordinance of St. Louis of February 5, 1811, punished a slave with ten lashes for attending such an assembly, and the master was to be fined five dollars if the slave was not punished. A free negro or white person was to receive twenty lashes and a fine of ten dollars for attending without the owner's permission (Ordinance of February 5, 1811, MS. Record Book of the Trustees of St. Louis, pp. 23-25, secs. 4, 5, 6).

<sup>24</sup> Territorial Laws, vol. i, ch. 3, secs. 3, 4, 5, 7, 8. These sections are very similar to an old Virginia statute of 1723 which provided a penalty of five shillings per slave if a master allowed more than five slaves, other than his own, to meet on his property. Slaves could meet at church or a public mill. If living on the frontier slaves could carry weapons, if so licensed by a justice of the peace (Hening, vol. iv, p. 126, secs. 8, 9, 14).



however, were somewhat liberally granted, and were not always necessary.<sup>25</sup> The revisions of 1835, 1845, and 1855 accepted these provisions of 1804 in most cases verbatim, and in addition fined any white person ten dollars and any free negro ten dollars and ten lashes for joining in any slave meeting. The sheriffs, constables, justices, and other officials were to suppress these assemblies and to bring offenders to justice under penalty for neglect of duty.<sup>26</sup>

Manifestly intended to prevent loafing and intemperance as well as the usual dangers connected with slave assemblages, a law was passed in 1833 fining a store- or tavern-keeper from five to fifty dollars for allowing slaves or free negroes to assemble at any time on his premises, especially on Sundays, unless sent on business by their owners.<sup>27</sup> In 1847 every religious assembly of negroes or mulattoes was required, if the preacher was a negro, to have some official present "in order to prevent all seditious speeches and disorderly and unlawful conduct of every kind."<sup>28</sup> In September, 1854, two slaves were convicted in Platte County, fined one dollar each and costs, and ordered committed till this was paid, for "preaching the gospel to their fellows, with no officer present, on Atchison Hill."<sup>29</sup> It is probable that abolition emissaries and a temptation to abscond were feared more than conspiracies to revolt. Unless watched, the

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<sup>25</sup> General George R. Smith of Sedalia wrote: "It is melancholy to remember . . . that Uncle Toby, Uncle Jack, and other gray-haired men and women . . . were compelled to have written permissions to leave home and would come even to me, a little child, when the older members of the family were busy, to give them a written pass to go to town" (Harding, p. 49). Anice Washington of St. Louis, who was a slave in Madison and St. Francis Counties, said that a pass was demanded by her owners only when the negroes went to a dance. They could go to the church, which was two miles off, on Sundays without one.

<sup>26</sup> Revised Laws, 1835, p. 581, art. i, secs. 26-33. Section 32 is not in the Revision of 1845 (vol. ii, ch. 167, art. i), otherwise it is identical. The revision of 1855 (vol. ii, ch. 110, art. i) is the same as that of 1845.

<sup>27</sup> Session Laws, 1832, ch. 41, secs. 1, 2.

<sup>28</sup> Session Laws, 1846, p. 103, secs. 2, 3.

<sup>29</sup> Paxton, p. 187.



preacher, particularly if a negro, might give his audience views of liberty and worldly ambition.<sup>30</sup>

The punishment of the slave for leaving his owner's plantation and for actually running away seems to have been left largely with the master. The slave was to be punished "with stripes" for leaving his master's "tenements" without a pass, and the one on whose property he was found was to give him ten lashes.<sup>31</sup> The Revision of 1835 increased this summary punishment to twenty lashes, and any person who found a slave off his master's property could take such slave before a justice, who was to punish him at his discretion. Any slave who concealed a fugitive was to be punished with not more than thirty-nine stripes by a justice of the peace.<sup>32</sup> The law of 1825 establishing patrols ordered these officers to punish any slave found off his master's plantation by ten lashes, or by not more than thirty-nine after conviction by a justice.<sup>33</sup> The revised statutes of ten years later reduced this punishment by the justice to twenty stripes, and this number remained till slavery was abolished.<sup>34</sup>

The city of St. Louis had its special slave problems because of its numerous free negroes and dissolute whites, natural to a great port with a large alien population. Its enormous shipping interests likewise affected slave conditions. An ordinance of 1835 punished a slave with from five to fifteen lashes for being at a religious or other meeting without permission later than nine at night from October to March, or ten o'clock the other six months of the year. If the master paid two dollars and the costs, the punishment could be remitted.<sup>35</sup> This provision was modified somewhat by one passed later in the same year which prohibited a slave

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<sup>30</sup> See above, p. 85, note 11, for an example of a slave sermon.

<sup>31</sup> Territorial Laws, vol. i, ch. 3, secs. 2, 3. This same punishment was accorded by a Virginia statute of 1723 (Hening, vol. iv, p. 126, sec. 13).

<sup>32</sup> Revised Laws, 1835, p. 581, art. i, secs. 23, 24, 25.

<sup>33</sup> Revised Laws, 1825, vol. ii, p. 614.

<sup>34</sup> Revised Laws, 1835, ch. 129, sec. 5.

<sup>35</sup> Ordinance of May 11, 1835, sec. 3 (Ordinances of St. Louis, 1836, p. 125). This ordinance is also printed in the Missouri Argus of June 5, 1835.

from being in the streets of the city from ten p. m. to four a. m. during the summer months, or from nine p. m. to five a. m. in winter, "under any pretense whatever unless such slave have a written pass . . . of that day's date." The master of a slave was to be fined five dollars for the first, ten dollars for the second, and twenty dollars for subsequent offenses, and the slave could be imprisoned till this fine was paid.<sup>36</sup> This ordinance was reenacted March 16, 1843, with very little alteration, and remained without change till the Civil War.<sup>37</sup>

An ordinance of 1850 gave the mayor power to issue general passes to free negroes of good character and to grant them permission to hold religious or social assemblages after eleven p. m. The city guard was to watch all assemblies when so commanded by the mayor. Whites were fined from twenty to fifty dollars for being present at unlawful meetings. Offending slaves were to be sent to the workhouse on default of the payment of the fine by their owners. Any person fraudulently issuing a pass was to be fined from twenty to one hundred dollars.<sup>38</sup> The enforcement of these ordinances was not always satisfactory. "A large meeting" of St. Louis citizens on October 22, 1846, resolved among other things "That the City Council be requested to pass an ordinance, prohibiting all assemblages and passing of negroes after dark."<sup>39</sup>

In 1825 the General Assembly passed an act establishing patrols. The patrol was to visit the negro quarters and assemblages with power to arrest any suspicious blacks who might be wandering about without passes and to inflict not more than ten lashes. If the patrol took any such negroes before a justice of the peace, they could be punished with a

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<sup>36</sup> Ordinance of December 22, 1835 (Ordinances of St. Louis, 1836, p. 89, secs. 1, 2).

<sup>37</sup> Ordinances of 1843, p. 522; Ordinances of 1846, p. 229; Ordinances of 1850, pp. 297-299; Revised Ordinances, 1856, pp. 564-566; Ordinances of 1861, pp. 522-524.

<sup>38</sup> Ordinance of March 29, 1850 (Revised Ordinances, 1853, no. 2377, secs. 2, 3, 4, 6, 7, 8, 9).

<sup>39</sup> Scrapbook of James S. Thomas, vol. i, p. 26.

maximum of thirty-nine stripes.<sup>40</sup> The county patrols were established in 1837. The act gave the county court power to appoint township patrols to serve for one year. The stripes to be given by a justice were reduced to a maximum of twenty. This law was reenacted in 1845, and again in 1855.<sup>41</sup> Cities had their own systems of slave regulation. As early as 1811 a patrol was established in St. Louis to arrest stray negroes and prevent fires in slave cabins after dark.<sup>42</sup> Jefferson City in 1836 passed an ordinance which was very similar to the county patrol act.<sup>43</sup> The same year a supplementary ordinance was published which compelled all citizens, under a penalty, to aid the patrol if called upon.<sup>44</sup>

The courts seem to have been rigid in interpreting the laws covering slave escapes. Steamboats as well as ferryboats and other small craft were held to be under the statute.<sup>45</sup> It was not necessary to prove that the captain of the boat knew that the negro he carried was a slave.<sup>46</sup> The owner of the steamboat was liable for the value of the negro if the latter was carried off by the carelessness of the captain in permitting the slave to ship.<sup>47</sup> Later still it was held that the

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<sup>40</sup> Revised Laws, 1825, vol. ii, p. 614.

<sup>41</sup> Session Laws, 1836, p. 81; Revised Statutes, 1845, ch. 129; Revised Statutes, 1855, ch. 121. The captain of the patrol could be fined if derelict in his duty. The members of the patrol were to serve a minimum of twelve hours a month, and were not to receive over twenty-five cents an hour. In 1860 a special act was passed providing a patrol to search for firearms in the possession of the slaves of Cooper County (Session Laws, 1859, p. 471). Captain J. A. Wilson of Lexington said that patrol duty was irksome, and as a consequence the better classes often left the duty to a class that was brutal. "Uncle" Peter Clay of Liberty claims that the young slaves took great delight in docking the tails of the horses of the patrol and tripping them at night by means of ropes stretched across the roads.

<sup>42</sup> Ordinance of February 9, 1811 (MS. Record Book of the Trustees of St. Louis, pp. 26-27). Stray slaves on the streets after nine o'clock were to receive ten lashes, and the owner was to be fined five dollars if they were not punished. In 1818 this was increased to fifteen lashes (*ibid.*).

<sup>43</sup> Ordinance of January 21, 1836 (Jeffersonian Republican, January 23).

<sup>44</sup> Mandatory Ordinance, of June 16, 1836, in Jeffersonian Republican, June 25.

<sup>45</sup> Russell v. Taylor, 4 Mo., 550.

<sup>46</sup> Eaton v. Vaughan, 9 Mo., 743.

<sup>47</sup> Susan Price v. Thornton et al., 10 Mo., 135.



owner was responsible even when the captain did not know that the slave was on board, unless the captain used proper care to guard against such an occurrence—"that degree of care . . . that prudent men would take in conducting their own affairs."<sup>48</sup> The shipowner was held responsible not only for the carelessness of his agent, the captain,<sup>49</sup> but also for that of the boat's clerk if the latter took money for the slave's passage, which fact was considered sufficient proof of trespass.<sup>50</sup>

The strictness with which the courts applied the law is illustrated by a case from the Buchanan circuit court, as reported in a newspaper of 1855: "Dr. Fox's slave—a negro girl—was decoyed on board the Aubrey [at St. Joseph] by the watchman of the boat in the night time without the knowledge or consent of the commander or any of his subordinates. . . . No moral delinquency is attributed to any officer of the Aubrey, except the watchman and he had been very promptly discharged. The girl was found on board between this city and Boonville, and as soon as discovered was immediately secured and afterwards placed in jail at that place, by Mr. Glime (chief clerk) who also from that place sent telegraphic dispatches to Dr. Fox, and the agents of the boat . . . by which means the slave was promptly restored to her owner. . . . This case . . . has been completely and amicably settled; the defendant having paid to the plaintiff the sum of \$450, and the plaintiff having given a full release of all claims against the boat."<sup>51</sup> This shows that the risk of escape, undoubtedly increased by the proximity of St. Joseph to the then turbulent Kansas, had affected the courts to such an extent that heavy damages were paid in a case where it was acknowledged that "no moral delinquency" existed, and where the defendants had done everything to right the matter, including the immediate return of the slave.

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<sup>48</sup> Withers v. Steamboat El Paso, 24 Mo., 204.

<sup>49</sup> Susan Price v. Thornton et al., 10 Mo., 135.

<sup>50</sup> Calvert v. Rider and Allen, 20 Mo., 146.

<sup>51</sup> T. H. Fox v. Steamer F. X. Aubrey (St. Joseph Commercial Cycle, September 7, 1855).



Perhaps Missouri suffered, especially during the fifties, from loss of slave property as did no other border State. The Underground Railroad ran into the State from three sides, and its service appears to have been efficient. "The Underground Railroads," declared Trusten Polk in the United States Senate in 1861, "start mostly from these [the border] states. Hundreds of dollars are lost annually. And no state loses more than my own. Kentucky it is estimated, loses annually as much as \$200,000. The other border states no doubt in the same ratio. Missouri much more."<sup>52</sup> As early as 1847 the legislature memorialized Congress for a better treaty of rendition, "as the citizens of this State are annually subjected to heavy losses of property, by the escape of their slaves, who pass through the State of Illinois, and finally find a secure place of refuge in Canada."<sup>53</sup> In 1846 a mass-meeting of St. Louis citizens was held in the court house "to devise ways and means to protect their slave property in this city and county."<sup>54</sup> "When," mourns a Boone County editor in 1853, "will the abominable system of man-stealing, practiced by a portion of our northern people, find their operations checkmated and discountenanced by that professedly Christian and law-abiding people?"<sup>55</sup>

The loss of negroes by escape became unbearable as a result of the filling of Kansas by antislavery settlers, and the subject deserves attention at this point. The question of the real motive or motives behind the settlement of Kansas and the struggle which resulted has been a fruitful subject of debate. Many writers, especially those with antislavery leanings, have maintained that the whole affair from the conception of the repeal of the Missouri Compromise to the

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<sup>52</sup> Congressional Globe, 36th Cong., 2d Sess., p. 356. In the introductory pages of the Federal census of 1860 there is the unsubstantiated statement that "the greatest increase of escapes appears to have occurred in Mississippi, Missouri, and Virginia" (Population, p. xv).

<sup>53</sup> Session Laws, 1846, p. 360. St. Genevieve County in 1845 petitioned the legislature for relief from the escape of her slaves through Illinois (House Journal, 13th Ass., 1st Sess., p. 332).

<sup>54</sup> James S. Thomas Scrapbook, vol. i, p. 26.

<sup>55</sup> Weekly Missouri Sentinel, April 28, 1853.

admission of Kansas as a State was an organized effort of the slave States to expand their territory.<sup>56</sup> Slaveholding Missourians, however, have always asserted that from the standpoint of Missouri proslavery people it was purely a defensive movement to conserve existing slave property and an existing slave society. The present writer has come to the conclusion that as far as Missouri was concerned this latter argument is in the main correct, no matter what territorial ambitions to spread may have moved the South as a whole. While it cannot be denied that many Missourians had the desire to enlarge the slave power, yet one thing is certain, that outside of the Missouri counties near or immediately bordering on the Kansas line—Jackson, Platte, Clay, Ray, Holt, Buchanan, and so on,—sentiment for action was sluggish, and only fiery stump oratory and a wild plea from the radical press, both Democratic and Whig, aroused the populace to activity. As will be seen in the sequel, very few permanent settlers ever went from Missouri to Kansas with their slaves, and this is the chief argument against the contention that Missourians were engaged in a general offensive movement toward Kansas in order to spread slave territory.

No matter how greatly many Missourians may have craved the rich prairies of Kansas as a field of exploitation for their black labor, it appears that their first thought was to defend what they already possessed. An observing man like W. F. Switzler dwells upon this point, but makes no mention of any idea of expansion.<sup>57</sup> "When Missourians have seen her citizens robbed of their property," wrote J.

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<sup>56</sup> As an example see J. W. Burgess, *The Middle Period*, ch. xix. The Kansans have always taken pride in their instrumentality in driving slavery from Missouri, or at least in making the system most precarious there. But General J. G. Haskell admits that western Missouri looked upon an antislavery settlement of Kansas with indifference till the South pushed her to action, the slaveholder regarding an inhabited Kansas as merely a new market for his crops, which were largely raised by slave labor (pp. 32-37).

<sup>57</sup> "Apprehensive that Kansas would become a free State, many of our citizens especially on the Kansas border became seriously alarmed for the safety of their slaves, and in the excitement of the conflict were induced without authority of law, to cross over into Kansas with arms and with ballots to coerce the new State into the Union with a pro-slavery constitution" (p. 282).

Locke Hardeman of Saline County in June, 1855, "and members insulted and imprisoned for merely appealing to the laws of the land that proposes to guarantee the rights of property. . . . What shall Missourians do? . . . If Kansas be settled by Abolitionists, can Missouri remain a slave State? If Missouri goes by the board what will become of Kentucky? Maryland? Virginia?"<sup>58</sup> Senator David R. Atchison as early as 1853 saw the real danger clearly. "Will you sit here at home," he said in a speech at Weston, "and permit the nigger thieves, the cattle, the vermin of the North to come into Nebraska . . . run off with your negroes and depreciate the value of your slaves. . . . But we will repeal the Compromise. I would sooner see the whole of Nebraska in the bottom of hell than see it a Free State."<sup>59</sup>

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<sup>58</sup> MS. Hardeman to George R. Smith, June 10, 1855, Smith Papers. Judge William C. Price of Springfield claimed the honor of originating the demand for the repeal of the Missouri Compromise. "He claimed," says W. E. Connelley, "that he pressed this idea on the South, saying that Missouri could not remain slave with Iowa free on the North, Illinois free on the east, and a free state on the west. In short, Missouri had to accomplish the Repeal or become a free State. That was what Judge Price preached for twenty years before the War" (Statement of Price to Mr. Connelley, quoted by Ray, p. 247). On December 28, 1854, Mothersead of Gentry County introduced a resolution into the House declaring it to be the duty of "the State and her citizens to use all means consistent with the Constitution . . . to prevent if possible that beautiful country [Kansas] from becoming an asylum for abolitionists and free soilers, to harass and destroy our peace and safety" (House Journal, 18th Ass., 1st Sess., pp. 35-36). In his address at the Lexington Convention of 1855, President James Shannon of the State University read a series of thirteen resolutions by Dr. Lee, the eighth of which reads as follows: "Resolved, That the whole state is identified in interest and sympathy with the citizens on our Western border, and we will co-operate with them in all proper measures to prevent the foul demon of Abolition from planting a colony of negro-thieves on our frontier to harass our citizens and steal their property" (Proceedings, p. 29). "Already many of our slaves have been carried off and as self preservation is the first law of nature, it certainly cannot be objected to, if Missourians should adopt the most summary method to secure themselves against this avalanche of abolitionists on our frontier" (editorial in Richmond Weekly Mirror, January 26, 1855).

<sup>59</sup> Quoted by J. N. Holloway, *History of Kansas*, p. 97. This quotation in slightly different form is given in the *Weston Platte Argus* of December 26, 1856. But the editor claims that Atchison made no such statement and that the Reverend Frederick Starr lied in claiming that he stood immediately in front of Atchison and



Undoubtedly Atchison made this passionate plea to arouse feeling, but the very fact that emotion could be aroused by harping on this string makes it appear evident that the fear for property was stronger than the wish to expand slave territory. The first was a less abstract and less distant proposition. The antislavery forces of Missouri realized the whole situation. Kansas as a free State meant eventually a free Missouri. "So soon as Kansas will have constituted herself a free state," confidently boasted the *Anzeiger des Westens* in 1858, "slavery must fall in Missouri."<sup>60</sup>

It is not the purpose of this study to follow all of the struggles that Missouri experienced in her antebellum days, but simply to attempt to explain the motives of those actions which are related to the slavery issue. Others have sketched the development of the general agitation for the repeal of the Missouri Compromise, and its immediate effect upon Kansas.<sup>61</sup> Here will be considered only the movement within the State, which practically begins on January 2, 1849, when the state Senate passed a resolution declaring that the Missouri Compromise of 1820 was unconstitutional and void, and holding "Squatter Sovereignty" to be an axiom. "Whether the slave, or the free States," said this statement, "are willing to abide by said act, as a compromise, or not, is a matter of perfect indifference to the people of the territories. Their right to self-government is wholly independent of all such compromises."<sup>62</sup> This idea is in harmony with the Naption Resolutions, which were before the legislature at the same time. An anti-Benton wing of the Democratic party consistently hammered away on this theme. Even Atchison was taken unawares, and seems to have lost courage. In his Fayette speech late in 1853 he refused to vote for the organization of the Nebraska Territory till the Com-

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heard him deliver the speech. Frank Blair on March 1, 1856, quotes Atchison himself as having made this statement (*A Statement of Facts and a Few Suggestions in Review of Political Action*, p. 75).

<sup>60</sup> Issue of April 10, quoted by the *Republican* of April 20, 1858.

<sup>61</sup> Ray, ch. iii; Hodder, *Genesis of the Kansas-Nebraska Act*, pp. 69-86.

<sup>62</sup> *Daily Union*, January 6, 1849.



promise of 1820 should be repealed.<sup>63</sup> Benton's plea for the organization of the Kansas country as a necessity for developing his "Central National Highway from the Mississippi to the Pacific" was most warmly advocated by his supporters, the Missouri Democrat and the Jefferson Inquirer.<sup>64</sup> On January 9, 1854, Frank Blair, Gratz Brown, and others declared at a meeting of St. Louis Democrats that they regarded "all who oppose it [the immediate organization of Nebraska Territory] upon whatever pretext, as hostile to the best interest of this State."<sup>65</sup>

Whatever may have been the sincerity of the sparring between Benton and Atchison, it is evident that many Missourians emphatically demanded the opening of Kansas. Was this an economic desire for the spread of hemp culture by Missouri slavemasters, or was it to forestall the possible free-state emigration? Both of these elements entered into the situation. Ray gives a number of contemporary quotations to prove that the desire of Missourians for the rich Kansas hemp lands was the cause of the whole movement.<sup>66</sup> Besides the statements noted by Ray several others could be men-

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<sup>63</sup> Jefferson Inquirer, December 17, 1853. Ray has well described Atchison's position during this period and also Benton's "Central National Highway" (ch. iii). But Ray insistently keeps before the reader his untenable thesis that Atchison was the real author of the movement and of the Kansas-Nebraska Bill. If Atchison was the father of the bill, his neighbors either did not know it or jealously denied him the honor. The St. Joseph Commercial Cycle, a Whig sheet, on September 28, 1855, sneered at the editor of the Weston Platte Argus for giving Atchison the honor.

<sup>64</sup> No attempt will be made in this study to outline this issue. Benton's nine-column letter on the subject can be found in the St. Louis Inquirer of April 2, 1853. The Missouri Democrat (St. Louis) in its issues of the early winter of 1852-53 had advocated the movement.

<sup>65</sup> Republican, June 21, 1854, as quoted by Atchison in his letter "To the People of Missouri."

<sup>66</sup> Pp. 81-83, 169-171, 250, etc. Ray was visibly impressed by Colonel John A. Parker's statement that the primary object which induced the initiation of the measure to repeal the Missouri Compromise "was to secure the reelection of Mr. Atchison to the Senate. The means to be employed was to repeal the Compromise in order that the people of Missouri might carry their slaves to Kansas and there raise hemp" ("The Secret History of the Kansas-Nebraska Bill," in National Quarterly Review, July, 1880 [no. lxxxii], pp. 105-118).

tioned, but they are so few that it seems evident that the hemp issue was a minor one.<sup>67</sup> The Parkville Industrial Luminary and the St. Joseph Commercial Cycle preached hemp lands and Kansas with a vim, but otherwise there was little advocacy of such a program. These prints apparently were more deeply engaged in rousing the Missourians to settle the Territory than in giving them disinterested advice.

The Kansas-Nebraska Bill, which repealed the Missouri Compromise and opened Kansas to slavery under the "Squatter Sovereignty" policy, was enthusiastically supported by the anti-Benton Democrats and many of the Whigs of the State. All of the Missourians in Congress save

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<sup>67</sup> The following appeared in the Weekly Missouri Sentinel of October 6, 1853: "The Industrial Luminary expresses the opinion that many of those who have been waiting for the favorable action of Congress . . . in relation to Nebraska will wait no longer but will go over and make their settlements before 'cold weather sets in.'" The Howard County Banner of October 6, 1853, stated editorially: "Is any one so bigoted and blind enough to suppose that this broad expanse of fertile territory in the very heart of our country; and in the only road from ocean to ocean, left to savages and buffalo, and to remain a desert; one must be very . . . little acquainted with American character and enterprise [to have such an ideal]. . . . The people will not await the slow motion of Congress" (quoted by the Missouri Sentinel of October 13). In arousing Missouri to colonize Kansas to save it from the abolitionists the St. Joseph Commercial Cycle pleaded on March 30, 1855, as follows: "What could commerce do without cotton, hemp, indigo, tobacco, rice and naval stores? All these are products of slave labor, and one of the articles, hemp, will be the main staple of Kansas." Frank Blair, fearing that the rich soil of Kansas would invite Missouri slave-owners, endeavored to frighten them by raising the phantom of competition. He said at a joint session of the legislature in January, 1855: "A large proportion of the soil of Kansas is adapted to the cultivation of the staples produced in Missouri, and which can only be cultivated by slave labor. The whole extent of the Kansas river is adapted to the cultivation of hemp. All of Kansas along the Missouri river . . . is likewise well suited to produce hemp and tobacco. . . . It is but natural to suppose, therefore, that many of the people of Missouri will sell out and move to these new, cheap, and fertile lands. . . . It will be no advantage to our State . . . to raise up a rival in the production of a staple in which, from the superior freshness and cheapness of her soil, she will very soon be able to undersell Missouri" (On the Subject of Senatorial Election, pamphlet, pp. 4-5). Immediately after the opening of Kansas to settlement the "Union Emigrant Society" was organized in Washington. Blair was elected vice-president. Eli Thayer's Massachusetts Aid Society seems to have caused more ill-feeling in Missouri, however (Republican, July 3, 1854).

Benton voted for the measure.<sup>68</sup> The Whigs of Boone County declared in March, 1854, that they approved "of the establishment of the Territories of Kansas and Nebraska, with power in the people who may settle in those Territories to regulate the subject of slavery within their own limits according to their own pleasure."<sup>69</sup> "Resolved that the Whigs of Marion County are in favor of the immediate organization of the Nebraska Territory," said another statement, "and that we indorse and are in favor of the bill now pending."<sup>70</sup> Similar resolutions were passed by the fourth Congregational Whig convention meeting at Plattsburg, July 8, 1854.<sup>71</sup> Fifty of the sixty Whigs in the legislature met on Christmas day, 1854, and unanimously decreed that they would support only such candidates as acquiesced in the Kansas-Nebraska Bill.<sup>72</sup> The party as a whole seems to have been a unit on this question.

The anti-Benton Democrats were especially hostile toward the Compromise of 1820. "There is no power given Congress to say that slavery shall exist on one side of a line of latitude and shall not on the other," read Governor Sterling Price's message of December 25, 1854, "and hence in my opinion, that clause of the Missouri act was a nullity."<sup>73</sup> The press of the period was burdened with Democratic resolutions favoring the repeal. In St. Louis a meeting of second ward Democrats declared on June 3, 1854, that they "congratulate the country on the cheering fact that the Kansas-Nebraska Bill is now the law of the land."<sup>74</sup> Democratic expressions similar to the above are numerous. On the other hand, the Benton Democrats—Frank Blair, B. Gratz Brown, and others—were implacable enemies of the repeal.

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<sup>68</sup> On this point see the comments of the Republican of June 22, 1854.

<sup>69</sup> *Ibid.*, March 16, 1854.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Missouri Statesman*, July 17, 1854.

<sup>72</sup> *Richmond Weekly Mirror*, January 5, 1855. The *St. Joseph Commercial Cycle*, a Whig organ, on September 28, 1855, complimented Stephen A. Douglas for being the author of the repeal of that "odious measure," the Missouri Compromise.

<sup>73</sup> *House Journal*, 18th Ass., 1st Sess., p. 31.

<sup>74</sup> *Republican*, June 5, 1854.



Benton was most vociferous in condemning the attack on the Missouri Compromise, which he always considered a sacred compact. However, in 1855, the year following the repeal, his supporters claimed that he deserted this position and betrayed them as a bid for Missouri favor.<sup>75</sup> Whether this is true or not, it but proves the popularity of the repeal in the State.

When Kansas was once open to settlement, its future status as a slave or a free State depending on whether proslavery or antislavery votes were in the majority when the constitution was adopted, events took place with great rapidity. In the late summer of 1853 colonists had arrived from Iowa, Minnesota, and Missouri, although lands were not yet "subject to lawful settlement."<sup>76</sup> Some proslavery people at first looked upon efforts to make Kansas a free State as harmless. "Doubtless many more will be sent out to Kansas by these Societies of the North with a view of making Kansas a free State. . . . But we do not at present believe they will be able to accomplish it," the *St. Joseph Gazette* said.<sup>77</sup> The correspondent of the *Republican* wrote his sheet from Leavenworth, Kansas Territory, on December 17, 1854, that "notwithstanding the Aid Societies have poured in hordes of her paupers for the purpose of Abolitionizing Kansas, they either become initiated in our institutions, or leave as soon as they arrive. Now, if the South does her duty, and especially Missouri, the Northern hope of Abolitionizing Kansas, will be a phantom hope."<sup>78</sup>

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<sup>75</sup> "Benton has I think kicked over the pail of milk he produced for his friends by his vote to sustain the Missouri Compromise. He has made another speech acquiescing in the fraud [the repeal of the Compromise], evidently looking to Missouri prospects. He loses by it all prospects of the Presidency through the northern vote but stands better in Missouri" (MS. F. P. Blair, Sr., to Martin Van Buren, February 9, 1855, A. L. S., dated Silver Spring, Maryland. Van Buren Papers, not bound).

<sup>76</sup> *Weekly Missouri Sentinel*, September 29, 1853, quoting the *Parkville Luminary* of unknown date.

<sup>77</sup> Date of issue not stated, quoted by the *Republican* of August 24, 1854.

<sup>78</sup> *Republican*, December 30, 1854. Other proslavery people were also sanguine. "Kansas must of necessity be a slave state, as the slavery interest has now in possession nearly all the timber of the territory" (letter in *Missouri Statesman*, June 8, 1855).



Missouri was soon called upon by the radical press and by "Atchison, Stringfellow & Co." to do her "duty." Jackson, Platte, Clinton, and other western counties by resolution and by organization condemned the settlement of Kansas by northern immigrants, and advocated proslavery action.<sup>79</sup> On July 29, 1854, a large meeting was addressed at Weston by Atchison. B. F. and J. H. Stringfellow, and George Galloway were present. Here the "Platte County Self Defensive Association" was formed. By resolution it was determined that the settlers sent out by the Emigrant Aid Society were to be turned back. The Defensive Association was to hold public meetings, urge the settlement of Kansas by proslavery men, and guard the territorial elections against frauds. The Kansas League, a subsidiary institution composed chiefly of the same persons, was formed to carry out the decrees of the association. It worked in secret, was bound by an oath, held meetings in the night, suppressed antislavery newspapers, and silenced Northern Methodist ministers.<sup>80</sup> The anti-Atchison forces answered by calling the Law and Order meeting at Weston on September 1. Their declaration was signed by one hundred and thirty-three citizens. They declared their loyalty to the General Government and their opposition to "violence and menace."<sup>81</sup>

The slave interests of the State were now thoroughly aroused. On December 28, 1854, *Mothersead of Gentry*

<sup>79</sup> See the *Republican* of July 13, 1854. On June 6, 1853, Atchison had harangued at Weston and on June 11 at Platte City (*Republican*, June 22, 1853). At Parkville on August 8 he also aroused his hearers as to free-soil invasions of Kansas (*ibid.*, August 31).

<sup>80</sup> Paxton, p. 184. Their badge was a skein of bleached silky hemp. Over five hundred signed the association agreement. Antislavery merchants and sympathizers were boycotted (*The History of Clay and Platte Counties*, p. 635). Under the auspices of the association B. F. Stringfellow wrote a series of essays which attempted to prove that slavery as found in the United States was a "blessing." From the Federal census reports of 1850 he sought to prove that there was less blindness, deafness, insanity, and idiocy among slaves than among whites or free blacks (*St. Joseph Commercial Cycle*, February 2, 1855). The whole series was published in this paper in the issues from February 2 to March 9, 1855. The title is, "Negro Slavery No Evil or The North and the South."

<sup>81</sup> Paxton, pp. 185-186; *History of Clay and Platte Counties*, p. 535.

County submitted five resolutions to the House of Representatives which declared that "the law organizing the Territories of Kansas and Nebraska maintains the equality of the States, and the justice of the Constitution, and therefore demands our decided approval," and "That the State of Missouri as a slave State, and from local position, is deeply interested in the character of the Government that is instituted in Kansas Territory, and that it is the duty of the State and her citizens, to use all means, consistent with the Constitution . . . to prevent, if possible, that beautiful country becoming an asylum for abolitionists and free-soilers, to harass and destroy our peace and safety."<sup>82</sup> Appeals were now made by the proslavery party for emigrants. "You can without exertion send 500 of your young men who will vote in favor of your institution," pleaded Atchison at Platte City on November 6, 1854. "Should each county in the state of Missouri only do its duty the question will be decided quietly and peaceably at the ballot box."<sup>83</sup> The press now loudly called for volunteer voters for Kansas. "Will Kansas be a free or a slave State?" queried the Liberty Tribune in the autumn of 1854, and continued: "Citizens of Missouri you must ACT . . . you must go to Kansas; nothing else will do . . . you must go to Kansas NOW, for an election is soon to take place for a Delegate to Congress and the Territorial Legislature, and it is all important that the Abolitionists should be defeated in the first election, for by the Territorial law their Legislature can exclude slavery . . . you must nip the thing in the bud."<sup>84</sup> "The hour for action in Kansas is at hand," was the clarion cry of a St. Joseph Whig editor in March, 1855, "and we call every free voter to the polls! to the polls!! to the polls!!! . . . Let the minion of . . . his Aid Society stand back until he has redeemed the birthright he ignominiously sold, by a service of hard labor in tilling

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<sup>82</sup> House Journal, 18th Ass., 1st Sess., p. 35, secs. 3, 4. On February 25, 1855, these were referred to the committee on Federal relations (*ibid.*, p. 175). They could not be traced farther.

<sup>83</sup> Quoted by Switzler, p. 492.

<sup>84</sup> Quoted by the Richmond Weekly Mirror of November 7, 1854. Date of Tribune not given.

the soil of Kansas."<sup>85</sup> The Richmond Weekly Mirror was comforted by the fact that "Missouri and the entire South are awake to a sense of their danger," and it bade God-speed to the departing voters. It advised the emigrants, however, to settle in Kansas and thereby become legal voters.<sup>86</sup> In Ray County six local meetings were held in February, 1855, and a call was made for voters to go to Kansas for the March election.<sup>87</sup> The practice at local county meetings was to elect delegates who would go to Kansas to vote. Yet for some the movement was too slow. The young bloods were dissatisfied with the efforts of their elders. On March 17 a body of the State University students assembled under the lead of Adjunct-Professor B. S. Head. They criticized the apathy of the Kansas meeting held the same day in Columbia, and passed the following declaration: "Be it resolved That we the youth of the South having within our bosoms a spark left of that patriotic spirit that fired the minds . . . of our Revolutionary sires . . . do hereby express our condemnation of the course . . . pursued by those whose age and mature judgment should have prompted them to set a nobler example to the rising generation." They passed a resolution to send a delegate voter to Kansas.<sup>88</sup>

At the time the Missourians made no denial of voting in Kansas and leaving that territory immediately afterward. They claimed that they were simply counteracting the deceitful and illegal action of the Emigrant Aid Society. In May the St. Joseph Commercial Cycle resented Governor Reeder's statement that the Missourians had carried the Kansas elec-

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<sup>85</sup> St. Joseph Commercial Cycle, March 30, 1855.

<sup>86</sup> Issue of March 24, 1855.

<sup>87</sup> Richmond Weekly Mirror, February 16, 1855. An idea of the intense feeling engendered at this time can be gained from the following editorial: "On yesterday a train of about forty abolition vagabonds and negro stealers passed through our town enroute for Kansas Territory. May the devil get them before they arrive at their journey's end. We understand they came off the steamer Golden State, now lying at Brunswick" (ibid., March 3). The Mirror was a Whig organ.

<sup>88</sup> Missouri Statesman, March 30, 1855. One Boone County citizen was so disgusted with the impudence of the students that he wrote a stinging letter in which he berated Professor Head and his "gosling" students (ibid.).



tion by "fraud, violence, and corruption." "We hurl back upon the head of this debased wretch, the vile slander which none but he . . . would proclaim to the world." That any fraud or violence was committed was flatly denied. "The people of Missouri were present at many of the precincts . . . to see that quiet and order might prevail."<sup>89</sup> The Liberty Tribune declared that Missourians voted in Kansas, "but only those who considered Kansas their home, and who were staying temporarily in Missouri, in order to shelter their families."<sup>90</sup> Colonel D. C. Allen of Liberty stated that the Missourians went to Kansas feeling that they were justified, as the South considered that the North had broken a tacit agreement in engulfing Kansas after being given Nebraska. "There can be no doubt of there being secret organizations to secure votes in Kansas," he said. A Lexington editor in May, 1855, declared that the able-bodied males of that place had all gone to Kansas with a sense of deep sacrifice to the cause of the South.<sup>91</sup>

Endeavors were also made to colonize Kansas with slaveholders as the only permanent means of securing victory. The St. Joseph Commercial Cycle on October 12, 1855, agitated "a tax of one or two per cent, on all . . . real and personal property for the purpose of colonizing one thousand proslavery men in Kansas."<sup>92</sup> Silas Woodson and others issued a call for a meeting to consider an organization for

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<sup>89</sup> Issue of May 25, 1855. As a Whig sheet the Cycle was in a peculiar position. It condemned Kansas abolitionists on the one hand and, on the other, their arch enemy Atchison as being a "Demagogue" and a "disunionist" (issue of July 13, 1855). It will be remembered that the Cycle was proslavery Whig and Atchison a proslavery Democrat.

<sup>90</sup> Quoted by the Republican of April 26, 1855, from the Tribune of unknown date.

<sup>91</sup> Republican, May 24, quoting from the Lexington Express of unknown date. It was claimed that Lafayette County spent \$100,000 on the Kansas invasions (Harvey, p. 125). "On the Kickapoo ferryboat, the following notice appears: 'Some illy-disposed persons have tried to injure my ferry by stating that I refused to carry persons last fall to the election. This is false. It would be difficult to find one more sound on the goose than I am. John Elles'" (Paxton, p. 198).

<sup>92</sup> For advocating this policy the Daily Intelligencer flayed the editor of the Cycle on October 20 (Cycle of November 2).



this purpose,<sup>93</sup> and on December 31, 1855, the "Proslavery Aid Society" of Buchanan County was formed. Shares were to be sold as stock at twenty-five dollars each. Biennial meetings were to be held at the St. Joseph city hall. A vote was to be given for each share of stock, and a paid agent was to remain in Kansas. "All of the means of this society shall be faithfully applied to the purchasing of lands, and in furthering the interests of the proslavery party in Kansas Territory."<sup>94</sup> For very good reasons this society was a failure, and later efforts to colonize Kansas fared no better. When on March 17, 1855, it was proposed to send settlers from Boone County to Kansas it was found that "no one was heard of who desired to go to Kansas to live."<sup>95</sup> In some cases, however, success was partially realized. "Many citizens from Platte go over to Kansas," is read in an entry in the *Annals of Platte County* for September, 1854, "and locate claims and then return. Some were in earnest, and became actual settlers."<sup>96</sup> An attempt to raise money in Ray County at a meeting held on March 5, 1855, brought little result.<sup>97</sup> Benton contemptuously belittled the whole proslavery program to settle Kansas or vote there. "But a very small part of Missouri, and that in Atchison's neighborhood [Platte County] had anything to do with it," he wrote to J. M. Clayton in July, 1855.<sup>98</sup>

While the advance proslavery party were planning the invasion of Kansas with ballot and musket,<sup>99</sup> a tidal wave of

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<sup>93</sup> *St. Joseph Commercial Cycle*, December 28, 1855.

<sup>94</sup> *Ibid.*, January 11, 1856. Articles of Incorporation.

<sup>95</sup> *Missouri Statesman*, March 30, 1855.

<sup>96</sup> P. 188.

<sup>97</sup> *Richmond Weekly Mirror*, March 10.

<sup>98</sup> MS. dated Washington, July 29, A. L. S., Clayton Papers, vol. xi, p. 2108.

<sup>99</sup> Considering the class of Missourians who agitated the Kansas invasion it does not seem possible that the "Border Ruffians" were the blear-eyed, maudlin, bloodthirsty brutes they are often pictured to have been. Excited they were with a fanatical crusading spirit, but low-lived sots they could not have been as a class. Neither were John Brown, Jim Lane, "Old Doctor" Doy, and their satellites the coarse-grained blacklegs of literature. They committed crimes as do all men laboring under a self-righteous enthusiasm. Many criminals naturally followed both camps, but the rank and file of both "armies" seem to have conscientiously followed an ideal.

political hysteria swept over western Missouri. "The abolition excitement has been running so high at Weston," wrote a correspondent from Westport on August 1, 1854, "that the authorities have ordered all free gentlemen of color to leave the town."<sup>100</sup> "Proslavery harangues provoked the people to frenzy and outrage. Those living east and north of Platte City became almost insane," reads an entry in the *Annals of Platte County* for April, 1855.<sup>101</sup> On April 14 a meeting was held at Parkville to threaten Northern Methodists. G. S. Park and W. J. Patterson of the *Luminary* were threatened with a plunge into the Missouri if they reappeared in the village, "and if they go to Kansas to reside, we pledge our honor as men, to follow and hang them whenever we can take them." The press was then dumped into the river.<sup>102</sup> "Atchison, Stringfellow & Co. have worked up quite a portion of Platte County to a fever-heat excitement," says the account of a conservative slaveholder, "and they appear ready for almost any rash act; but that feeling does not extend above that county. Buchanan, Andrew, Holt, etc., are quite calm and conservative in feeling and action. Some effort was made in Buchanan to raise steam, but it proved an entire failure."<sup>103</sup> On May 17, 1855, William Phillips, a Leavenworth abolitionist, was brought to Weston

<sup>100</sup> From a proslavery correspondent in the *Republican* of August 4, 1854.

<sup>101</sup> P. 198.

<sup>102</sup> *Missouri Statesman*, April 27, 1855. See also Paxton, p. 198. This action was indorsed by meetings in Platte County and at Liberty (*ibid.*, pp. 198-200). The statement of Park which caused the trouble can be found in the *Missouri Statesman* of June 1, 1855.

<sup>103</sup> Letter dated May 10, from "One of the largest slaveholders in Andrew county" (*Missouri Statesman*, June 8, 1855). The Bentonites and the Whigs, though many of the latter were radically proslavery, incessantly accused Atchison of arousing feeling to insure his reelection to the Federal Senate. His Whig competitor at the time was A. W. Doniphan. Early in July, 1855, a proslavery meeting was held in Platte County. Atchison's party pushed through the following resolution: "That in the selection of persons for office, State, Federal, or county, we will hereafter disregard all questions which have heretofore divided us as Whigs and Democrats." As the Whigs were in the majority at this meeting, one of them immediately moved that Doniphan be supported for the Senate. The Atchison party then withdrew its conciliatory resolution (*letter in ibid.*, July 13, 1855).

where he was tarred and feathered, had half of his head shaved, was ridden on a rail, and was finally sold at auction by a negro. It was claimed, however, that the citizens of Weston did not participate in this affair.<sup>104</sup>

By the summer of 1855 the furor had become pretty general in western and central Missouri. The anti-Bentonites and radical Whigs advocated strenuous action, while Bentonites, with some exceptions, and conservative Whigs preached law and order.<sup>105</sup> A letter of May 24 from James S. Rollins to George R. Smith well describes the conditions in Boone and neighboring counties. "I endorse your position throughout, and commend you, for having the courage to take it, unless the conservative men of the Country stand firm, and resist the spirit of reckless unprincipled fanaticism, which a few dangerous demagogues are exciting, there is positively no predicting what is to become of our institutions. . . . The demagogues are doing all in their power to get up excitement in this locality,—thus far they have not succeeded—they renew their efforts on the 2nd of June when a public meeting is called in this place. The principal instigators here, are . . . old McBride and . . . Shannon the Irishman, at the head of the college. . . . Let me tell you that no man is doing more to corrupt the public mind of Missouri, on these exciting questions than the aforesaid Shannon . . . the excitement is confined chiefly to Platte, Clay & Jackson. . . . We should not hesitate to make the issue which Atchison and his Mobocrats have tendered and if the law abiding conservative portion of Missouri, those indeed, the real slave owners, most deeply interested in this question, are overpowered, it will only be that much worse for the country . . . let us act."<sup>106</sup>

<sup>104</sup> Republican, May 25, 1855, quoting from an issue of the Weston Platte Argus of unknown date. Another abolitionist, J. W. B. Kelly, was condemned by a Clay County public meeting in August, 1855, and as they had no tar he was asked to leave, which he did (Missouri Statesman, August 20, 1855).

<sup>105</sup> The Commercial Cycle of St. Joseph and the Weekly Mirror of Richmond were strongly proslavery Whig papers, while the Fulton Telegraph, Boonville Observer, and Hannibal Messenger were conservative Whig sheets.

<sup>106</sup> MS. Smith Papers. The underlining of clauses for the sake of emphasis as made by the writer has been omitted, as it is the rule rather than the exception.



The meeting of June 2, referred to in the above letter, well portrays the spirit of the extremist element. Radical Democrats and Whigs for the time buried the hatchet. Three of each party were appointed to draft resolutions which were reported to the Assembly by W. F. Switzler, who had gone temporarily into the jingo camp. Slavery was declared to be a legal institution, abolitionism was excoriated, "Squatter Sovereignty" and the Kansas-Nebraska Act were endorsed, and the agitation of the slavery issue in or out of Congress was condemned. The Union was declared to be the "palladium of our liberties," and Governor Reeder of Kansas was censured and with him the antislavery element in Kansas. Dr. Lee, one of the above committee of six, then offered a series of resolutions which declared that "odious measure," the Missouri Compromise, to be unconstitutional, and stated that "while we deprecate the necessity, we cannot too highly appreciate the patriotism of those Missourians who so freely gave their time and money for the purpose, in the recent election in Kansas of neutralizing said abolition efforts."<sup>107</sup>

Meanwhile there was a demand for a state proslavery convention. The St. Louis Intelligencer on June 6 advocated such an assemblage, and prayed that every delegate be a slave owner, as "we never yet knew a mob composed of slaveholders."<sup>108</sup> On June 21 a "Committee of Four" sent out a call from Lexington "To the Members of the General Assembly of the State, and all true friends of the South and the Union."<sup>109</sup>

As a result the convention met at Lexington, July 12 to 14, 1855.<sup>110</sup> The "Irishman" James Shannon, president of

<sup>107</sup> Switzler's Scrapbook for Years 1844-55, p. 229. Also in Missouri Statesman of June 8, 1855.

<sup>108</sup> Quoted by the Missouri Statesman of June 15.

<sup>109</sup> *Ibid.*, June 29. Delegates to the convention were chosen at local county meetings. For example, on July 4 the proslavery party of Audrain County assembled in the court house at Mexico, selected representatives, and passed resolutions (Dollar Missouri Journal, July 19). But there were no Audrain County delegates listed in the official roster of the convention.

<sup>110</sup> The work of the convention can be found in the official published Proceedings and Resolutions. This pamphlet contains President



the State University, delivered on July 13 a fanatical tirade on abolitionism in general and on the antislavery forces of Missouri and Kansas in particular. His effort so pleased the leaders of the movement—Judge W. B. Napton, Sterling Price, and others—that it was ordered to be printed with the proceedings.<sup>111</sup>

Great enthusiasm marked the progress of the convention. Twenty-five counties were represented on the opening day. Later two delegates arrived from St. Louis, bringing the number up to 226 from 26 counties.<sup>112</sup> Of these delegates one writer found that 150 were from counties which had gone Whig in the previous election, 18 were from anti-Benton counties, 15 from Benton counties, and the other 41 were from counties which were Whig and anti-Benton.<sup>113</sup> This analysis, however, is most misleading. Naturally it was the radical proslavery element alone in any county which met to elect the delegates, and the majority party in the county did not necessarily have any control in the selection. That many Whigs joined the Kansas invasions and helped to fan the flame at home is certain.<sup>114</sup> On the other hand, the law and order forces were led by the great Whigs—Rollins, Smith, Doniphan, and others. In 1855 Whig and Democrat differed fundamentally on the tariff, the currency, and kindred subjects, but differences on the slavery

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Shannon's address, the Address of the Convention to the People of the United States, and the Proceedings and Resolutions. The proceedings can also be found in the Missouri Statesman of July 20, the Missouri Weekly Sentinel of July 20, the Weekly Pilot of July 21, the Dollar Missouri Journal of July 19, and in most of the other Missouri papers.

<sup>111</sup> Proceedings, pp. 6-31. The opposition criticized Shannon as being "unprofessional" and "anti-ministerial" in his public activity (Missouri Statesman, October 20, 25, 1855). President Shannon was a minister in the Christian (Disciples) Church.

<sup>112</sup> Proceedings, pp. 19-21.

<sup>113</sup> Tupes, p. 61. He did not include the two delegates from St. Louis.

<sup>114</sup> "I will not talk about the Kansas troubles," said Mr. Martin J. Hubble of Springfield. "I did not favor the agitation. Many Whigs did, however." "Party made no difference in the Kansas struggle," stated Colonel D. C. Allen of Liberty. "James H. Moss and Hiram A. Bledsoe of Lafayette county were prominent Whigs who led in the invasions."

question were largely a matter of personal opinion, not a party issue.

Judge W. B. Napton seems to have been the leading spirit in the convention. He introduced a series of resolutions covering the whole subject of slavery in the abstract and in its concrete application to Kansas. A committee of five was appointed to draw up an address to the people of the United States "setting forth the history of this Kansas excitement."<sup>115</sup> In this paper the danger to western Missouri slave property, and indeed to the slavery system throughout the country, was enlarged upon. Emigrant aid societies were condemned, the presence of a widespread desire for emancipation in Missouri was denied, and the entire political situation as it related to slavery was elaborately discussed.<sup>116</sup>

The resolutions of the Lexington convention did not carry with them the pacification of the whirlwind in Missouri. As northern settlers continued to pour into Kansas, political convulsions in Missouri increased. Nearly a year after the convention R. C. Ewing wrote George R. Smith from Lexington: "I find . . . the Slavery question . . . all absorbing. . . . Your reported opinion in relation to Kansas is doing you a deal of damage in Saline, Lafayette, & Jackson. . . . You had as well try to oppose an avalanche as the influence of this Kansas excitement."<sup>117</sup> Armed invasions of Kansas by Atchison and his henchmen ensued, but in this connection we are interested only in the effect of the settlement of Kansas on the escape of the Missouri slave.

After the struggle had resulted in a victory for the anti-slavery forces, the golden age of slave absconding opened.

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<sup>115</sup> Proceedings, pp. 22-24. Torbert of Cooper County advocated retaliatory measures against the products and manufactures of Massachusetts and other States which had opposed the Fugitive Slave Law. This resolution was adopted (*ibid.*, p. 25). Knowlton of Lafayette County introduced a resolution to make more "effective laws, suppressing within said States [slave States] the circulation of abolition or freesoil publications, and the promulgation of freesoil or abolition opinions." This resolution was also adopted (*ibid.*, p. 27).

<sup>116</sup> Besides being printed with the Proceedings, the Address can be found in the Weekly Pilot of October 5 and in the Missouri Statesman of October 19.

<sup>117</sup> MS. dated June 19, 1856, Smith Papers.

Escapes apparently increased each year till the Civil War caused a general exodus of slave property from the State. The enterprising abolition fraternity of Kansas—Brown, Lane, Doy, and the rest—seemingly made it their religious duty to reduce the sins of the Missouri slaveholder by relieving him of all the slave property possible. The problem became so grave that in 1857 the General Assembly by joint resolution instructed the Missouri representatives in Congress to demand of the Federal government the securing of their property as guaranteed by the Constitution, and in particular protested against the action of certain citizens of Chicago who had aided fugitives to escape and had hindered and mistreated Missouri citizens in search of their slaves.<sup>118</sup> In this same year two members of the legislature independently introduced amendments to the patrolling laws, which, although not adopted, received such strong support that they were printed in the appendix of the House Journal. These bills provided that special patrols should be created in the counties on the Illinois, Iowa, and Kansas borders, to be supported by a special tax levied on the slave property of the State. These patrols were to watch free negroes and examine all ferries and other river craft. Any boat not licensed was to be cut loose, and if it was not chained and locked the owner was to be fined one thousand dollars.<sup>119</sup> This shows the nature and the constancy of the danger to which the slaveholder's property was subjected.

The Underground Railroad was now running very smoothly. Neighboring States reveled in Missouri's misery. Galesburg, Illinois, and Grinnell, Iowa, were con-

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<sup>118</sup> House Journal, 18th Ass., 1st Sess., p. 296, and app., p. 313, February 14, 1857. An account of this Chicago episode is found in the *Weekly Pilot* of May 26, 1855. At times Illinois seems to have done her duty in enforcing the Fugitive Slave Law. "Last week, two negro men supposed to be slaves, who had escaped from a steamboat whilst ice bound in the river . . . were arrested in the town of Benton, Illinois. As the citizens had no means of detaining them, not having sufficient evidence that they were slaves, they were lodged in jail under a charge of petit larceny. This charge, however, would not justify a long detention" (*Republican*, January 18, 1852).

<sup>119</sup> House Journal, 18th Ass., Adj. Sess., app., pp. 276-278.



sidered havens for the fugitive.<sup>120</sup> Philo Carpenter of Chicago is said to have helped two hundred Missouri slaves to Canada.<sup>121</sup> The route of the western Missouri division of the Underground was by Kansas, circling Leavenworth, Atchison, Lecompton, and other proslavery settlements, and thence by way of Tabor, Iowa, to Canada. John E. Stewart and Dr. John Doy are said to have shipped a hundred slaves, averaging in value \$1000, for the recovery of each of which a reward of \$200 was offered. John Brown was rumored to have carried off sixty-eight.<sup>122</sup>

To many Missouri slaveholders the seriousness of the problem must have been overwhelming. "It [slave abduction] threatens to subvert the institution in this State," said an editorial of 1855, "and unless effectually checked will certainly do so. There is no doubt that ten slaves are now stolen from Missouri to every one that was spirited off before the Douglass bill."<sup>123</sup> As a result of this unrest many

<sup>120</sup> Siebert, pp. 97-98.

<sup>121</sup> *Ibid.*, p. 147.

<sup>122</sup> Anonymous, "The Underground Rail Road in Kansas" (*Kansas City Star*, July 2, 1905). As Lecompton lay between Lawrence and Topeka, both the Mound City and the Lawrence routes made for Holton and then for Nebraska City and Tabor (*ibid.*). According to another writer, many are said to have escaped by way of Tabor, but no figures or particulars are given (A. A. Minick, "The Underground Railway in Nebraska," *Collections of the Nebraska State Historical Society*, ser. ii, vol. ii, p. 70). Ten or twelve disappeared from Platte County during 1854-55 (*History of Clay and Platte Counties*, p. 632). Four slaves escaped from Platte County in June, 1855, through the aid of three whites (*Missouri Statesman*, June 29, 1855, quoting from the *Parkville Democrat* of June 16). The legends which were woven about the slave raids from Kansas were often most fantastically colored. For instance, James Redpath states that after Brown's famous raid the slave population of Bates and Vernon Counties was reduced from five hundred to "not over fifty slaves" from being sold south and from escapes (*Public Life of Captain John Brown*, p. 221). As a matter of fact, these two counties together had 471 slaves in 1856 (*State Census, 1856*, *Senate Journal*, 19th Ass., 1st Sess., fly-leaf in the appendix), while in 1860, after Brown's raid, there were more than before the raid, 535 being accredited to these counties in the Federal census of 1860 (*Population*, p. 208). The depositions of several border county slave-owners who lost property through Kansas forays can be found in *House Journal*, 20th Ass., 1st Sess., app., pp. 79-80.

<sup>123</sup> Quoted by Siebert, p. 194, from the Independent of January 18, 1855, which in turn quotes from an issue of the *Daily Intelligencer* of unknown date.



owners seem to have moved their negroes to safer regions. General Haskell of Kansas states that while going down the Missouri in December, 1858, there was a continuous stream of slaves driven on board his boat. By the time he reached Jefferson City there were three hundred and fifty bondmen aboard.<sup>124</sup> This account is confirmed by a similar report in a St. Joseph paper of 1860. "Within ten days no less than one hundred slaves were sold in this district, and shipped South. Owners are panic struck, and are glad to sell at any price." An "excellent house-keeper" sold for \$900 for whom \$1200 had been offered the year before.<sup>125</sup>

Not all slaveholders considered western Missouri as unsafe for slave property, as did the above. An army officer in 1857 wrote from St. Louis to George R. Smith of Pettis County that he had ten negroes at Fort Leavenworth whom he feared the abolitionists might run off. "I wish to purchase a tract of land for cultivation," he wrote, "to put my negroes on. . . . I am offered fine tracts near Jefferson City and Boonville. I am advised by some of my friends to make a location in Mississippi. . . . I will visit your county if your answer to my questions seem to warrant it."<sup>126</sup> A man as well informed as an army officer would not debate between Missouri and Mississippi when several thousand dollars' worth of slaves were concerned if he thought the State was as unsafe a place for slave property as many believed it. At the same time, newspaper accounts of escapes are numerous during the years from 1850 to 1860.<sup>127</sup> As in the other

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<sup>124</sup> P. 37. The Reverend Frederick Starr claimed that escapes were so numerous in 1853 that the planters of river counties were moving to Texas (Letter no. i, p. 16).

<sup>125</sup> Quoted in the Twenty-Eighth Annual Report (1861) of the American Anti-Slavery Society, p. 141, from the St. Joseph Democrat of unknown date.

<sup>126</sup> MS. Lackfield Maclin to Smith, June 25, 1857, Smith Papers.

<sup>127</sup> "We have noticed with regret, that for more than a year the negroes have been running away from the eastern part of this [Lafayette] county, and the western part of Saline, while in the other parts of this county and adjoining counties very few attempt to escape. Is there no cause for this? Is there not some branch of the underground railroad leading from the neighborhood of Dover and Waverley?" (Richmond Weekly Mirror, September 15, 1854).

border States, the advertisement, with a cut of the flying negro with his earthly goods in a bandana swinging from a stick over his shoulder, is seen in almost every issue of nearly every paper.

The opening of the Civil War at once released thousands of negroes. As it continued many of the slaves of western Missouri ran for Kansas. "\$200,000 of colored wealth walked off in the night to the bleeding shores of our neighboring state and 'turned up' there as citizens," said a contemporary.<sup>128</sup> An entry in the *Annals of Platte County* for February 1, 1865, states that the Missouri was frozen over and that many slaves had crossed to Kansas and enlisted in the Federal army, and another item for April 1 declares that slaves were daily escaping, being enticed away by Union soldiers.<sup>129</sup> The Federal census of 1860 gave Missouri 114,931 slaves.<sup>130</sup> Of these but 73,811 were in the State in 1863.<sup>131</sup> Many had enlisted in the Federal army, and many had fled to free territory. So many Missouri slaves took active part in the War that even the emancipationists were alarmed. In the "Charcoal" Convention of September, 1863, the radical emancipation party expressed their indignation. McCoy of Caldwell County offered among other resolutions the following: "Whereas, The slaves heretofore held in bondage in Missouri are rapidly escaping into surrounding States, and entering the army there, being credited to those states and as circumstances necessitate the draft for filling up the decimated regiments of our own State. . . .

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Six slaves were discovered storing arms in Marion County preparatory to trying the "Underground" in 1855 (*Weekly Pilot*, April 28, 1855). Eight hundred dollars reward was offered for four slaves who escaped from C. Cox and R. Middleton of St. Joseph on September 22, 1855. "It is believed that said slaves are aiming to go to Iowa and thence to Chicago," runs this advertisement (*St. Joseph Commercial Cycle*, September 28, 1855).

<sup>128</sup> William Kauscher of Oregon, Missouri, in a speech delivered by him at that place on July 4, 1876, entitled, "Holt County During the War" (*Wm. Hyde Scrapbook*, volume on "Early St. Louis and Missouri").

<sup>129</sup> Pp. 325, 327.

<sup>130</sup> Eighth Federal Census, Population, p. 280.

<sup>131</sup> Report of the State Auditor of Missouri for 1865, p. 39.

We respectfully demand of General Schofield, permission to recruit colored men belonging to disloyal men of this State . . . to be accredited on the quota of Missouri troops."<sup>132</sup>

From what has been said it is clear that the escape of the slave was a problem in Missouri throughout the whole slavery period. It may have been that in many instances the press and political agitators sought to arouse popular fear by holding up the spectre of a vast negro migration, representing millions of capital and the only obtainable labor, moving across the sluggish Missouri in the skiffs of the Massachusetts abolitionists, with "Beecher's Bible" in hand and with Underground ticket in pocket, or by predicting a general exodus over the level boundaries of Jackson and Cass Counties, guided by dark, bearded satellites of John Brown or Jim Lane. Events proved that the slavery system, especially in western Missouri, was in danger, and in the fifties the hard-headed Missourian needed no lurid tales to arouse his fears and stir his resentment.

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<sup>132</sup> Journal, Missouri State Radical Convention, 1863, p. 10.

## CHAPTER VII

### MANUMISSION, COLONIZATION, AND EMANCIPATION

The power of the master to manumit his slave was recognized from colonial days.<sup>1</sup> Although Missouri was in the throes of slavery agitation many times, and although the free negro was as little favored there as elsewhere, yet the privilege of granting freedom under a set legal form was never denied, despite the fact that attempts were made to abridge it.<sup>2</sup> Nevertheless the power to manumit a slave appears to have been considered a privilege rather than a right, as its exercise was thought dangerous to society. On one occasion the state supreme court declared that "that power [manumission] could only be exercised by the consent of the sovereignty . . . the whole community being alike interested."<sup>3</sup>

The effect of Christian baptism upon the status of the slave had been settled by the older slave States long before the Missouri country came under the dominion of the United

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<sup>1</sup> The words "emancipation" and "manumission" were used synonymously in the laws, but as the former has assumed a political significance, meaning the freeing of the whole race, the latter term, having a strict legal and personal relation, will be used in this portion of the chapter.

<sup>2</sup> On January 7, 1833, the Senate rejected an amendment to limit "every act of emancipation" to a period of six months. All slaves manumitted contrary to this act were to become the property of the county at the end of six months. This amendment was rejected by a vote of 10 to 5 (Senate Journal, 7th Ass., 1st Sess., pp. 152-153). On January 14 the Senate passed a "rider" providing that the former masters of slaves thereafter freed should be "responsible and reliable for the conduct of the person or persons emancipated" as long as the latter resided in the State. It passed the Senate by a vote of 10 to 7 (*ibid.*, p. 172), but in the House was rejected along with the bill to which it was attached by a vote of 25 to 20 (House Journal, 7th Ass., 1st Sess., p. 214).

<sup>3</sup> *Rennick v. Chloe*, 7 Mo., 197. In *Charlotte v. Chouteau* it was stated that it was not the policy of the slaveholding States to "favor" the liberation of the slave (11 Mo., 193).



States.<sup>4</sup> Emancipation was not a consequence of this religious rite, hence the subject needed no discussion in Missouri. Emancipation by testament was possible, and the Code of 1804 gave the form of procedure by which a slave could be liberated by will or other instrument in writing. When this was under seal of the district court of the Territory and was attested by two witnesses, the document made the slaves as free "as if they had been particularly named and freed by this act." To prevent fraud the freedman could be seized to satisfy his owner's debts contracted before his liberation. To prevent the free negro becoming a burden to society the slave manumitted must be "sound in mind and body," not over forty years of age or under twenty-one if a male, or eighteen if a female. The late owner's property could be attached if his former slave was incapable of self-support. Should an executor neglect to obtain the necessary papers for the one manumitted he was liable to a thirty-dollar fine. A negro without the papers proving his freedom was to be held by a justice until they could be obtained. If he could not pay his taxes, he was to be hired out.<sup>5</sup>

The constitution of 1820 gave the legislature power to pass laws permitting the freeing of the slave but "saving

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<sup>4</sup> This subject is discussed in Ballagh, p. 119; and in J. R. Brackett, "The Negro in Maryland" in J. H. U. Studies, extra volume vi, pp. 28-29.

<sup>5</sup> Territorial Laws, vol. i, ch. 3, secs. 23, 24, 25. The papers proving the slave's freedom, which the various codes provided that he must receive, were often very jealously carried about by him. The following is a specimen of one of these: "Know all men by these presents that I James Johnson of the County of Gasconade in the State of Missouri for divers good considerations me unto moving and inducing have emancipated set free and discharged from slavery my negro girl named Parthenia aged about twenty six years to be and remain from this time a free woman discharged from bondage. St. Louis October 15th, 1853." The witnesses were M. S. Carré and United States Senator Trusten Polk. It was also signed by the manumitter in the St. Louis circuit court. This paper is in the collection of Mr. W. C. Breckenridge of St. Louis. It is numbered 504. Mr. Breckenridge also has a deed of manumission dated as late as August 27, 1864. It was granted by Russell H. Westcott to Indy Hines. Dr. John Doy, the Kansas abolitionist, claimed that he knew of several cases in which free negroes had their papers destroyed and were then sold into bondage (pp. 61, 93-95).

the rights of creditors."<sup>6</sup> The later slave codes followed the form of 1804 in substance, adding that "such emancipation shall have the effect to discharge the slave from the performance of any contract entered into during servitude, and shall make such slave as fully and perfectly free, as if such slave had been born free."<sup>7</sup> Of course this would not give the freedman the legal status of the white but simply that of the despised free negro who could not be educated,<sup>8</sup> who had no standing in court save when a negro was on trial,<sup>9</sup> and who was usually treated with indignity.<sup>10</sup>

In 1836 the law was somewhat loosely interpreted, it being held that "when any person owns a slave, and is desirous to set him free . . . the same can be done by a deed or instrument in writing . . . acknowledged before a justice of the peace . . . without any reference whatever to that part of the act which requires a deed under seal to be attested by two witnesses," as the latter was needed only when immediate emancipation was in view.<sup>11</sup> Some years later it was stated that the mere promise of the late owner was not sufficient, but that the legal document was necessary,<sup>12</sup> while in 1856 it was held that a will regularly drawn, though not probated, was a valid act of manumission even if inefficacious as a

<sup>6</sup> Art. iii, sec. 26.

<sup>7</sup> Revised Laws, 1835, p. 581, art. ii, sec. 2; Revised Statutes, 1845, ch. 167, art. ii, sec. 2; Revised Statutes, 1855, ch. 150, art. ii, sec. 2. These laws were all repealed February 15, 1864 (Session Laws, 1863, p. 108, sec. 1). The above statutes were evidently influenced by a Virginia law as old as 1782 which required a deed of manumission to be signed by two witnesses in the county court, and further providing that the negroes "shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this act" (Hening, vol. xi, p. 39, sec. 1).

<sup>8</sup> See above, p. 83.

<sup>9</sup> See above, p. 76.

<sup>10</sup> All religious and other assemblies of free negroes were under surveillance (see above, p. 180). The admission of free blacks to the State was forbidden at various times (Constitution, 1820, art. iii, sec. 26; Revised Laws, 1825, vol. ii, p. 600, sec. 4). In how many of the States the free negro was a complete citizen under the law is still a question.

<sup>11</sup> *Paca v. Dutton*, 4 Mo., 371.

<sup>12</sup> *Robert v. Melung*, 9 Mo., 171.

will.<sup>13</sup> In the very rigid case of *Redmond v. Murry et al.*, wherein a slave held his master's receipt for most of his purchase price, it was plainly enunciated that this contract of manumission, being "a mere intention or promise by the master, not consummated in the manner pointed out by law, however solemn such promise may have been made, can confer no power or capacity on the slave to have it enforced."<sup>14</sup>

By 1863 the Civil War had so changed the fortunes of the slave power that in a decision of that year Judge Bay declared that an act or will providing freedom might be presumed from such acts of the master as afforded a sufficient ground for the presumption.<sup>15</sup>

This form of manumission took effect either immediately, or at the death of the owner, or within a stated period. In one instance a negress was to be hired out for a term of four years after the master's death, and a child she bore within that time was sold to pay certain debts and expenses of the estate.<sup>16</sup> Another negress was to serve for ten years and then be free. A child she bore within those years was also held to be a slave.<sup>17</sup>

Although not encouraging manumission, Missouri seems to have given the slave ample opportunity to sue for freedom. As early as 1807 the territorial government passed quite a comprehensive procedure permitting "any person held in slavery to petition the general court of common pleas, praying that such person may be permitted to sue as a poor person." Under this legal fiction a slave could have full opportunity to fight for his freedom. The court was to assign counsel for the petitioner, allow him reasonable liberty to attend his counsel, and see that he was not subjected to any severity by his owner for bringing the suit. If the court feared a violation of this provision, the slave could be taken by habeas corpus and hired out, the earnings of such hire to go to the party winning the suit. The jury was to be in-

<sup>13</sup> *Schropshire v. London et al.*, 23 Mo., 393.

<sup>14</sup> 30 Mo., 570.

<sup>15</sup> *Louis et al. v. Hart Adm'r*, 33 Mo., 535.

<sup>16</sup> *Erwin v. Henry*, 5 Mo., 470.

<sup>17</sup> *Lee v. Sprague*, 14 Mo., 476.



structed that the "weight of evidence lies with the petitioner [the slave]," and jurors were to have regard not only to the written evidence of the claim to freedom, but also to such other proofs either at law or equity as the very right and justice of the case might require. Either party might appeal the case to the general court.<sup>18</sup> In practice as well as in the word of the law the court was liberal toward the suing slave. Instances can be found in which the court ordered that the slave be protected while the case was pending and be given freedom to communicate with his attorney.<sup>19</sup>

An act very similar to the above was passed in 1824. It provided that "such actions shall be conducted in other respects in the same manner as the like actions in other cases."<sup>20</sup> A law still more liberal was passed in 1835 which, being reenacted in the later revisions, became the working statute about which a multitude of cases were argued down to the time of the Civil War. The circuit courts were substituted for the old territorial district court as the body before which the manumissions were recorded.<sup>21</sup>

<sup>18</sup> Territorial Laws, vol. i, ch. 35, secs. 1-4. In the MS. Records of the St. Louis General Court are several cases arising under this law: *Matilda v. Van Ribber* (vol. ii, p. 144); *Layburn v. Rice* (*ibid.*, p. 164); and *Whinney v. Phoebe Rewitt* (*ibid.*, p. 172). The habeas corpus clause of this law must have caused some dissatisfaction, as in the Revision of 1855 it was stated that "no negro or mulatto held as a slave within this State or lawfully arrested as a fugitive from service from another State . . . shall be discharged . . . under . . . this act [habeas corpus]" (vol. i, ch. 73, art. iii, sec. 8).

<sup>19</sup> The following entry is found in the MS. Records of the St. Louis Circuit Court for July 24, 1832: "Stephen W. Ferguson presents the petition of Susan a girl of color praying that she may be permitted to institute suit against Lemon Parker for establishing her right to freedom and that she may be permitted to sue as a poor person, therefore the court permitted the said Susan and assigned the said Stephen W. Ferguson Esq., as her counsel and it is ordered by the court that said Lemon Parker permit the said petitioner to have reasonable liberty of attending her counsel and the court when the occasion may require it, that the said petitioner shall not be taken or removed out of the jurisdiction of the court, or be subject to any severity of treatment on account of her said application for freedom" (vol. vi, pp. 337-338).

<sup>20</sup> Revised Laws, 1825, vol. i, p. 404. In *Gordon v. Duncan* a negro was given the value of his services during the pending of the suit (3 Mo., 272).

<sup>21</sup> Revised Statutes, 1835, p. 284. It was also here provided that the judge could grant the deed of manumission during the vacation



The classical Missouri suit for freedom is of course the case of Dred Scott, the story of which has been often told.<sup>22</sup> An account which well shows the struggle experienced by some negroes in suing for their liberty is that of Lucy Delaney. The story is undoubtedly told with bias. She states that her mother and three other colored children were kidnapped from Illinois and taken to Missouri, where they were sold into slavery. Later Lucy's mother married a slave of Major Taylor Berry of Franklin County. Before entering a fatal duel the latter "arranged his affairs and made his will, leaving his negroes to his wife during her life time and at her death they were to be free." Nevertheless Lucy's father was sold south. Her mother later brought suit and gained her own freedom. On September 8, 1842, the mother started proceedings to obtain Lucy's freedom from her old master's daughter. The court required this lady's husband to give bond for two thousand dollars as a guarantee that he would not remove Lucy from the State while the case was pending. The guarantor then had her placed in jail, lest, as he said, "her mother or some of her crew might run her off, just to make me pay the two thousand dollars; and I would like to see her lawyer or any other man in jail that would take up a . . . nigger case like that." Lucy was kept in jail for seventeen months. As the mother when suing for her own freedom had not mentioned her children, the defence endeavored to prove that they were not hers. At this point Edward Bates took up the matter,

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of the court and that the slave could be hired out if the defendant (master) refused to enter into a recognizance, and the plaintiff was denied the right to recover damages for false imprisonment in case his enslavement was held to be illegal (*ibid.*, secs. 1, 2, 8, 14). This law was reenacted in the Revision of 1845 (ch. 70). A section was added giving the sheriff power to collect the slave's earnings, in case he was hired out by the court pending the suit, and invest them at from three to six per cent. In this shape the law was reenacted in the Revision of 1855 (ch. 69).

<sup>22</sup> The best account of this negro is that of F. T. Hill, "Decisive Battles of the Law: Dred Scott v. Sanford," in Harper's Monthly Magazine, vol. cxv, p. 244. The various legal treatises covering the case will be found in note 40 of this chapter.

and after much difficulty obtained the girl's freedom.<sup>23</sup> This was perhaps an exceptional case, but it shows what the negro might be forced to undergo, even when he appealed to the courts.

As was learned above, the burden of proof lay with the plaintiff, who was further at a disadvantage in that "color raised the presumption of slavery."<sup>24</sup> The court, however, declared that the legislature in framing the law endeavored to put fairly the question of freedom between the parties.<sup>25</sup> Just before the Civil War the court held further that "if a negro sues for his freedom he must make out his case by proof like any other plaintiff, but the law does not couple the right to sue with ungenerous conditions; and he may prove such facts as are pertinent to the issue, and may invoke such presumption as the law derives from particular facts."<sup>26</sup> It was held that the claimant of a slave could not enter court "and disprove the matter [in the petition], and thereby prevent the institution of a suit," as this would result in "every object of the law" being defeated. It would also be equivalent to a master's bringing suit against his slave, a procedure which could not be allowed without statutory provision.<sup>27</sup> The plaintiff had to sue in person, another not being competent to do it for him, since he was a slave "as long as he acquiesced in his condition."<sup>28</sup> On the other hand, the slave had the common-law privilege of having excluded as testimony any admission he might ever have made that he was rightfully a slave.<sup>29</sup> Property in slaves did not lapse through the statute of limitations. A master might permit an infant to remain with its free

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<sup>23</sup> Pp. 2-11, 24-35.

<sup>24</sup> See also *Susan v. Hight*, 1 Mo., 82, and *Rennick v. Chloe*, 7 Mo., 197.

<sup>25</sup> *Susan v. Hight*, 1 Mo., 82.

<sup>26</sup> *Charlotte v. Chouteau*, 25 Mo., 465.

<sup>27</sup> *Catiche v. Circuit Court of St. Louis County*, 1 Mo., 432.

<sup>28</sup> *Calvert v. Steamboat "Timolene"*, 15 Mo., 595.

<sup>29</sup> *Vincent v. Duncan*, 2 Mo., 174.

mother, and when grown up it might even work and return its wages to the mother, but it continued to be a slave.<sup>30</sup>

A great deal of litigation arose relative to the Ordinance of 1787. Settlers moving from the eastward to Missouri often took up land in Illinois as they passed through the State, then at some later time moved on to Missouri with their slaves. From this situation there resulted a long series of cases culminating in the Dred Scott case of 1852. As there was no Missouri law to apply to this class of cases, the court interpreted the ordinance as it appeared to intend and as the Illinois court construed it. Governor St. Clair wrote President Washington, June 11, 1794, that "the anti-slavery clause of this Ordinance did not go to the emancipation of the slaves they [the people of the Territory] were in possession of and had obtained under the laws by which they had formerly been governed, but was intended simply to prevent the introduction of others. In this construction I hope the intentions of Congress have not been misunderstood, and the apprehensions of the people were quieted by it."<sup>31</sup> The Illinois constitution of 1818 allowed indentures of negroes for terms of years, permitting those bound under previous laws to be held till their terms had expired. The children subsequently born to these were to be free at twenty-one if males and at eighteen if females.<sup>32</sup> The courts of Illinois

<sup>30</sup> David v. Evans, 18 Mo., 249. The origin of a suit for freedom seemingly annulled a contract of sale of slaves. The administrator of the estate of Therese C. Chouteau obtained the following order of court in 1843: "Pierre Rose having commenced a suit for freedom was not offered for sale,—that Charlotte, [and] Victorine . . . were sold to Kenneth Mackenzie, and Antoine to Henry Chouteau, but after the sale and before payment was made . . . said Charlotte instituted a suit to establish her right to freedom and that of her children . . . and in consequence the said Mackenzie and Chouteau refuse to pay the sums bid by them for the slaves aforesaid, whereupon the court . . . order that the said Administrator do cause defense to be made against the claims set up by the said Pierre Rose and Charlotte" (MS. Probate Records, St. Louis, Estate no. 1745, paper filed September 11, 1843).

<sup>31</sup> Wm. M. Smith, ed., *The St. Clair Papers. The Life and Public Services of Arthur St. Clair*, vol. ii, p. 176.

<sup>32</sup> Poore, vol. i, p. 445, art. vi, secs. 2, 3.



for years permitted long-term indentures which were virtual slavery.<sup>33</sup>

The Missouri interpretation of the Ordinance of 1787 was in principle consistent until overturned by the Dred Scott opinion. In 1827 a negro child who had been born in Illinois after 1787 was declared to be free.<sup>34</sup> The following year it was held that the ordinance was "intended as a fundamental law, for those who may choose to live under it, rather than as a penal statute to be construed by the letter against those who may wish to pass their slaves through the country." A permanent residence was therefore held to work emancipation, as the court further declared that "any sort of residence contrived or permitted by the legal owner . . . in order to defeat or avoid the ordinance, and thereby introduce slavery de facto, would doubtless entitle a slave to freedom."<sup>35</sup> The court perhaps based this rendering on the constitution of Illinois of 1818 which read: "No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the saltworks near Shawneetoun; nor even at that place for a longer period than one year at any one time; nor shall it be allowed after the year 1825. Any violation of this article shall effect the emancipation of such person from his obligation to service."<sup>36</sup> In 1830 a case was decided which definitely laid down the principle that a slave might be hired out in Illinois for at least two years without working his freedom, but that if the owner intended to reside in Illinois and so resided with his slaves they would

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<sup>33</sup> Harris, pp. 7-14. The interpretation of the Illinois courts is treated by Harris in ch. viii. He found instances in which negroes bound themselves to service for thirty-five, forty-nine, and even ninety-nine years. They were often made to believe that they were really slaves under the law.

<sup>34</sup> *Merry v. Tiffin and Menard*, 1 Mo., 520. If slaves were brought from Canada and were not lawfully held as slaves there, they could not be so held in Missouri (*Charlotte v. Chouteau*, 21 Mo., 590).

<sup>35</sup> *La Grange v. Chouteau*, 2 Mo., 19. But it was also here held that if an owner resided in Illinois and chose to employ his slave on a Missouri boat which touched at Illinois ports, he was in no way seeking to engraft slavery on that State.

<sup>36</sup> Art. vi, sec. 2.



become free.<sup>37</sup> These decisions were used as precedents, and this idea of the Ordinance of 1787 was held until overturned in 1852.<sup>38</sup> A case very similar to that of Dr. Emerson and his man Dred Scott was already on record. An army officer named Walker in 1836 actually forfeited his slave by virtue of the ordinance by taking her as a servant into the Northwest Territory for a number of years.<sup>39</sup>

Consequently, when the Dred Scott case was taken to the Missouri supreme court on a writ of error from the St. Louis district court, the whole mass of preceding decisions was swept away. The court held that "the voluntary removal of a slave by his master to a State, Territory, or country in which slavery is prohibited, with a view to reside there, does not entitle the slave to sue for his freedom, in the courts of this State."<sup>40</sup> After 1852 this principle was followed to the letter.<sup>41</sup>

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<sup>37</sup> Vincent v. Duncan, 2 Mo., 174. But in Ralph v. Duncan it was held that a master by permitting his slave to hire himself out in Illinois offended against the ordinance as much as though taking the slave there himself (3 Mo., 139).

<sup>38</sup> In Theodeste v. Chouteau it was decided that the ordinance did not impair any rights then existing, and that negroes born and held as slaves before its passage were not entitled to freedom under it (2 Mo., 116). In Ralph v. Duncan the court limited the force of the ordinance to the time when Congress admitted Illinois as a State (3 Mo., 139). In Chouteau v. Pierre the ordinance was held not to be in force until the western posts were evacuated by the British under the Treaty of 1794, in districts controlled by such posts (9 Mo., 3). J. P. Dunn outlines several of these Missouri slave cases (Indiana: A Redemption from Slavery, ch. vi). In some of these cases the court was somewhat exacting of the slave-owner. In one instance it was declared that if he intended leaving Illinois but hired out his slave for "a day or two" for pay, the slave was entitled to freedom (Julia v. McKenney, 3 Mo., 193). In Nat v. Ruddle a slave was declared to be free if he was taken by his master to work in Illinois, but if he ran away from Missouri to his master in Illinois or went to visit him there and was allowed by him to work, he would not be free (3 Mo., 282). On this point see also Whinney v. Whitesides, 1 Mo., 334, Milly v. Smith, 2 Mo., 32, and Wilson v. Melvin, 4 Mo., 592.

<sup>39</sup> Rachel v. Walker, 4 Mo., 350.

<sup>40</sup> Scott (a man of color) v. Emerson, 15 Mo., 576. The lower decision was reversed. Judge Ryland concurred with Judge Scott in the opinion, Judge Gamble dissented. For a history of the case see the Federal decision in Howard, vol. xix, p. 393. The local situation is briefly discussed by F. T. Hill, p. 244. The legal phase of the subject is treated from different angles by E. W. R. Ewing, The

This view of the court aroused immediate indignation. Missouri had been liberal toward the slave seeking release from unlawful bondage. Senator Benton always took great pride in this fact, and claimed that negroes preferred to be tried in Missouri and Kentucky rather than in the free States north of the Ohio.<sup>42</sup> Senator Breese of Illinois admitted in 1848 that "in all his observation and experience . . . he had discovered that the courts of the slave States had been much more liberal in their adjudications upon the question of slavery than the free States. The courts of one of them (Illinois) has uniformly decided cases against the right of freedom claimed by persons held in bondage under a modified form of servitude recognized by its old constitution. In precisely similar cases the courts of Kentucky and Missouri . . . decided in favor of the rights of freedom."<sup>43</sup>

The abandonment of this liberal policy was clearly recognized at the time. The Missouri chief justice in his minority opinion said, "I regard the question as conclusively settled by repeated adjudications of this court."<sup>44</sup> In 1856 Justices Curtis and McLean of the Federal Supreme Court enlarged upon this complete reversal of precedent by the Missouri court in their individual opinions.<sup>45</sup> The majority of the Missouri court admitted that precedent was against them, but claimed that a higher law demanded that abolition be

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Legal and Historical Status of the Dred Scott Case, and by T. H. Benton, *Historical and Legal Examination of the Dred Scott Case*. Both of these are bitterly partisan.

<sup>41</sup> For example, see *Sylvia v. Kirby*, 17 Mo., 434.

<sup>42</sup> Benton, *Historical and Legal Examination of the Dred Scott Case*, pp. 44-45, note.

<sup>43</sup> Benton, *Abridgement of the Debates of Congress*, vol. xvi, p. 226. Breese delivered this speech on July 24, 1848.

<sup>44</sup> 15 Mo., 576. Chief Justice Gamble continued: "I would not feel myself any more at liberty to overthrow them [former decisions], than I would any other series of decisions by which the law of any other question was settled. There is with me nothing in the law relating to slavery which distinguishes it from the law on any other subject."

<sup>45</sup> Justice Curtis's opinion may be found in *Dred Scott v. Sandford* (Lawyers' Co-operative edition, *Supreme Court Reports*, vol. xv, pp. 767-795); and Justice McLean's (*ibid.*, pp. 752-767). The subject of the reversal of precedent by the Missouri court is treated in the Thirteenth Annual Report of the American Anti-Slavery Society, p. 39 (report for 1853).

rebuked and the institution of slavery in the State be conserved. "Cases of this sort are not strangers in our courts," reads their opinion. "Persons have been frequently here adjudged to be entitled to their freedom, on the ground that their masters held them in slavery in Territories or States in which that institution is prohibited . . . on the ground it would seem, that it was the duty of the courts of this State to carry into effect the constitution and laws of other States and Territories regardless of the rights, the policy, or the institutions of the people of this State . . . times are not as they were when the former decisions on the subject were made. Since then, not only individuals but States have been possessed with a dark and fell spirit in relation to slavery, whose gratification is sought in the pursuit of measures whose inevitable consequence must be the overthrow and destruction of our government. Under such circumstances, it does not behove the State of Missouri to show the least countenance to any measures which might gratify this spirit."<sup>46</sup>

To this open acknowledgment of the influence of the political heat of the time on the decision there is the following answer from Chief Justice Gamble: "There is nothing with me in the law relating to slavery which distinguishes it from the law on any other subject, or allows any more accommodation to the temporary public excitements which are gathered about it."<sup>47</sup> The Missouri court decided the Dred Scott case in 1852. Benton had fought for and lost his reelection to the United States Senate in 1849-51. Party feeling was extremely bitter, and the slavery issue divided Democrats and Whigs alike. The court recognized this "dark and fell spirit in relation to slavery." To such political forces one must look for the inspiration of the then novel decision in Scott against Emerson.

Two motives entered into the act of liberating a slave,—financial consideration, and sentiment. In many cases pure sentiment was the moving force. Often it was mere barter

<sup>46</sup> Scott (a man of color) v. Emerson, 15 Mo., 576.

<sup>47</sup> Ibid.



in which the slave or his friends or relatives bought his freedom. This resulted in many free negroes temporarily owning slaves—parents their children, a husband his wife—between the time of purchase and the date of manumission.<sup>48</sup> In many cases the elements of sentiment and cash both entered,<sup>49</sup> while the force of sentiment alone undoubtedly moved other emancipators.<sup>50</sup> Colored mistresses are known to have been freed by their owners, a familiar case being that of J. Clamorgan who in 1809 manumitted two such negroes who were mothers of his children.<sup>51</sup> Many slaves were freed by will. Some of these were required to reimburse the heirs of the estate for their loss by such manumission, while a few were allowed to pay for their freedom in installments.<sup>52</sup>

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<sup>48</sup> For examples of the holding of slaves by free negroes, see p. 63 above.

<sup>49</sup> The following is an illustration: "Know all men by these presents that I William Howard . . . do, for and in consideration of her former good qualities, correct deportment and faithful services to me, together with the further consideration of Tu Hundred Dollars to me in hand paid . . ." set free the slave under consideration. Granted in the St. Louis Circuit Court, December 16, 1843. In the possession of W. C. Breckenridge. Paper no. 208.

<sup>50</sup> As is the case today, the negro was attached to his old home and master. Some freed slaves preferred to remain with the erstwhile owner. The following proves this point: "Said Slaves thus manumitted . . . are so to remain without hindrance or molestation, and that at the date of my death, are to work and labor for themselves, and not to look to my estate for support. . . . That said slaves have been well and truly provided whilst in servitude, and that in consideration of my affection for them I will provide for them meat and drink and suitable wearing apparel. And that Said Slaves thus emancipated must look in future to themselves for support. . . . But whilst they remain with me, they must be subject to my control and direction" (MS. Deed of Henry Dearing, dated December 17, 1855, St. Louis Court House Papers, Missouri Historical Society).

<sup>51</sup> MS. Records of St. Louis, vol. B, pp. 368-372, under date of September 12.

<sup>52</sup> "Whereas Beverley Allen deceased by his will, directed that his slave Joe should be emancipated upon his paying Five Hundred Dollars and the said Joe not being able to pay that sum at one time We are willing to allow a specified time for the payment in installments." Joe was to pay \$50 when the papers were given him and the same amount on January 1, 1847, and each four months thereafter till the total was paid. "And if the undersigned Penelope Allen should also receive from the hire of the said Joe or he should otherwise pay to her the sum of Ten dollars per month until



Accounts are on record of most heroic and pathetic sacrifices on the part of relatives to liberate slaves. That of George Kibby of St. Louis and his wife Susan is very instructive. In 1853 Kibby entered into a contract with Henry C. Hart and his wife Elizabeth L. Hart to purchase their negress named Susan, whom he wished to marry. The price was to be eight hundred dollars. The contract is devoid of all sentiment and is as coolly commercial as though merchandise was the subject under consideration. Kibby had but two hundred dollars to pay down. He was to pay the remainder in three yearly installments, and upon the fulfilment of the contract Susan was to receive her freedom. In the meantime Kibby was to take possession of Susan under the following conditions: "Provided however said Kibby shall furnish such security as may be required by the proper authorities, to such bond as may be required for completing such emancipation, so as to absolve . . . Hart and wife from all liability for the future support and maintainance of said Susan and her increase. This obligation to be null and void on the part of said Hart and wife, if said Kibby shall fail for the period of one month, after the same shall become due and payable, to pay to said Hart and wife said sums of money as hereinbefore specified, or the annual thereon, and in the event of such failure, all of the sum or sums of money whether principal or interest, which may have been paid by the said Kibby shall be forfeited, and said Kibby shall restore to said Hart and wife said negro girl Susan and such child or children as she may then have, such payments being hereby set off against the hire of said Susan, who is this day delivered into the possession of said Kibby. And said Kibby hereby binds himself to pay said sums of money as hereinbefore specified, and is not to be absolved therefrom on the death of said Susan, or any other contingency or plea whatever. He also binds himself to keep at his own expense a satisfactory policy of insurance on the life of said

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the said sum" was paid, he was to receive his freedom (MS. Probate Records of St. Louis, Estate no. 2068, paper filed September 18, 1846).

Susan, for the portion of her price remaining unpaid, payable to T. J. Brent trustee for Mrs. E. L. Hart, and that said Susan shall be kept and remain in this County, until the full and complete execution of this contract."

Attached to the back of this contract are the receipts for the installments. The first reads thus: "Received of George Kibby one mule of the value of sixty five dollars on within contract Feb. 1st, 1854, H. C. Hart." The fifth and last payment was made on December 3, 1855—two years lacking six days following the date of the contract. Accompanying the contract is the deed of manumission of Susan, likewise dated December 3.<sup>53</sup> Thus Kibby fulfilled his bargain in less than the time allowed him.

Cases can be found where slaves directly purchased their own freedom. One deed reads as follows: "For and in consideration of the sum of five hundred dollars, I have this day bargained and confirmed my right title interest and claim in and to a certain Negro Slave named Jackson . . . the said Sale being made unto Jackson himself with the intent . . . that the said slave shall henceforth be a free man."<sup>54</sup> As to the nature of the transaction, most deeds of manumission were mere quit-claim contracts, while others seem to have been a guarantee of the grantor. The following was evidently such: "I Benjamin J. Vancourt . . . for a good and valuable consideration have emancipated . . . My Slave Dolly Maria . . . She . . . being entitled as against me and my heirs, . . . and against all persons whomsoever claiming by through or under me to all the rights privileges & immunities belonging to Free persons of color."<sup>55</sup> This

<sup>53</sup> MS. original in the St. Louis Court House Papers at the Missouri Historical Society.

<sup>54</sup> MS. deed signed by James W. Scott, November 27, 1854 (in *ibid.*). One free negro of St. Louis, Jerry Duncan, was quite fortunate in emancipating his family. After buying the freedom of his wife and child, he purchased a home in the city. Later the police found his house filled with stolen goods. His family was then thought to have been purchased by dishonest means (*Daily Evening Gazette*, July 29, 1841).

<sup>55</sup> Filed November 20, 1846, no. 292. In the collection of Mr. W. C. Breckenridge.

provision, however, may have been a mere precaution to prevent the heirs from causing the slave in question future trouble.

At times the General Assembly by special act manumitted negroes. Two slaves were thus freed by the legislature in February, 1843, one in Jefferson and the other in Callaway County. In both cases the bill was "read the first time, rule suspended, read the second time, considered as engrossed, read the third time and passed." There seems to have been no opposition to these acts. "Sundry citizens of Callaway county" even petitioned in the one case in favor of the negroes under consideration.<sup>56</sup>

The actual number of slaves passing over into the class of free negroes can be learned with accuracy in so far as the circuit court records are complete, as all deeds of manumission were granted by these courts.<sup>57</sup> The census returns give little aid in calculating totals, as the free negroes are not always listed in the returns. The free black also went from one county to another, and so the increase per county is difficult to find. The two motives leading to manumission—sentiment and money—are so inextricably merged that it is doubtful whether the conclusions drawn from such figures would throw much light on the sentiment of the State relative to the subject of emancipation.

The number of slaves given their freedom from year to year was not great except in St. Louis. For the ten years between January 1, 1851, and January 1, 1861, but a single slave was freed in the Howard County circuit court.<sup>58</sup> In

<sup>56</sup> Senate Journal, 12th Ass., 1st Sess., p. 344; House Journal, 12th Ass., 1st Sess., p. 253.

<sup>57</sup> "Any person may emancipate his or her slave, by last will, or any other instrument in writing under hand and seal attested by two witnesses, and approved in the circuit court of the County, where he or she resides, or acknowledged by the party in the same court" (Revised Statutes, 1835, p. 581, art. ii, sec. 1). The later revisions follow this form.

<sup>58</sup> MS. Circuit Court Records, Howard County, Book 11, p. 174. In examining these records the present writer in some cases covered a series of years and in other cases took years widely separated in order that a fair impression might be gained. The volumes were carefully gone over, indexes and digests not being relied upon. The



the adjoining county of Boone but eight were liberated in these same ten years,<sup>59</sup> while to the southwest in Henry County only two were manumitted.<sup>60</sup> In the prosperous southwest Missouri county of Greene not a single slave was given freedom in the circuit court in the sixteen years preceding the Civil War—1845 to 1861.<sup>61</sup> The old Mississippi River county of Cape Girardeau in the southeastern part of the State witnessed no manumissions in the years 1837, 1844, 1850, and 1851; there were four in 1858, and none in 1859.<sup>62</sup>

In St. Louis County there was an entirely different situation. From the early days slaves were steadily and increasingly liberated. In 1830 four were manumitted, in 1831 three, in 1832 twelve, and in 1833 three.<sup>63</sup> Even in the years 1836 and 1837, while Congress was being thrown into a furor by abolition activity, twenty-eight were liberated.<sup>64</sup> In the year 1855, while the Kansas-Nebraska Bill and the settlement of Kansas were forcing the State into a fever of excitement, no less than forty-nine slaves received their freedom before the circuit court at St. Louis. Thirty-nine persons manumitted these forty-nine negroes.<sup>65</sup> In 1858 forty-nine slaves were liberated by nineteen different owners.<sup>66</sup>

Evidently many free blacks moved from county to county or else the natural increase of the free negro was large. Al-

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volumes covering the earlier period in Howard County were also examined. The same result was found. For the years 1835-37 no manumissions were recorded (*ibid.*, Books 5, 6).

<sup>59</sup> MS. Circuit Court Records, Boone County, Book E, pp. 451, 479-480, 510; Book F, pp. 195, 429; Book G, p. 92; Book H, pp. 66, 98.

<sup>60</sup> MS. Circuit Court Records, Henry County, Book B, pp. 49, 99.

<sup>61</sup> MS. Circuit Court Records, Greene County, Books C, Dsr, Djr, E.

<sup>62</sup> MS. Circuit Court Records, Cape Girardeau County, Book J, p. 79.

<sup>63</sup> MS. Circuit Court Records, St. Louis, vol. 6, pp. 4, 101, 156, 197, 221, 276, 316, 317, 323, 340, 351, 338, 393, 492.

<sup>64</sup> *Ibid.*, vol. 8, pp. 7, 13, 36, 46, 52, 96, 99, 109, 128, 130, 139, 144-145, 189, 194, 195-196, 218, 220, 240, 276, 272, 367, 421.

<sup>65</sup> MS. Duplicate Papers in the Missouri Historical Society received from the Clerk of the St. Louis Circuit Court.

<sup>66</sup> MS. Circuit Court Records, St. Louis, vol. 27, pp. 6, 179; vol. 28, pp. 198, 231, 232, 249, 279.



though but eight were freed in Boone County between 1851 and 1861, the free negroes there increased from 13 in 1850 to 69 in 1860, and Howard County, while manumitting but a single slave in these ten years, increased her free colored population from 40 to 71. No slaves were liberated in Greene County between 1845 and 1861, nevertheless the free blacks of the county increased from 7 in 1850 to 12 in 1860. The gain of St. Louis County, however, was consistent with her numerous liberations, increasing from 1470 in 1850 to 2139 in 1860.<sup>67</sup>

The census returns, both state and Federal, contain so many omissions, especially in the free negro column, that little can be gained from comparisons of the relative growth of the slaves and the free blacks. Moreover, the state census returns do not harmonize with the Federal. For Missouri as a whole the relative gains of the three classes, whites, slaves, and free colored, are as follows according to the Federal census returns:—<sup>68</sup>

	1820	1830	1840	1850	1860
Whites .....	54,903	115,364	322,295	592,004	1,063,489
Slaves .....	9,797	25,091	57,891	87,422	114,931
Free Negroes..	376	569	1,478	2,618	3,572

From the above figures it appears that the free negroes and the slaves continued at about the same ratio, while both were outstripped by the whites. Law and sentiment kept the number of free blacks from being swelled from without, but slave accessions were not restricted. Would the free negro class tend naturally to increase as fast as the slaves? To answer this question a detailed study of the life of the free colored as well as of that of the slave would be necessary, and even if such a study should be made, it would be denied by many that the birthrate of the despised free negro was governed by any economic law.

<sup>67</sup> Seventh Federal Census, pp. 654-655; Eighth Federal Census, Population, p. 275.

<sup>68</sup> Fourth Federal Census, p. 40; Fifth Federal Census, pp. 38, 40-41; Sixth Federal Census, p. 418; Seventh Federal Census, p. 655; Eighth Federal Census, Population, pp. 275-283.

The various portions of the State differed in sentiment as in interest. Outside of St. Louis County the slaves increased faster than the free negroes. St. Louis was a city of one hundred and sixty thousand inhabitants in 1860, of whom sixty per cent were foreign born.<sup>69</sup> The rural sections of the State looked askance at the liberal, antislavery, commercial spirit of the metropolis. The business interests of the city blamed slavery for keeping free labor from the State. The German element was strongly nationalistic and antislavery in feeling. As a consequence St. Louis County differed from the State as a whole. The Federal census reports for the county are as follows:—<sup>70</sup>

	1820	1840	1850	1860
Whites .....	8,253	30,036	99,097	182,597
Slaves .....	1,810	4,631	5,967	3,825
Free Negroes ....	225	706	1,470	2,139

The city of St. Louis contained more free negroes than slaves. In 1860 its population was divided as follows:—<sup>71</sup>

Whites .....	157,476
Slaves .....	1,542
Free Negroes .....	1,755

The increase of the free colored population was more rapid than that of the slaves. The cause of this lies not only in the fact that the people of St. Louis perhaps favored the freeing of the blacks more than did the State at large, but also in the fact that the great commerce of the city and its growing industry offered greater opportunities for labor than did the

<sup>69</sup> Eighth Federal Census, Population, p. xxxi. The population was 160,773. Of these, 96,086 were foreign born—50,510 of them Germans, 29,926 Irish, and 5513 English.

<sup>70</sup> See note 68. Scharf states that of the 1259 free blacks in the city of St. Louis in 1851 over one half, or 684, were in the city "in violation of the law" or without a license (vol. ii, p. 1020). Scharf's figures are far below those of the Federal census. He gives a number of manumissions in vol. i, p. 305, note. Free negro licenses were granted by the county courts. The MS. County Court Records of St. Louis contain many such records of licenses. In the year 1835 one hundred and forty-two were licensed (vol. i, pp. 455-459, 461-462, 463-464).

<sup>71</sup> Eighth Federal Census, Population, p. 297.

interior of the State. The negro when released from his bonds has tended to drift cityward, and such must have been the case with the free negro before the Civil War. In addition the antislavery views of so many of the people of the city might naturally attract the free black to a congenial environment.

From the foregoing pages it is evident that the freeing of the slave was tolerated but not welcomed in Missouri. The law provided that it should be done only at the risk of the owner, and the free negroes were looked upon with distrust. This contempt for and fear of the free black was the chief reason for the limited number of manumissions in all of the Southern States.

It is not the purpose of this study to discuss the free negro except where such a treatment affects the slavery system, yet the movement to colonize the free blacks is closely related to the slave in that the fear and dislike of the free colored population often prevented the manumitting of the bondman. Colonization in Africa by American negroes was a definite program favored by the slaveholders of the South and the philanthropists of the North as a means of ridding the country of free negroes. The organized movement had hearty support from the second decade of the nineteenth century till long after the Civil War. James Madison and Henry Clay were early presidents of the national society. It was recognized as a slaveholders' movement.

The Missouri society was late in its origin and never developed to great proportions. Even Arkansas seems to have supported the movement with greater ardor than did her neighbor to the north. Missouri contained few free colored persons, and the economic burden of slaveholding, if such a burden there was, seems not to have been generally felt at the time. The first colonization society of the State was the "Auxilliary Society of St. Louis," which was founded about 1827. In this year William Carr Lane was president, James H. Peck, Governor Cole of Illinois, George Thompkins,



and William S. Carr vice-presidents, T. Spalding and D. Hough secretaries, and Aaron Phule treasurer.<sup>72</sup> In 1832 this was as yet the only society in the State, and it still had the same officers.<sup>73</sup> The legislature gave the movement at least indirect support in resolutions passed in 1829 which declared unconstitutional the action of Congress in appropriating funds for the use of the national society.<sup>74</sup>

The churches pushed the work, and the St. Louis society often met under the auspices of the Methodists.<sup>75</sup> Indeed, the Missouri Conference of that body in 1835 put itself on record as being enthusiastic over the subject of colonization: "Resolved, That we highly approve of the Colonization enterprise as conducted by the American Colonization Society; we will use our influence and reasonable endeavors to promote its interests, and we recommend its claims to the people among whom we may be appointed to labor."<sup>76</sup> Other churches were also interested. In 1846 "Reverend W. Patton's church" of Fayette sent \$7.50 to the national society,<sup>77</sup> while two years before the Reverend A. Bullard had enclosed \$66 to aid a colonist.<sup>78</sup> The Unitarian church of St. Louis raised \$150 for the society at a meeting in 1849.<sup>79</sup>

<sup>72</sup> Tenth Annual Report (1827) of the American Society for Colonizing The Free People of Color of the United States, app., p. 79. This is the first notice the present writer found of the society in Missouri. Scharf claims that the St. Louis society was founded in March, 1825, in the Methodist Church, and permanently organized in 1828 (vol. ii, p. 1757). But the above reference proves that it was officially recognized at least a year before this latter date.

<sup>73</sup> Fifteenth Report, American Colonization Society, p. 63.

<sup>74</sup> Session Laws, 1828, p. 89.

<sup>75</sup> "I will attend to paying up the Sum you direct for the Colonization Society," wrote the Reverend Joseph Edmundson to a fellow pastor in 1831. "It meets on next Monday night in the Methodist church" (Edmundson to Rev. J. R. Greene, May 18, in M. Greene, *Life and Writings of Reverend Jesse R. Greene*, pp. 70-71).

<sup>76</sup> Resolutions of the Methodist Episcopal Annual Conference, 1835 (*Daily Evening Herald*, October 1, 1835).

<sup>77</sup> *The African Repository and Colonial Journal*, June, 1846 (vol. xxii, p. 199).

<sup>78</sup> *Ibid.*, September, 1844 (vol. xx, p. 288).

<sup>79</sup> C. C. Eliot, p. 139. There is found in Scharf the statement that the Young Men's Colonization Society met in the Unitarian Church of St. Louis on January 11, 1848, its pastor, Dr. Eliot, being president (vol. ii, p. 1757).



The Missouri State Colonization Society was organized in 1839 with Beverley Allen as president.<sup>80</sup> This association evidently prospered, for in 1845 its "Agent," the Reverend Robert S. Finley, sent \$50 to the organ of the national society, the Repository.<sup>81</sup> It even advocated the raising of \$1000 in the State with which to cooperate with the Illinois society in sending a packet twice a year to Liberia.<sup>82</sup> During that decade there were numerous signs of active interest. Public meetings were held, and colonial literature was sent to the clergymen of the State,<sup>83</sup> but whatever may have been the activity of the society the number of negroes sent from Missouri to Liberia was not great. Up to 1851 only 21 blacks had been sent to Africa from the State out of a total of 6116 sent from the United States.<sup>84</sup> Within the next five years Missouri sent 62 more.<sup>85</sup>

An illustration of the manner in which a local society was formed and the real motives behind the movement can be gained from the contemporary account of the genesis of the Cole County society. On November 17, 1845, a gathering was addressed in the Jefferson City Methodist church by the state colonization agent, the Reverend R. S. Finley. Officers were elected, and the society adjourned to meet in the Capitol on the following evening.<sup>86</sup> The state constitutional convention was in session at Jefferson City at the time, and many of its members were present at this second meeting. Colonel James Young of Callaway County was made

<sup>80</sup> Scharf, vol. ii. p. 1757.

<sup>81</sup> African Repository, April, 1845 (vol. xxi, p. 256).

<sup>82</sup> R. S. Finley, "Circular Appealing for Aid for Colonizing Free Negroes in Liberia," in Journal of the Illinois State Historical Society, vol. iii, p. 95.

<sup>83</sup> Twenty-Ninth Annual Report of the American Colonization Society, p. 10. In 1851 the society was active. It had organized a movement to memorialize the legislature on the subject of colonization (Thirty-Fourth Report, p. 17).

<sup>84</sup> Thirty-Fourth Annual Report of the American Colonization Society, p. 84. Kentucky had sent 225 and Tennessee 177 in these years (*ibid.*).

<sup>85</sup> Fortieth Annual Report of the American Colonization Society, p. 16. During the year 1856 the Missouri society had remitted \$313.48 to the treasurer of the national society (*ibid.*, p. 21).

<sup>86</sup> Jefferson Inquirer, November 19, 1845.

chairman and General Aaron Finch of Dade County secretary. Colonel Young offered a resolution in favor of the society and its work, and recommended the movement to the people of the State. This resolution was "unanimously adopted." General Finch then made a speech in which he lauded the society. He urged that the work of colonizing Africa with these negroes should be vigorously pushed, as it was the only means of removing from the State the free blacks, who were an "injury to our country" and constantly "corrupt our slaves."<sup>87</sup> From the above account it is evident that it was the slaveholders and not the abolitionists who led the movement. At the same time many radical anti-slavery agitators such as Frank Blair likewise advocated the colonization program, yet the movement was entirely distinct from the organized antislavery agitation.

The policy of supporting the colonization program was apparently popular in the closing days of the slavery regime. The cautious and prominent Presbyterian clergyman, the Reverend N. L. Rice of the Second church of St. Louis, who dreaded both northern and southern agitators, wrote a series of public letters to the General Assembly of his church in 1855 in which he declared that colonization alone could save the country from northern abolitionism and southern radicalism.<sup>88</sup> When on January 1, 1852, Captain Andrew Harper of St. Charles turned his twenty-four slaves over to the society upon the condition "that they be immediately Colonized to Liberia," the conservative old St. Louis Republican declared it a "noble New Year's gift." "How can the affluent hope to dispense their wealth better than in generously aiding in this effort to let the bondman go free?"<sup>89</sup>

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<sup>87</sup> Jefferson Inquirer, November 22.

<sup>88</sup> Ten Letters on the Subject of Slavery to the General Assembly of the Presbyterian Church, pamphlet, p. 6. In 1850 the Reverend James A. Lyon of the Westminster Presbyterian Church of St. Louis advocated that the legislature grant the state society \$2000 with which to plant a "Missouri Colony in Liberia." The state society, he claimed, was "efficient and well organized" (An Address on the Missionary Aspect of African Colonization, pamphlet, pp. 20-21).

<sup>89</sup> Republican, January 1, 1852. These negroes all reached Liberia

Even the political heat engendered by the Kansas struggle and the war between the Benton and anti-Benton forces seems to have had little effect on the popularity of colonization. On January 14, 1858, Frank Blair delivered in Congress an able speech in favor of a resolution introduced by himself which provided that territory be acquired in Central or South America on which to plant a colony of free negroes of the United States.<sup>90</sup> Senator Green of Missouri, a strong proslavery man, in a speech of May 18 on this measure expressed his own favorable attitude toward colonization, but resented Senator King's statement that Blair as a Missourian was the logical person to push the measure. He declared that only "a few individuals" in the State favored emancipation.<sup>91</sup> This illustrates how easily the colonization movement might be confused with the active antislavery program. In 1860 among the ninety-seven vice-presidents of the national society were Edward Bates and John F. Darby of St. Louis,<sup>92</sup> showing that the project had able and influential supporters in Missouri in the closing days of the slavery period.

It will be the aim of the following paragraphs to depart entirely from the military and political affairs which engulfed Missouri from 1861 to 1865 and to outline the development of the movement toward emancipation.

When Governor Jackson was driven from Jefferson City and the "Rebel" legislature moved to Neosho, Hamilton R.

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save two, who were beguiled by "free negroes and abolitionists" to stop by the wayside while en route through Pennsylvania (*ibid.*, May 13, 1852). In 1844 the administrator of the estate of Thomas Lindsay of St. Charles sent the national society \$600 "toward the support of eighteen persons left by him to be sent to that colony" (*African Repository*, July, 1844 [vol. xx, p. 223]). In the case of a negro who was freed by will on condition that he be sent to Liberia by the Colonization Society it was held that his manumission was valid only if he had the means as well as the "willingness" to go (*Milton [colored] v. McHenry*, 31 Mo., 175).

<sup>90</sup> *Congressional Globe*, 35th Cong., 1st Sess., pt. i, pp. 293-298.

<sup>91</sup> *Congressional Globe*, 35th Cong., 1st Sess., pt. iii, p. 2208.

<sup>92</sup> *Forty-Third Annual Report of the American Colonization Society*, p. 3.



Gamble, a lifelong Whig and antislavery man, was made governor. His party was conservative, and hoped by gentle means to placate those who had believed in the "Union with slavery." Opposed to this party were the "Radicals" or "Charcoalers," headed by Charles D. Drake and General George R. Smith. These latter preached immediate emancipation, and accused the governor and his friends of having lurking proslavery sentiments.<sup>93</sup>

When the state convention met in March, 1861, to decide the relation of Missouri to the Union, Uriel Wright declared that emancipation meant the destruction of the agricultural interests of the South.<sup>94</sup> The majority of the committee on Federal relations were otherwise minded, and they maintained that the interests of Missouri would suffer from the policy of free trade as advocated by the South. They condemned secession, and thought that the North could never be at peace with the South as a separate nation, as the question of fugitive slaves would force a free North to police her territories for a slave South.<sup>95</sup> The convention was loyal to the Union, but could not be said to be at all in favor of materially affecting the slavery system.

In August, 1861, General Frémont, in command of the Union forces of the State, by proclamation declared the property of all rebels to be forfeited, and emancipated their slaves. But President Lincoln on New Year's day, 1862, modified this provision so that it applied only to those who had taken up arms against the United States or had aided her enemies.<sup>96</sup>

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<sup>93</sup> "Governor Gamble was then [August, 1861] a . . . pro-Slavery man . . . he believed the people of Missouri to be pro-slavery people" (C. D. Drake, *Union and Anti-Slavery Speeches, Delivered During the Rebellion*, p. 348). In December General Halleck and Governor Gamble reprimanded Thomas C. Fletcher for saying that "having arms in our hands we never intended to lay them down while slavery existed" (Harding, p. 338).

<sup>94</sup> *Journal and Proceedings of the Missouri State Convention, held at Jefferson City and St. Louis February 28 to March 22, 1861*, p. 35.

<sup>95</sup> *Ibid.*, p. 35. The committee reported March 9.

<sup>96</sup> Paxton, p. 317. See also Switzler on this point (pp. 391-392). Switzler says that Frémont with his own hand liberated two slaves of Colonel Thomas L. Snead on September 12, 1861 (p. 391).



When the state convention reassembled in June, 1862, emancipation was immediately agitated. Breckenridge for the committee on the constitution introduced a series of resolutions which provided for the abolition of the slavery clauses of the state constitution; for the liberation of all slaves born in the State on and after the first of January, 1865, when such should reach the age of twenty-five years; for indemnifying the masters of slaves for their losses, and for requiring the reporting of slave births within six months under a penalty of the confiscation of the slave. No slaves were to be imported. The proposal of the President to aid the State in reimbursing her slaveholders was favorably considered. These resolutions were tabled by a vote of 52 to 19.<sup>97</sup> On June 13 Governor Gamble submitted to the convention the offer of President Lincoln of the recent congressional provision proposing to pay Missouri slave-owners in case of gradual emancipation. The governor, however, feared that the measure "would produce excitement dangerous to the State," and hinted that in such a contingency the President would not consider the "action disrespectful" if the offer were rejected. The proposition was thereupon tabled and ordered printed.<sup>98</sup> Hitchcock then moved that the offer of the President be considered, that he be advised of the danger its acceptance might cause, and that he be duly thanked. A committee of five was appointed for this purpose.<sup>99</sup>

The convention was not composed entirely of kindred spirits. Hall immediately moved a counter-resolution declaring that "the people in choosing the Convention, never intended or imagined that body would undertake any social revolution wholly unconnected with the relations between the State and the General Government." This resolution

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<sup>97</sup> Journal, Appendix, and Proceedings of the Missouri State Convention, held at Jefferson City, June 2 to 14, 1862, p. 19.

<sup>98</sup> *Ibid.*, p. 37.

<sup>99</sup> *Ibid.*, p. 40. This resolution reads: "Resolved, That . . . a majority of this Convention have not felt authorized at this time to take action with respect to the delicate and grave questions of private right and public policy presented by said resolution."

was rejected by a vote of 35 to 30.<sup>100</sup> Birch then moved that the President's offer be "respectfully declined." This was rejected by a vote of 38 to 22, whereupon Breckenridge moved to submit the communication of the governor, along with the motion of Hitchcock, to the President. This motion passed by a vote of 37 to 23.<sup>101</sup> It is evident from the action of this convention and from a survey of the vote on the various motions that the time was not yet ripe for radical interference with the slavery system.<sup>102</sup>

By 1863 a large portion of the Union element, which party then controlled the situation in the State, was in favor of emancipation. Some wished immediate and some gradual emancipation. Charles D. Drake said to the convention which he and his followers called in 1863 that in the summer of 1861 "a large majority—perhaps seven-eighths—of them [the people of Missouri] then were proslavery people." But during the two years which followed, he claimed that the "sentiments of the people of Missouri in regard to the institution of slavery underwent a radical change." He added that Lincoln's offer of cooperation in reimbursing the slaveholders was largely responsible for this transition.<sup>103</sup> This change in feeling regarding emancipation is also vouched for by the Reverend J. W. Massie of England, who was sent to the United States in 1863 by a band of four thousand French and English clergymen. "I was as free to utter my antislavery sentiments in Missouri as I had been

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<sup>100</sup> Journal of the Missouri State Convention, 1862, pp. 45-46.

<sup>101</sup> *Ibid.*, p. 46.

<sup>102</sup> For an idea of Governor Gamble's views of the emancipation situation at this time see his message to the General Assembly of December 30, 1862 (Senate Journal, 22d Ass., 1st Sess., pp. 13-15). "The General Emancipation Society of Missouri" was formed in April of this year (Constitution and By Laws of the General Emancipation Society of Missouri, adopted at St. Louis April 8, 1862). "I think," wrote Anthony Trollope in January, 1862, "there is every reason to believe that slavery will die out in Missouri. The institution is not popular with the people generally and as white labor becomes more abundant—and before the war it was becoming more abundant and profitable—men recognize the fact that the white man's labor is more profitable" (p. 380).

<sup>103</sup> Speech at Jefferson City, September 1, 1863 (Drake, pp. 348-349).

in Connecticut. The Reverend H. Cox at whose church I spoke [Methodist] affirmed that such an address would not have passed without a mob, and the probable destruction of the place, only the year before."<sup>104</sup>

When the legislature met for the regular session of 1862-63, Governor Gamble submitted his message, which dealt largely with the negro situation.<sup>105</sup> On January 21 concurrent resolutions were introduced in the House declaring that \$25,000,000 would be necessary to carry emancipation into effect in the State and requesting that amount of Congress for the purpose. This was amended by various members to read a greater and again to read a less amount. Zerely moved that Missouri had no wish that the slaves when emancipated should remain in the State. He was declared out of order. On the following day the original motion passed by a vote of 70 to 34, nineteen members being absent for one cause or another.<sup>106</sup> In the Senate this resolution appeared on January 26, was likewise amended, and finally passed the next day, the vote being 26 to 2, four members not being present.<sup>107</sup> But as the slaves could not be liberated without paying their owners, the constitution of 1820 so providing, the legislature felt its power to be limited, and therefore the governor on April 15 called the convention to reassemble on June 15.<sup>108</sup>

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<sup>104</sup> America: The Origin of her Present Conflict, p. 255. An observing contemporary who was prominent in politics during these years makes the following observation as to the changing effect of the War on political parties: "During the preceding election [1863] little or nothing remained of previously existing national political parties. The mad torrents of civil war had swept them all away. New issues and new combinations, with new objects arose. . . . It was during the judicial canvass of 1863 that the nuclei of the present political parties of the State were formed; one as the 'Conservative' and the other as the 'Radical'; and now known as the 'Democrat' and 'Republican.' All the ante-bellum issues had gone down in the bloody vortex of fratricidal war. Elements hitherto antagonistic, now coalesced on the living issues of an all-absorbing present" (Switzler, p. 446).

<sup>105</sup> Senate Journal, 22d Ass., 1st Sess., pp. 13-15.

<sup>106</sup> House Journal, 22d Ass., 1st Sess., pp. 129-141.

<sup>107</sup> Senate Journal, 22d Ass., 1st Sess., pp. 115-140.

<sup>108</sup> In his message calling the convention of 1863 Governor Gamble stated the position of the legislature on the subject, and also the



The convention met as called. On the following day Smith introduced an ordinance for the "emancipation of slaves."<sup>109</sup> On June 23 Gamble resigned as governor in order to retain his position in the convention as chairman of the committee on emancipation. At the request of the convention he consented to continue as governor till the election of the following November.<sup>110</sup> He then submitted an ordinance repealing the slavery sections of the constitution; abolishing slavery after July 4, 1876; liberating all slaves thereafter brought into the State not then belonging to citizens of Missouri; freeing any slaves who had been taken into one of the seceding States after such had passed the Ordinance of Secession, and declaring that the legislature had no power to emancipate slaves without the consent of the owners.<sup>111</sup> A number of amendments were proposed reducing the period of servitude. These were rejected.<sup>112</sup> Drake moved that all slaves over forty years of age remain as apprentices for the remainder of their lives and those under twelve till they were twenty-three, and that all others be free on July 4, 1874.<sup>113</sup> Broadhead amended Drake's proposition to read July 4, 1870, instead of 1874, and moved that these "apprentices" should not be sold without the State or to non-residents after 1870. In this form the ordinance passed by a vote of 55 to 30.<sup>114</sup> On July 1, 1863, with some slight changes it was adopted as a whole, the vote being 51 to 30, seven members not being present. The governor approved the ordinance the same day.<sup>115</sup>

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needs of the State and what the convention was expected to accomplish (Journal, Appendix, and Proceedings of the Missouri State Convention, held at Jefferson City, June 15 to July 1, 1863, pp. 1-5).

<sup>109</sup> *Ibid.*, p. 12.

<sup>110</sup> *Ibid.*, pp. 24-25. Governor Gamble died in January, 1864.

<sup>111</sup> Journal of the Missouri State Convention, 1863, Appendix, p. 13.

<sup>112</sup> *Ibid.*, Journal, pp. 28-29. Gravelley moved that the masters be given \$300 per slave in case of emancipation. This amendment was tabled (*ibid.*, p. 29).

<sup>113</sup> *Ibid.*, p. 36.

<sup>114</sup> *Ibid.*, p. 38.

<sup>115</sup> *Ibid.*, pp. 47-48. The ordinance can be found in the Journal of the Convention (p. 3). It reads as follows: "Be it ordained by the people of the State of Missouri in convention Assembled: Sec-



In those stormy days events took place in rapid succession and issues developed readily. The halfway measures of the convention in framing the ordinance displeased the "Radicals." Quantrell's raid on Lawrence in the late summer, the ill success of the state guard in maintaining order, and the occasional success of Confederate sympathizers aroused Drake and his followers.<sup>116</sup> They met in convention at Jefferson City on September 1. Seventy-two counties were represented, St. Louis sending one hundred and six delegates, most of whom were Germans. On the

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tion 1, The 1st and 2nd clauses of the 26th section of the constitution are hereby abrogated. Sec. 2. That slavery and involuntary servitude, except for the punishment of crime, shall cease to exist in Missouri on the 4th day of July, 1870 and all slaves within the State at that day are hereby declared to be free; Provided, however, That all persons emancipated by this ordinance shall remain under the control and be subject to the authority of their late owners or their legal representatives, as servants, during the following period; to-wit: Those over forty years for and during their lives; Those under twelve years of age until they arrive at the age of twenty-three years, and those of all other ages until the 4th of July, 1870. The persons or their legal representatives, who, up to the moment of the emancipation were the owners of slaves thus freed, shall, during the period for which the services of such freed men are reserved to them, have the same authority and control over said freed men for the purpose of receiving possession and service of the same, that are now held absolutely by the master in respect to his slave. Provided, however, That after the said 4th day of July, 1870, no person so held to service shall be sold to a non resident or removed from the State of Missouri by authority of his late owner or his legal representatives. Section 3. That all slaves hereafter brought into this State and not now belonging to citizens of this State, shall thereupon be free. Section 4. All slaves removed by consent of their owners to any seceded state after the passage by such state of an act or ordinance of secession and hereafter brought into this State by their owners shall thereupon be free. Section 5. The General Assembly shall have no power to pass laws to emancipate slaves without the consent of their owners. Section 6. After the passage of this ordinance no slave in this State shall be subject to State, county, or municipal taxes."

<sup>116</sup> On November 21, 1862, Surgeon John E. Bruere and Ferdinand Hess, Adjutant, Missouri State Militia, swore that Colonel Guitard, in command of the Union troops at Fulton, allowed twelve slaves working as army teamsters to be seized by their late masters (House Journal, 22d Ass., Adjourned Sess., App., pp. 73-74). Complaints were made that the "rebels" were becoming active and insulting. The political events of these years have been best described by Samuel B. Harding in his *Life of George R. Smith*, and in his "Missouri Party Struggles in the Civil War Period," in *American Historical Association Reports*, 1900, vol. i, pp. 85-103.

opening day Drake addressed the convention. He condemned Governor Gamble for seeking to betray the will of the people by opposing immediate emancipation.<sup>117</sup> This "Radical" or "Charcoal" convention at once showed the purpose of its meeting. On the opening day Lightner offered a resolution declaring "That Missouri requires and demands as indemnity for past and security for the future the extinction of slavery, and the disfranchisement of rebels." This resolution was referred to a committee.<sup>118</sup> A committee of one from each county was appointed to go to Washington and interview the President on the subject of immediate emancipation.<sup>119</sup> The Germans of the State were thanked for their "undivided support and defense of the Government and the Constitution." "Without a dissenting voice" the convention declared "that we demand a policy of immediate emancipation in Missouri because it is necessary not only to the financial success of the State and the prosecution of its internal improvements, but especially because it is essential to the security of the lives of our citizens."<sup>120</sup>

During the year 1864 emancipation was loudly advocated throughout the State. B. Gratz Brown of the Missouri Democrat was especially active both in and out of the legislature.<sup>121</sup> On February 15 the restrictions on legal manu-

<sup>117</sup> Drake, pp. 348-357.

<sup>118</sup> Missouri State Radical Emancipation Convention, held at Jefferson City September 1 to 3, 1863, p. 20.

<sup>119</sup> Drake, p. 26. This mission was a failure, as a contemporary tells us. "The writer was once a member of a delegation of Missouri Charcoals that went to Washington to see the President," says J. F. Hume. "An hour was set for the interview, and we were promptly at the door of the President's chamber, when we were kept waiting for a considerable time. As the door opened, but before we could enter, out stepped a little old man who tripped away very lightly for one of his years. That little old man was Francis P. Blair, Sr., and we knew that we had been forestalled. The President received us politely and patiently listened to what we had to say, but our mission was fruitless" (p. 162).

<sup>120</sup> Missouri State Radical Emancipation Convention, 1863, pp. 27, 39-40.

<sup>121</sup> See his speech in the State Senate of March 8, 1864, printed in pamphlet form.

mission were removed by the General Assembly.<sup>122</sup> But slavery still existed in the State, despite the hopeless condition of the Confederacy and the abolition of the system in several of the Southern States through the Emancipation Proclamation.<sup>123</sup> "Slavery is not extinct. It dies slowly," says an item in the *Annals of Platte County* for May, 1864.<sup>124</sup>

On January 6, 1865, the state convention reassembled at St. Louis. On January 9 Owens moved an ordinance repealing the slavery clauses of the constitution and the ordinance passed by the convention the year before. Slavery was to be abolished entirely. On January 11 this ordinance passed by a vote of 60 to 4.<sup>125</sup> The members voting in the negative were Switzler of Boone, Morton of Clay, Harris of Callaway, and Gilbert of Platte. Charles D. Drake was the warhorse of the convention.<sup>126</sup> After pushing through his ordinance, he secured the passage of a provision forbidding any apprenticeship of the negro, save where the laws would later affect individuals.<sup>127</sup> On April 8 the new constitution passed by a vote of 38 to 13, thirteen members not being

<sup>122</sup> Session Laws, 1863, p. 108.

<sup>123</sup> For examples of the vitality of slave property in the State see above, pp. 42-43.

<sup>124</sup> P. 362.

<sup>125</sup> Journal and Appendix of the Missouri State Convention, held at St. Louis January 6 to April 10, 1865, pp. 13, 26. Two members were absent. This ordinance reads: "Be it Enacted by the People of Missouri in convention assembled, That hereafter, in this state, there shall be neither slavery nor involuntary servitude except in punishment of crimes, whereof the party shall have been duly convicted; and all persons held to service or labor as slaves are hereby declared free" (*ibid.*, Journal, p. 281). A MS. copy written on parchment, perhaps the original, is in the Missouri Historical Society. On the back in red ink is the following: "Ordinance of Emancipation, Filed May 14th 1865, Francis Rodman, Secretary of State."

<sup>126</sup> Switzler, who was a dissenting member of the convention, wrote: "Charles D. Drake was the Ajax Telamon of the Convention, and left upon the Convention the impress of his spirit and ability. Owing to this fact the body was known as the 'Drake Convention' the Constitution as the 'Drake Constitution,' and the disfranchising portion of it as the 'Draconian Code'" (p. 453, note).

<sup>127</sup> Missouri State Convention, 1865, Journal, p. 27. The vote on this provision was 57 to 3, four members not being present.



present.<sup>128</sup> By its provisions slavery was forbidden and the educational and civil position of the negro was fixed.

While the convention was in session, the legislature was acting upon the Thirteenth Amendment of the Federal Constitution. A concurrent resolution which ratified the above amendment was passed by the House on February 9 by a vote of 85 to 8, thirty-nine members not being present.<sup>129</sup> On February 6 it passed the Senate, the vote being 25 to 2, five members not being present.<sup>130</sup> Governor Fletcher signed the measure on the 10th.<sup>131</sup>

Thus Missouri voluntarily abolished slavery by convention a month before the General Assembly ratified the Thirteenth Amendment. The slaveholders of the State were never reimbursed for their losses, but by 1865 there could have been few actual slaves in Missouri. The State has always been proud of its voluntary action in freeing the remnant of its black population.

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<sup>128</sup> Missouri State Convention, 1865, Appendix, p. 255.

<sup>129</sup> House Journal, 23d Ass., 1st Sess., p. 300.

<sup>130</sup> Senate Journal, 23d Ass., 1st Sess., p. 250.

<sup>131</sup> *Ibid.*, p. 303. The amendment is given in Session Laws, 1864, p. 134.



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COLONIAL TRADE OF MARYLAND

1689-1715



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SERIES XXXII

NO. 3

JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE

Under the Direction of the  
Departments of History, Political Economy, and  
Political Science

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COLONIAL TRADE OF MARYLAND  
1689-1715

BY

MARGARET SHOVE MORRISS, Ph.D.  
Associate Professor of History, Mount Holyoke College

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## PREFACE

The purpose of this paper is to show the place which the province of Maryland held in the British colonial system. Maryland was one of the two continental colonies which were regarded as satisfactory to the home country from the mercantilist point of view. As the connection with Great Britain was especially close during the twenty-five years when the colony was in the hands of the king, it has seemed best to analyze its trade relationships during those years. The attempt has been made to indicate its exact value to Great Britain: (1) as a source for the supply of raw material, that is, tobacco, which had to be shipped directly to England; (2) as a market for British manufactures and foreign goods through Great Britain as an entrepôt; (3) as the terminus of a line of trade which employed a large number of English ships and sailors. The description of British colonial policy as a whole is the task of Mr. G. L. Beer in the admirable series of volumes now appearing. The results reached in this presentation of trade conditions in Maryland between 1689 and 1715 tend to confirm the conclusions of Mr. Beer for the earlier development of the colonial system.

The materials used, aside from the printed records in the Archives of Maryland, have been found for the most part in the Public Record Office in London among the Colonial Office Papers. Of the greatest value was a volume of Maryland Naval Office papers for the period, containing lists of ships and their ladings. The Custom House Accounts in the Record Office furnished statements of the imports and exports to and from Virginia and Maryland between 1689 and 1715. Much general information has been secured from published and unpublished letters of the colonial gov-

ernors to the Board of Trade and the secretary of state. These were often largely concerned with trade conditions.

This study was undertaken at the suggestion of Professor Charles M. Andrews of Yale University when he was at Bryn Mawr College, and the author is indebted to him for very generous assistance at every stage of her inquiry. Professor William Roy Smith of Bryn Mawr College has made many valuable criticisms in arrangement and form. The year 1913-1914 has been spent by the writer at the Johns Hopkins University, and it is a pleasure to acknowledge the courtesy of Professor John H. Latané of that institution. The kindness of the editors of the Johns Hopkins University Studies in Historical and Political Science in allowing the dissertation to be published in that series is greatly appreciated. Thanks are due also to Dr. Frances Davenport of the Department of Historical Research of the Carnegie Institution for the use of unpublished references, to Mr. Hubert Hall for his assistance when the author was in London, and to Dr. Ellen D. Ellis of Mount Holyoke College for many helpful suggestions.

M. S. M.



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# COLONIAL TRADE OF MARYLAND, 1689-1715

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## CHAPTER I

### STAPLE PRODUCTS AND CHIEF EXPORTS

Maryland became a royal province in 1692. At that time the belt of settlement was still comparatively narrow, although the colony had been occupied for more than fifty years. The chief means of communication between the different parts of the colony and between the colony as a whole and the outer world was by water. The result was that plantations were scattered from the head of the bay along both shores to the Potomac and Somerset Rivers and up the banks of all the navigable streams. The settlements were not evenly distributed within this narrow district, for the inhabitants were still clustered in greater numbers where the colony had first been seated,—along the Potomac and the Patuxent and around St. Mary's and Annapolis.<sup>1</sup> Across the bay, too, plantations were concentrated along the Choptank, Elk, and Chester Rivers and farther south in Dorchester and Somerset Counties. The controversy over the collection of taxes in the boundary dispute with Pennsylvania shows that there were a few settlements in Cecil County north of Chesapeake Bay.<sup>2</sup>

At the end of the seventeenth century there was little thought of the possibility of occupying the region back of this tide-water district. In 1695 Governor Nicholson complained to the Duke of Shrewsbury that on account of the scarcity of land young men were leaving Virginia and Maryland, "where land is grown scarce to be taken up, by reason

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<sup>1</sup> N. D. Mereness, *Maryland as a Proprietary Province*, p. 105.

<sup>2</sup> *Archives of Maryland*, vol. xxiii, pp. 85, 87.

of the great Tracts that single persons have, and will not part with but at unreasonable rates. So that as our people increase, they are in a manner necessitated to look out for new Countries."<sup>3</sup> It was not until the Germans from the Palatinate came into Pennsylvania and the western part of Maryland that settlements in the latter colony spread appreciably beyond the tide-water.

The region to which the seventeenth century settlements were confined was a flat, thickly wooded country. Hugh Jones wrote home in 1698 that in the settlements there was "no Hill . . . fifty yards perpendicular but about 100 miles backe or west of us . . . the ground rises. . . . All the low land is verry wooddy like one continued forrest no part clear but what is cleared by the English And tho we are pretty closely seated yett we cannot See our next neighbours house for trees." He further explains that there had already been much clearing of land.<sup>4</sup>

The nature of the country that had been settled and the large number of waterways indicate what would supposedly be the chief resources of the colony. The thick woods which still surrounded so many of the plantations furnished an abundance of game,—deer, bear, and many varieties of wild fowl, especially turkeys. They also supplied enough mast to feed the stock, which for the most part ranged the woods. Thus the planters were assured of an abundant support from the natural products of the land with little effort on their own part, but although they lived largely by hunting and fishing, we shall see that from earliest times neither furs nor fish played a conspicuous part in the commercial activities of the colonists.

Of the fisheries this is especially true. There is abundant testimony that the bay and the rivers teemed with fish, as indeed they do today, and the different kinds were much

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<sup>3</sup> Colonial Office Papers, 5: 719, 18; see also a letter of Governor Nicholson to the Board of Trade, in C. O. 5: 714, 25; and Archives, vol. xxiii, p. 87.

<sup>4</sup> Reverend Hugh Jones to Dr. Benjamin Woodroof, in Royal Society, Letter Books, I, i, 183.

esteemed for home consumption. The author of the Narrative of a Voyage to Maryland, writing in 1705, mentions perch of all varieties, rockfish, catfish, drum, of which we read, "an admirable fish the inhabitants make much account of 'em indeavering to Ketch as many as they can in a season salting 'em up to eat att other times," sheepshead, eels, herring, of which great quantities came up "to the heads of the Rivers into the ffreshes to spawne the inhabitants gett great numbers of 'em which are a mighty help to great Families," and abundance of shad and sturgeon, which were, however, not much esteemed, although their size was a source of wonder to the people.<sup>5</sup> With all this abundance of fish there was no effort made to salt them for exportation. There is not a single record of fish exported to England between 1696 and 1715, and the same is probably true for earlier years.<sup>6</sup> Apparently, also, none were sent to any of the other colonies.

During the early years of the colony the Indian fur trade was monopolized by Lord Baltimore, but by 1650, probably because it had not proved as profitable as was expected, it had been thrown open to the public. A statute passed in that year required each trader to obtain a license and to reserve one tenth of his profits for the proprietor, but all licenses were to be freely granted.<sup>7</sup> Between 1650 and 1681 several licenses were issued, but the trade was evidently not sufficiently lucrative to prove very tempting.<sup>8</sup> After 1682 the inhabitants, feeling perhaps that the proprietary percentage was too large, made a number of attempts to adjust the trade more satisfactorily. The Lower House of Assembly proposed at least twice that the necessity for obtaining a license should be removed and the percentage reduced.<sup>9</sup> The Council, however, vetoed the proposals on the ground that it

<sup>5</sup> Sloane MSS. 2291, British Museum. Printed in American Historical Review, vol. xii, pp. 327-340.

<sup>6</sup> Custom House Accounts, Ledgers of Imports and Exports, vols. i-xvi. Inspector General's Accounts, vol. i.

<sup>7</sup> Archives, vol. i, p. 307.

<sup>8</sup> Ibid., vol. iii, pp. 443, 445; vol. v. pp. 38, 84, 106; vol. xv, pp. 255, 352.

<sup>9</sup> Ibid., vol. vii, pp. 301, 381, 383, 385.

would be dangerous to allow free trade with the Indians, and thus the license system remained in effect throughout the proprietary period.<sup>10</sup>

After the establishment of the royal government, the question of fur licenses was again agitated by the Lower House and, apparently in October, 1695,<sup>11</sup> a decision was reached that a small export duty on furs should be substituted for the license system.<sup>12</sup> The customs collected were to be doubled for aliens or for those not trading directly with England. This law was reenacted at least once,<sup>13</sup> and the money from the duty on furs was used for the benefit of the free school at Annapolis.

Although the effort to adjust the fur trade indicates that it played an appreciable part in Maryland commerce, the imperfection of the records makes it difficult to estimate its character and extent. Undoubtedly the principal skins exported were those of the smaller animals,—beaver, wildcat, raccoon, fox, mink, and muskrat, with occasionally a few

<sup>10</sup> A law of 1692 prohibiting trade with the Indians without a license indicates that the same policy was continued at first under the royal governors (Archives, vol. xiii, p. 560).

<sup>11</sup> In an account of the public revenue the collection of a duty on fur before October, 1695, is twice mentioned. One item records duties received from May 28, 1695, and the other states: "By ditto [Major Robert King] his account for Skins exported since the making the act to the 26 day 7<sup>ber</sup> 1695" (An Acct of Cash for the Publick Revenue of the province beginning the 15th of October 1695 and Ending December the 11th 1696, in C. O. 5: 749). There is no record of a law establishing fur duties until October, 1695; and as late as October, 1694, it was definitely stated that the old license act was not to be changed (Archives, vol. xix, p. 85). The law may have been retroactive, but there is nothing in the bill to indicate it.

<sup>12</sup> Archives, vol. xix, p. 276. This duty was regulated as follows:—

Skin	Duty	Skin	Duty
Bear	9 d.	Wolf	1½ d.
Beaver	4 d.	Muskrat	4 d. per doz.
Otter	3 d.	Raccoon	¾ d.
Wildcat	1½ d.	Elk	12 d.
Fox	1½ d.	Deer	4 d.
Mink	1½ d.	Young bear	2 d.
Fisher	1½ d.		

<sup>13</sup> Archives, vol. xxvi, p. 275. This law was to be in force for an indefinite length of time.



larger skins,—bear, wolf, or elk.<sup>14</sup> Apparently no accurate record was ever kept of the number of skins exported, but the duty collected from furs for the four years from 1695 to 1698 inclusive was £154. 4s. 9¾d.,<sup>15</sup> an amount which is comparatively small, even when the low rates of the duties are considered.

Moreover, the export was not only small in quantity but it was inconsiderable in value. The best general estimate—and only vague estimates are possible—would place the total value of the furs exported to England in 1695 at about

<sup>14</sup> C. O. 5: 749, passim; Archives, vol. xxiii, p. 168.

Sample list of furs exported from Pocomoke District in 1695

	Number of Skins	Duty	Amount of Duty		
			£.	s.	d.
Bear	9	9 d.	0	6	9
Beaver	42	4 d.	0	14	0
Otter	70	3 d.	0	17	9
Mink	893	1½ d.	5	11	7
Raccoon	2084	¾ d.	6	10	3
Fox	445	¾ d.	1	7	9¾
Muskrat	239 doz.	4 d. per doz.	3	19	0
Cub	5	2 d.	0	0	10
Wildcat	20	1½ d.	0	2	6
Total			19	10	5¾

Account of the public revenue, 1695–1696, in C. O. 5: 749. This list is copied from the records. There are three errors of a few pence in the multiplication.

<sup>15</sup> Records for the year 1698 contain an account of the money collected from 1695 to 1698 from the fur duty for the use of the free schools:—

	£.	s.	d.
By Maj. Whittington's account for furs	28	18	8
“ “ King's account paid governor	16	8	2
“ “ Smithson's account for furs	56	11	6
“ Mr. Watkin's account for furs	28	16	0
“ James Dashield's account in Mr. Bladen's hands	1	10	10
“ Maj. Smithson's later account	3	9	7
“ Mr. West's for account sworn to Sept. 1698	18	9	10¾
Total	154	4	9¾

Journal of Committee especially appointed to inspect the public accounts of the revenue of this province January 2, 1698/9, in C. O. 5: 749.

As the duties charged were not uniform, this list gives no idea of the number of skins of each kind exported annually. The duty collected per annum would be about £38, of which Pocomoke District paid slightly more than one half (cf. footnote 14).

£648;<sup>16</sup> and the amount probably varied little from year to year. The inhabitants of Maryland never exported to England furs of sufficient value to tempt many people into the trade.

Fully eighty per cent of the furs were exported from the Eastern Shore,<sup>17</sup> indicating that the trapping was probably done by white men within the settled parts of the colony, where there were still small fur-bearing animals.<sup>18</sup> Governor Blakiston wrote to the Board of Trade that the people of Maryland, being afraid of the western Indians, did not want to trade with them.<sup>19</sup>

<sup>16</sup> This estimate is based on the following calculation:—

Value of skins in Maryland for 1697 (an average year)	Original Cost or Value	
	s.	d.
Bear (cub probably worth ½)	6	6
Beaver	4	
Otter	3	9
Mink	2	
Raccoon	1	
Fox	2	6
Muskrat		4
Wildcat	2	6

Custom House Accounts. Inspector General's Accounts, vol. i, Imports from Virginia and Maryland.

The total value of the furs exported from Pocomoke District was therefore as follows:—

	Number of Skins	Value		
		£.	s.	d.
Bear	9	2	18	6
Beaver	42	8	8	0
Otter	70	13	2	6
Mink	893	89	6	0
Raccoon	2084	104	4	0
Fox	445	55	12	6
Muskrat	239 doz.	47	16	0
Cub	5	0	6	3
Wildcat	20	2	10	0
Total		324	3	9

If, as is stated in footnote 15, the furs sent from Pocomoke for 1695 were one half the total for the year, the complete amount would be £648. 7s. 6d., the value of the furs exported from Maryland in 1695.

<sup>17</sup> This is true because five of the officers contributing to the fur duty of 1695-1698 (footnote 15) held office on the Eastern Shore. The sums paid in by them amounted to £123. 17s. 9¼d., or more than 80 per cent of the total amount collected for the four years.

<sup>18</sup> Sloane MSS. 2291, British Museum.

<sup>19</sup> C. O. 5: 715, 39.

In the production of food-stuffs the colonists had no more interest than in trapping or fishing. When the province was first settled the virgin soil was extremely fertile, so rich in fact that, according to a contemporary authority, English wheat would not grow until Indian corn or tobacco was first planted to take off some of the rankness.<sup>20</sup> It was not, therefore, because the soil was unfavorable to the growth of grain that so little planting was done; it was because it was still easier and far more profitable to grow tobacco. In the first years of the settlement the colonists began to plant this commodity to the exclusion of corn, preferring to buy their grain from the Indians or to import it from other colonies rather than plant it themselves. The colonial government made great efforts to prevent the exclusive production of tobacco by decreeing that everyone who planted it should grow also two acres of corn. This law was renewed several times until 1654,<sup>21</sup> and was then allowed to lapse, probably because the colony had been induced to support itself in ordinary years. Edward Randolph stated in 1676, however, that New England sent food-stuffs—peas, flour, biscuit, malt, codfish, and mackerel—to Maryland in return for tobacco.<sup>22</sup> Evidently a watch had still to be kept over the food supply. Whenever there was a bad year or danger of Indian wars, proclamations were issued forbidding the exportation of food-stuffs, and the frequency of these indicates that the supply barely sufficed for the needs of the colony itself.<sup>23</sup>

By the end of the century this condition of affairs had somewhat improved. The principal crop was Indian corn or maize, which, cooked with pork into a kind of hominy, formed the chief article of food among the lower classes.<sup>24</sup>

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<sup>20</sup> A Relation of Maryland, 1635. Sabin reprint, New York, 1865, p. 21; also in C. C. Hall, *Narratives of Early Maryland*, p. 81.

<sup>21</sup> Archives, vol. i, pp. 79, 97, 160, 251, 349.

<sup>22</sup> To the Lords of Trade. An Answer to severall Heads of Enquiry concerning the present State of New England. October, 1676. In *Additional MSS.* 28089, f. 16, British Museum.

<sup>23</sup> Archives, vol. iii, pp. 194, 293, 443; vol. xvii, pp. 48, 179, 269, 275; vol. xv, pp. 44, 194.

<sup>24</sup> Sloane MSS. 2291, British Museum.

The inhabitants also raised English wheat to a considerable extent, and many vegetables,—beans, peas, carrots, turnips, and potatoes.<sup>25</sup> The soil of the colony was light and sandy, and although its virgin fertility was gone, it still proved very favorable for the production of grain.<sup>26</sup> One writer declared that Indian corn would yield five or six hundred fold with from four to six ears on a stalk,<sup>27</sup> a statement which is without doubt somewhat exaggerated. The Lower House was agreed that because of the partial exhaustion of the land by many years of tobacco planting it “thereby becomes better for tillage.”<sup>28</sup> The supply of grain for home consumption was large enough to make the colony amply self-sufficing.

The question whether by 1689 the province had begun to grow food-stuffs for export is a different one and is harder to settle definitely. The evidence of the records is somewhat contradictory. Certainly in 1690 grain was sent from Maryland to New England.<sup>29</sup> On the other hand, as the result of a bad harvest in 1695 it was forbidden to export corn from the province.<sup>30</sup> In 1697 there was a plentiful harvest,<sup>31</sup> perhaps because the people were beginning to realize that they must plan to raise sufficient grain to feed their stock, among which there had been great mortality. The Assembly, in reporting the exportation of some wheat and flour to Barbadoes in 1697,<sup>32</sup> expressly stated that such exportation was unusual, as the harvest was ordinarily consumed at home.<sup>33</sup> The same year the grand jury of the

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<sup>25</sup> Sloane MSS. 2291, British Museum.

<sup>26</sup> C. O. 5: 717, I. 106.

<sup>27</sup> Sloane MSS. 2291, British Museum.

<sup>28</sup> Archives, vol. xix, pp. 540, 580.

<sup>29</sup> Answer of Sir Edmund Andros to his instructions. Against the instruction to give an account of Massachusetts is written in part, “They get their meat from Plymouth, Rhode Island and Connecticut, grain from Connecticut, New York, Maryland and Pennsylvania” (Calendar of State Papers, Colonial Series, 1689-1692, no. 862).

<sup>30</sup> Archives, vol. xx, p. 327.

<sup>31</sup> *Ibid.*, vol. xxiii, p. 149.

<sup>32</sup> *Ibid.*, vol. xix, p. 540.

<sup>33</sup> *Ibid.*, p. 542.



Maryland provincial court refused to encourage the exportation of wheat and flour to Newfoundland in spite of Governor Stoughton's appeal to the colony on behalf of the expedition to Canada, alleging that such encouragement would injure Maryland's trade in provisions to Barbadoes.<sup>34</sup> But the Barbadoes trade must have been small. The records indicate that in five years only one small vessel cleared from Pocomoke for Barbadoes with provisions, although the same district sent small amounts of grain to New York, Pennsylvania, and New England somewhat more frequently.<sup>35</sup> Other similar records have not been preserved, but if the figures are proportionate for other districts, certainly the exportation of food-stuffs from Maryland, either to Barbadoes or to any of the colonies, must have been inconsiderable during the whole period of the royal governors.<sup>36</sup>

In general, then, the colony was only self-sufficing, and in northern Maryland food-stuffs were actually imported. Bread and flour were brought in by land from Pennsylvania.<sup>37</sup> One Pennsylvania writer indeed asserted that Maryland made little or no bread or flour and constantly obtained these commodities, as well as wine, rum, and sugar, from his colony.<sup>38</sup> However that may have been, it would certainly seem that in the last decade of the seventeenth century north-

<sup>34</sup> Archives, vol. xxiii, pp. 147, 267; C. O. 5: 741, pp. 371-373.

<sup>35</sup> For Pocomoke District from 1697-1701 there is a definite, although probably incomplete, record of the number of ships clearing for other colonies laden with provisions:—

For New England	4	vessels
“ Pennsylvania	4	“
“ New York	5	“
“ Port Lewes	1	“
“ Barbadoes	1	“

The amount of grain exported is in no case stated, but as the burden of the vessels was very small the quantity shipped must have been small (C. O. 5: 749).

<sup>36</sup> Indeed at the very end of the period the exportation of corn was again forbidden by the Council (Archives, vol. xxv, p. 294), but in 1712 Lloyd reported to the Board of Trade that Maryland sent some Indian corn and wheat to Lisbon, New England, and Madeira. This must have been a small amount, as there is no record of such shipments (C. O. 5: 717, I. 63).

<sup>37</sup> Archives, vol. xxiii, p. 87.

<sup>38</sup> C. O. 5: 1257, 4.

ern Maryland was still unable to grind and bake enough flour and bread for home consumption and was forced to import from the Quaker colony. The royal government, however, remained true to the proprietary policy of encouraging the province to become self-supporting. It also feared that the Pennsylvania merchants would draw off Maryland coin in payment for their bread. For these reasons it prohibited this trade with Pennsylvania, a prohibition which was continued with one short interval until after 1715.<sup>39</sup> By means of legislation Maryland was thus forced to plant at least sufficient corn to be independent of her neighbors, but it is evident that she was always little more than barely independent. The conclusion of the whole question of exportation of food-stuffs is well expressed in Governor Hart's answers to the queries of the Board of Trade in 1720: "The Soil is of different kinds, but most of it sandy and of various colours: which when cultivated with little labour gives a vast increase, and produces all things necessary for Life, that Great Britain affords; with which the Inhabitants plentifully provide for their subsistence, and might have sufficient to vend at foreign marketts but that the making of tobacco employs all their time and care."<sup>40</sup> There was no lack of food, and the colony had been made self-supporting partly by natural means and partly by legislation; but even at the close of the century there was practically no systematic export of grain or other food-stuffs to other colonies.

Fruit also was raised at this time for home consumption but not for export. When the first settlement was made, the colonists had planted a large stock of fruit trees,—apples, pears, and peaches. This planting must have been continued with good results, as many varieties of fruit were plentiful in the colony by the end of the century. A traveller to Maryland in 1705 described an "abundance of fruits of all sorts as aple Peare Cherry quinces in great quantities and

<sup>39</sup> Archives, vol. xxvi, p. 314; vol. xxvii, pp. 172, 482, 574; vol. xxix, pp. 238, 310, 328.

<sup>40</sup> C. O. 5: 717, l. 106.

innumerable Quantities Peaches to that degree that they knock downe Bushells att a time for there hogs, besides what vast quantities they still and make a verry good spirritt off nott much inferior to Brandy."<sup>41</sup> He also reported that brandy was distilled from cider, which was made in great quantities. This testimony to the abundance of apples is confirmed by an earlier letter from Maryland in which it was stated that cider was the chief drink of the country.<sup>42</sup> In spite of the great quantity of fruit of all kinds, the exportation of fruit was limited to an occasional shipment of apples or cider from the Eastern Shore.<sup>43</sup>

One other source of food supply remains to be noted. The first domestic animals, principally cattle and hogs, in the province of Maryland were imported from Virginia at the time of the arrival of the colonists. This stock increased rapidly, but toward the end of the century great mortality prevailed among the animals on account of the cold winters and the lack of food. At first no special provision had been made for food for the domestic animals, which were branded and turned out into the woods to fatten on mast until needed for use. Various attempts were made to secure the colonists against theft of their stock, and a system of wood-rangers was instituted to range for unbranded cattle and to protect the branded animals.<sup>44</sup> These efforts at protection were not especially successful. Men complained that the Indians were great thieves and that even the rangers were dishonest.<sup>45</sup> But the advantages of this easy means of ob-

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<sup>41</sup> Sloane MSS. 2291, British Museum.

<sup>42</sup> Royal Society, Letter Books, I, i, 183.

<sup>43</sup> C. O. 5: 749, Accounts for Pocomoke District.

<sup>44</sup> Archives, vol. i, p. 418. In 1663 this law was repealed (*ibid.*, vol. i, p. 486), but during the period of royal government the rangers were again provided for (*ibid.*, vol. xxiv, p. 280; vol. xxvi, p. 309).

<sup>45</sup> To protect cattle ranging the woods it was made theft for a man to kill marked cattle, or those unmarked save on his own land (Archives, vol. i, p. 251; vol. xiii, p. 477). The wood-rangers were later accused of driving off and killing tame animals, as well as the unbranded ones to which they had a right (*ibid.*, vol. xxiv, p. 280). Laws concerning the Indians were first made as early as 1666, when the settlers were forbidden to buy flesh from the Indians lest they had procured their meat by killing the settlement stock (*ibid.*, vol. ii, p. 130; vol. xxii, p. 463).



taining food for the stock long outweighed the disadvantages, and on the frontiers people continued to allow their cattle and hogs to range the woods.<sup>46</sup> In the older settlements, where the woods had become less thick, the severe winters and the lack of food finally caused the loss of large numbers of animals,<sup>47</sup> and taught the inhabitants to house and feed their stock in winter.<sup>48</sup> Not until this lesson had been learned and the mortality at the end of the century repaired was Governor Seymour able to report that most of the people "have good Tracts of Land and Stocks of Cattle and hoggs."<sup>49</sup>

In spite of the adequate supply of stock, however, the inhabitants were on the whole little more willing or able to raise cattle for export than they were to grow grain or fruit. Before 1674 it may have been customary to make some small shipments of cattle from Maryland,<sup>50</sup> but in October of that year the exportation without license of all flesh was forbidden by proclamation,<sup>51</sup> probably because the supply in the colony was barely sufficient for its own needs. Randolph's assertion that New England sent beef and pork into Maryland would tend to confirm this view.<sup>52</sup> In 1695 a small duty, evidently not meant to be prohibitive, was substituted for the earlier prohibition,<sup>53</sup> but even after this date the exportation of beef and pork in any one year apparently never exceeded one hundred and eighty barrels,<sup>54</sup> shipped in small amounts to the other colonies.

<sup>46</sup> Sloane MSS. 2291, British Museum.

<sup>47</sup> An account of the cattle and hogs which died in 1694-95 places the mortality very high indeed: 25,429 cattle died, and 62,373 hogs (Archives, vol. xx, p. 269; C. O. 5: 713, 114; C. O. 5: 714, 6).

<sup>48</sup> Archives, vol. xxiii, p. 89.

<sup>49</sup> C. O. 5: 716, H. 41.

<sup>50</sup> The Earl of Shaftesbury wrote to Andrew Percivall, who was going to Maryland in 1674, to enquire in Bermuda the price of cattle so as to know whether "to furnish himself from Maryland, for he is not without further order to trade either to New York or Virginia" (Cal. St. P. Col. 1669-1674, no. 1284).

<sup>51</sup> Archives, vol. xv, pp. 44, 194; vol. xvii, p. 48.

<sup>52</sup> Add. MSS. 28089, f. 16, British Museum.

<sup>53</sup> Archives, vol. xix, p. 276.

<sup>54</sup> Ibid., p. 539; C. O. 5: 749, Accounts for Pocomoke District. In 1705 Governor Seymour reported to the Board of Trade that for



Most of the natural resources and forms of food supply that an agricultural colony situated near the sea produced, or could be made to produce, were evidently abundant in Maryland. During the period of royal government these products were amply sufficient to support the colony in ordinary circumstances, and, if the inhabitants had cared to do so, they could undoubtedly have exported any of them in considerable quantities to the other colonies or even to England, but except for a small quantity of furs they were not sent out of the province. The reason for this indifference to the possible commercial importance of fish and other food-stuffs is sufficiently well known. It did not pay the colonists to increase the amount of their various food products in order to export them. There was, however, one product which they raised primarily for export,—tobacco. They had discovered that its cultivation was easy and profitable, and to it they had long turned their attention. From the very beginning of the colony the tide-water region had been devoted almost exclusively to tobacco raising, so the years from 1689 to 1715 do not present any new phase of economic development; but, because the records of the royal period are more complete, they furnish a good point from which to review briefly the progress of the trade during the earlier days and to describe more fully the situation with regard to the staple at the beginning of the eighteenth century.

Before the settlement of Maryland the English government had already adopted a definite policy of regulation and restriction of the growth of plantation tobacco, and this restriction had become the most important factor in the development of the tobacco trade. For ethical reasons sentiment in England was in the beginning strongly averse to the use of tobacco, but the colonists in Virginia had dis-

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seven years past Maryland had not exported one barrel of beef or pork, but had been forced to purchase these commodities from Carolina, Pennsylvania, New York, and other colonies (C. O. 5: 715, G. 25, 1705 bundle). A Rhode Island record of about this period says that Virginia and Maryland imported into Rhode Island pork, wheat, and English goods (C. O. 5: 1264, p. 90).

covered its value as an export and had consequently devoted themselves to its cultivation regardless of moral considerations.<sup>55</sup> The English government had been forced to recognize the existence of the industry and to attempt to regulate it temporarily, although the authorities still hoped that eventually the attention of the colonists could be diverted to other commodities.<sup>56</sup> Meantime on the whole the English regulation of the industry benefited the colonists by giving greater security to their chief export, notwithstanding the fact that certain concessions were required of them in return. In 1620 the Virginia Company agreed to pay duties on the tobacco they imported in excess of those to which they were liable by their charter, and the king prohibited the growth of the staple in England.<sup>57</sup> Later regulations bound the Virginians to send their tobacco to the home country alone,<sup>58</sup> but the government conceded that Spanish tobacco should be virtually excluded from England.<sup>59</sup> The proclamation against home-grown tobacco and the exclusion of foreign resulted in the practical monopoly of the home market by colonial tobacco and in the establishment of the trade as a permanent feature in the life of the Virginia colony.<sup>60</sup>

<sup>55</sup> G. L. Beer, *The Origins of the British Colonial System, 1578-1660*, ch. iv. As late as 1662 Governor Berkeley of Virginia deplored the use of tobacco in England. "The vicious ruinous plant of Tobacco I would not name, but that it brings more money to the Crown then all the Islands in America besides" (Egerton MSS. 2395, f. 354, British Museum).

<sup>56</sup> Berkeley tried hard to induce the Virginians to turn their attention to hemp and flax but without success (Egerton MSS. 2395, f. 362, British Museum).

<sup>57</sup> T. Rymer, *Foedera*. London, 1704-1735, vol. xvii, pp. 233-235; Beer, *Origins*, pp. 112, 113.

<sup>58</sup> Acts of the Privy Council, Colonial Series, vol. i, p. 48.

<sup>59</sup> Beer, *Origins*, p. 132. The offer of the company to ship the product to England in return for a monopoly of the home market was accepted by the government (Acts of the Privy Council, Col. vol. i, p. 61). As a result of this agreement the king in 1624 by proclamation forbade the importation of all foreign tobacco (Rymer, vol. xvii, pp. 621-624), a policy which was continued by Charles I (ibid., vol. xviii, pp. 19, 72, 73; Acts of the Privy Council, Col. vol. i, p. 89).

<sup>60</sup> For a full discussion of the regulation of the tobacco trade, see Beer, *Origins*, chs. v-vii.

Therefore, although tobacco in Virginia had fallen in value from three shillings a pound, the price fixed in 1619, to less than two pence in 1630,<sup>61</sup> and after that time fluctuated around six pence, it had still proved itself, because of its sure market in England, the only crop that could be grown with profit. So the Maryland colonists too, when they discovered that their extremely fertile soil was almost as favorable for the growth of the plant as that of Virginia, turned exclusively to the production of tobacco. Before 1640 it had become the staple of the country. From about 1640, also, owing to the scarcity of coin as a medium of exchange in both Virginia and Maryland, tobacco came to be used for this purpose.<sup>62</sup>

As in Virginia,<sup>63</sup> so in Maryland the entire dependence of the colony on tobacco soon led to efforts to regulate both the quality and the quantity of the product. The inexperience of the planters, rather than any neglect on their part, had led to the production of a very inferior grade,<sup>64</sup> but they were forced by poverty to attempt to market the bad leaves as well as the good. To prevent this deterioration and to maintain the reputation of their tobacco, the Maryland Assembly during the seventeenth century passed various laws looking toward improvement of the quality,<sup>65</sup> but the con-

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<sup>61</sup> Beer, *Origins*, pp. 92-94.

<sup>62</sup> J. L. Bozman, *History of Maryland*, vol. ii, p. 178. See also M. Jacobstein, "Tobacco Industry in the United States," in *Columbia University Studies*, vol. xxvi, no. 3, ch. i, p. 25.

<sup>63</sup> Virginia passed a number of early laws attempting to regulate the quality and quantity of her tobacco. An inspection act of 1630 (W. W. Hening, *The Statutes at Large*, vol. i, p. 152) was followed by a series of similar measures, and several statutes were also passed limiting the quantity of tobacco each inhabitant could raise (*ibid.*, vol. i, pp. 141, 142, 164, 165, 188-190, 203, 224, 225).

<sup>64</sup> P. A. Bruce, *Economic History of Virginia in the Seventeenth Century*, vol. i, pp. 302, 303.

<sup>65</sup> In 1640 the Assembly passed a law decreeing that all tobacco intended for exportation should be examined by a sworn viewer, who would condemn the bad and seal the good (*Archives*, vol. i, pp. 97-99). In 1657 the packing of ground leaves or second crops was prohibited. This law was later renewed, indicating the continued necessity for it (*ibid.*, vol. i, pp. 372, 537). A later law (1676) declared that every planter should have a storehouse for his tobacco on his own plantation, so that his crop might be safely preserved (*ibid.*, vol. ii, p. 519).



tinued complaint against the Maryland product indicates that the laws were not so successfully enforced there as in Virginia, and that the Maryland crop was always regarded as slightly inferior in quality. In the second half of the seventeenth century the evils of overproduction were most seriously felt, and attempts were made to regulate the quantity as well as the quality. By 1662 the constantly fluctuating price had fallen very low, and the Privy Council, in response to an appeal from Virginia,<sup>66</sup> was induced to advise Virginia and Maryland to join in attempting to restrict production, in order to relieve the congested state of the English markets.

Several suggestions were made, therefore, by the colonies for the restriction of planting.<sup>67</sup> Unfortunately, in Maryland the question became a party issue between the large landowners of the Upper House, who could afford to cease planting for a year, and the small farmers, represented in the Lower House, whose whole livelihood was dependent on their annual crop, however low the price for it might be. When finally after heated discussion the Houses were induced to limit the quantity, Lord Baltimore, moved by the consideration of his revenue in tobacco, refused his approval. So all the attempts made between 1660 and 1685 to raise the price of tobacco by regulating the quantity proved ineffective, and in 1689 there was absolutely no law in the colony limiting the amount which any colonist could raise.

When the royal governors came to Maryland, therefore, tobacco was almost the only staple commodity,—“our meat, drinke Cloathing and monies,” as one of the inhabitants wrote home in 1698.<sup>68</sup> Another writes in 1705: “The Cheifest Comodity which is so much Looked affter is Tobacco which implays all hands in every Family for with that they by there slaves and white servants as also there Cloaths and all there

<sup>66</sup> Cal. St. P. Col. 1661-1668, 301, 308, 312, 358, 368.

<sup>67</sup> Archives, vol. iii, pp. 480, 503-512, 547, 550, 558-562; vol. v, pp. 5-9, 15-20. For a later attempt to restrict overproduction see Cal. St. P. Col. 1681-1685, 3, 442.

<sup>68</sup> Royal Society, Letter Books, I, i, 183.



liquors as Wine, Brandy, Rum stout English Beere, etc.; and also Cattle horses sheep and they likewise buy there Land with itt there is more Paines taken to raise itt then any one thing in the world again."<sup>69</sup>

By the end of the century the average quantity of tobacco grown annually by each colonist had fallen from about four thousand to two thousand pounds,<sup>70</sup> but because of the increase of population the total amount produced was much larger than in the early days of the province. The chief varieties were the sweet-scented and the Orinoco. The latter, which had a lighter and more chaffy leaf,<sup>71</sup> was the kind produced in the greatest quantities in Maryland,<sup>72</sup> whereas Virginia was famous for its sweet-scented tobacco. Although Francis Nicholson in a letter to the Treasury in 1697 expressed the opinion that the very bright Orinoco from Maryland would have a good sale in Holland,<sup>73</sup> Orinoco was in general regarded as inferior to the sweet-scented tobacco, and the Maryland product was never considered equal to that of Virginia.<sup>74</sup> Moreover, there was still in both colonies a constant tendency to lower the grades produced, due now not to the inexperience of the early part of the century, but to the demand of the outports in England for the poorer grades of the plant,<sup>75</sup> and also to the possibility of passing the poorer qualities into England customs free, as damaged by the voyage.<sup>76</sup> The packing of stalks<sup>77</sup>

<sup>69</sup> Sloane MSS. 2291, British Museum.

<sup>70</sup> Sloane MSS. 2902, f. 290, British Museum.

<sup>71</sup> C. O. 5: 727, p. 245.

<sup>72</sup> C. O. 5: 717, I. 59, I. 75.

<sup>73</sup> Treasury Papers, xlvi, 39.

<sup>74</sup> This is indicated by the fact that in Virginia, when prices were low, it was the planting of Orinoco tobacco as the less profitable variety that was first stopped (C. O. 5: 1315, N. 8).

<sup>75</sup> Answer of the Commissioners for Trade and Plantations to an order of the Rt. Honble. the House of Lords of the 1st of June, 1714, relating to the Tobacco Trade, in House of Lords MSS., June 5, 1714; C. O. 5: 1317, P. 26.

<sup>76</sup> C. O. 5: 1316, O. 153, O. 154.

<sup>77</sup> Abraham Hill, who collected notes on Maryland among his "Papers concerning Trade, Taxes, etc.," in the Sloane MSS. in the British Museum, said that the unwholesome stalks of tobacco weighed one fifth part of the whole (Sloane MSS. 2902, f. 290, British Museum).

with the leaves tended further to lower the quality of the tobacco exported; but as this practice raised the amount sent over and consequently the customs, it was rather encouraged than otherwise by the authorities.<sup>78</sup> Some men concerned in the trade seem to have condoned the shipment of stalks to England because they could be sold dishonestly for good tobacco.<sup>79</sup> In spite of these influences tending to lower the quality of exported tobacco, the regulations cited below indicate that the colonial authorities in Maryland under the royal government made a somewhat greater effort to prevent deterioration in her staple commodity than they had done in the days of the proprietor. Laws were passed providing that storehouses should be erected in different places to maintain the quality of the leaf by protecting it from exposure to the weather.<sup>80</sup> In 1704 it was made a felony to alter the marks on hogsheads after they had been packed and graded,<sup>81</sup> and a law was also passed against false packing of tobacco.<sup>82</sup> Nevertheless, the interested endeavors of the planters to export a low grade of leaf could not easily be controlled, and Maryland did not attempt to go as far as Virginia in the passage of laws regulating quality.<sup>83</sup> Maryland tobacco, therefore, continued inferior to that of the southern colony. The efforts perhaps prevented further deterioration in the quality, but they were not successful enough to make any perceptible improvement.

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<sup>78</sup> C. O. 5: 1308, 6.

<sup>79</sup> Harleian MSS. 1238, ff. 20-28, British Museum. This document asserts that stalks were often sold in England for good tobacco. "The next degree of Cheats are such as sell cutt Stalkes for best Virginia by putting a little best Virginia att one end of a pound of cutt Stalkes and when people tasts it finds it to [be] best Virginia not perceiving the cheate gives them 18d. or 2s. a pound for these Stalkes Others that have sold three quarters of a pound of cutt Stalkes and one quarter of Birchen leaves for xiid. or xvid. a pound."

<sup>80</sup> Archives, vol. xiii, p. 469; vol. xxii, p. 516; C. O. 5: 748, A Journal of the Councill In Assembly April 27th, 1715, p. 96.

<sup>81</sup> Archives, vol. xxvi, p. 231.

<sup>82</sup> Ibid., vol. xxix, p. 328.

<sup>83</sup> In 1713 a law designed to regulate the quality of tobacco was passed by the Virginia Assembly (Henning, vol. iv, p. 37. Text not given. See also C. O. 5: 1317, p. 26).

Maryland tobacco was a staple that had constant sale in England, but most of the evidence seems to indicate that in spite of this fact the inhabitants of the colony considered themselves far from prosperous. In 1685 Mrs. Taney of Charles County complained to the king that the people in her section of Maryland were so very poor that they were not even able to support a minister.<sup>84</sup> The Council of Maryland, in answer to certain queries of the Board of Trade in 1697, stated that the poverty of the province was such that it alone would discourage any hostile attacks upon them.<sup>85</sup> Governor Nicholson suggested in 1695 and again in 1697 that this general condition of poverty and discouragement came from the action of the English merchants in spreading false reports as to the extremely low state of the tobacco trade, so that the people might not plant too much to be easily sold;<sup>86</sup> and Governor Seymour in 1707 supported this contention.<sup>87</sup> At the same time Seymour wrote à propos of some colonial disturbance, "Our poverty increases to fresh villanies;"<sup>88</sup> and several years later the president of the Council told the Board of Trade that many of the inhabitants were reduced to great poverty and others were in debt.<sup>89</sup> The Assembly of 1714 still thought the province very poor, though, as we shall see, conditions were actually somewhat better than at the beginning of the century. In answer to Governor Hart's address the Assembly said: "Tis great Satisfacon to us that your Exc<sup>y</sup> is an Eye Witness to ye lowness of yt Ebb which this poor province in its Circumstances is reduced to, and that you are pleased to take such particular notice of it—our deplorable Condiccon being knowne wee hope ye speedier Reliefe from that Majesty that never yet denyed her royal Aid to any of her suffering Subjects that implor'd it, her

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<sup>84</sup> Tanner MSS. xxxi, 137, Bodleian Library.

<sup>85</sup> Archives, vol. xix, p. 543.

<sup>86</sup> C. O. 5: 724, p. 197; C. O. 5: 714, 25 (iii).

<sup>87</sup> Seymour also said that the merchants would not send supplies to the colony, and that ships sailed from England with provision for the voyage only (C. O. 5: 716, H. 41).

<sup>88</sup> C. O. 5: 716, H. 41.

<sup>89</sup> C. O. 5: 717, I. 63, I. 46.



Majty's prevailing endeavours in ye promoting of that peace that has removed soe many burthens from our trade Justly claims ye most hearty and sincere acknowledgmt that can be made from dutifull and loyall Subjects to ye best of princes; but yet Wee fear soe farr have Wee been influenced by ye Warr that without our Sovereigns more particular Grace and favour extended to us Wee shall not be able by any endeavours of our owne to recover our lost Circumstances, nor prevent ye totall Ruin of our Tob<sup>o</sup> trade being our onely Staple."<sup>90</sup> The statement of the Reverend Hugh Jones is the only one that contradicts these assertions. Tobacco, according to him, was a "Comodity so vendable especially in these Last Seven years past that thousands have gott good estates by itt Most of our planters when they began this sort of husbandry have not where w<sup>th</sup>all to Cloath themselves whereof Severall now are worth thousands of pounds. Indeed this Country hath been cheifly Seated by poor people whose Industry hath raised them to great Estates."<sup>91</sup> Although the governors and the colonists may have somewhat exaggerated the condition of affairs, surely their evidence is on the whole of greater value than that of the comparative newcomer to the province. The poverty of many of the planters seems unquestionable.

One reason why the people were not prosperous was that they were dependent on tobacco as almost their only form of currency. It was clumsy as a medium of exchange, and its fluctuations in price led to great uncertainty in trade. It is true that there was more money in the province between 1689 and 1715 than in its earlier days, but the amount was never so great as materially to alter the use of tobacco as legal currency. Jones says: "Not but that we have money both Spanish and English pretty plenty which serves only for pockett Expenses and not for trade tobacco being the Standard for trade not only with the Merchants but alsoe among

<sup>90</sup> C. O. 5: 746, pp. 8, 9, Journall of the house of Delegates from 22d, June 1714 to 3d July 1714.

<sup>91</sup> Royal Society, Letter Books, I, i, 183.



our Selves."<sup>92</sup> In 1700 it was suggested that there was enough money in the province to admit the collection of the public levy for the year in coin instead of in tobacco.<sup>93</sup> The statement was made at this time that the levy had been so paid before, though evidently without legal warrant.<sup>94</sup> The Assembly argued that coin would make a more elastic currency and that its use would give an impetus to trade. According to the Assembly, also, the planters had not imported coin from England because they had had no use for it. Should the levy be paid in money, they would be forced to import it, and more would soon be in circulation in the province.<sup>95</sup> The proposition was rejected that year without comment,<sup>96</sup> because of Governor Blakiston's opposition.<sup>97</sup> At the next session the question was again raised, in spite of the fact that the Board of Trade had advised Blakiston not to make innovations in the payment of taxes.<sup>98</sup> The Lower House of Assembly adopted a committee report providing that the sheriffs should be obliged to receive all public dues either in money or in tobacco at the election of the payer, on the ground that, while it was desirable to have those pay money who could, it would be impossible for the poor inhabitants to procure enough coin to meet the levy.<sup>99</sup> Even after this date, however, it happened only once, in 1709, that there was a sufficient supply of money in the treasury for the annual disbursements to be made in coin.<sup>100</sup> The desire to keep all the coin possible in the colony was shown in the anxiety to

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<sup>92</sup> Royal Society, Letter Books, I, i, 183.

<sup>93</sup> Archives, vol. xxiv, p. 48.

<sup>94</sup> C. O. 5: 715, 8 (viii).

<sup>95</sup> C. O. 5: 715, 8 (viii).

<sup>96</sup> Archives, vol. xxiv, p. 52.

<sup>97</sup> C. O. 5: 715, 8, 39. Blakiston forwarded the petition of the Assembly without endorsement.

<sup>98</sup> C. O. 5: 726, p. 107.

<sup>99</sup> Archives, vol. xxiv, pp. 171-173. The report of the committee to the Lower House, though accepted by it, was apparently not referred to the Upper House, nor was it embodied in the laws of the province. As a mere report it could not have been actually put into force.

<sup>100</sup> Archives, vol. xxvii, pp. 453, 463; C. O. 5: 747, Journal of the Committee of Accounts for 1709. All the disbursements in the account are reckoned in money, not tobacco.

raise the value of Spanish money to the rate at which it was current in the proprietary colony of Pennsylvania, lest the greater cheapness of money in Maryland should drain the province of its Spanish coin.<sup>101</sup> This proposal was frowned on by the Board of Trade,<sup>102</sup> and eventually the rates of foreign coins in all the colonies were settled by the English government.<sup>103</sup> Later the queen was asked to send over a quantity of copper coin to pass current in Maryland alone for sums less than £5 and to be of the value at which it was designed to pass, in order that petty payments might be made more easily.<sup>104</sup> The Board of Trade apparently approved this plan, but there is no record of the receipt of any coin.<sup>105</sup> None of these efforts brought about the substitution of coin for tobacco as a medium of exchange.

Such are the general facts with regard to tobacco in Maryland during the years between 1689 and 1715. Fortunately it has also been possible to ascertain with a fair approach to accuracy, if not the actual amount of this all-important staple raised in Maryland, at least how much was exported annually to England and to the other colonies; what was its price in the colony and in the home country; and the amount of revenue which this chief export trade of the colony paid to the imperial and to the colonial government. The extent and importance of the tobacco industry in Maryland can be much more fittingly appreciated when these facts are known.

By the Navigation Act of 1660 tobacco grown in the English colonies could be exported only to England or to the English plantations. The trade was therefore to be confined to those places, and the amount sent to England and to the colonies included all that could legitimately be exported from the province of Maryland. As the home consumption could not have been large, the exportation represents approxi-

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<sup>101</sup> C. O. 5: 715, 39.

<sup>102</sup> C. O. 5: 726, p. 106.

<sup>103</sup> In accordance with the regulations made by the queen's proclamation of June 18, 1704, and the subsequent Act of Parliament in 1707, the Maryland Assembly finally adopted rates of foreign coins (Archives, vol. xxvii, p. 350).

<sup>104</sup> Ibid., vol. xxvi, p. 530, April 8, 1706; C. O. 5: 716, H. 20, 22.

<sup>105</sup> C. O. 5: 726, p. 430; Archives, vol. xxvii, p. 439.

mately the whole amount grown in the colony.<sup>106</sup> The annual export of tobacco to England from 1689 to 1715 was as follows:—<sup>107</sup>

Year	Amount	hhds. <sup>108</sup>
1689	3,085	" <sup>109</sup>
1690	20,077	"

<sup>106</sup> The amount of tobacco illegally exported from Maryland is discussed in Chapter III of this monograph. This amount, so far as I have been able to discover, was not large. But since, except for the general fact that it was small, it has been impossible to make an exact estimate of the amount, it will have to be left out of this consideration along with that used in home consumption. Neither of these amounts would appreciably alter the results reached below.

<sup>107</sup> These estimates are taken partly from the list given in the Maryland Archives (vol. viii, p. 236), and partly from the Naval Office Lists for Maryland from 1689-1701 (C. O. 5: 749). The lists do not extend beyond 1701, and from that period the Custom House Accounts, Ledgers of Imports and Exports, 1698-1714, and the Inspector General's Account for 1697 must be used. A considerable amount of uncertainty must be admitted in these two sets of accounts, as the lists are sometimes missing for parts of certain years in the first set of figures, and the second set deals with Virginia and Maryland together and takes into account only the tobacco exported to England. The Naval Office Lists cited were added from Lady Day (March 25) to Lady Day as the accounts were originally arranged in that way, while the Custom House Accounts run from Christmas to Christmas. But as practically the whole export of tobacco was made in vessels sailing from the colonies in the summer months, the two winter months of January and February make very little difference in the estimates. This is, however, another reason why the results of these computations must be taken in a general way and not as specifically accurate. It must be noted, finally, that the crop which was exported was always the one grown the previous year and kept in the colony during the winter. This fact will sometimes explain discrepancies between the annual export recorded and the official statements sent home the same year telling the size of the crop then in the ground.

<sup>108</sup> In detail the amount is as follows:—

1689. From Patuxent	2678	hhds.	(Archives, vol. viii, p. 236)
"    Pocomoke	407	"	(C. O. 5: 749)
Total	3085	"	

The records for 1689 do not give the exports of Potomac, the third district in Maryland, and in other respects are evidently very incomplete. They do not include the tobacco exported by the London fleet of that year, which may have carried away a large part of the crop of 1688 before the list of exports begins.

<sup>109</sup> 1690. From Patuxent 19,330 hhds. (Archives, vol. viii, p. 236)

    "    Pocomoke 747 " (C. O. 5: 749)

    Total 20,077 "

1691. From Patuxent 5109 hhds. (Archives, vol. viii, p. 236)

    "    Pocomoke 964½ " (C. O. 5: 749)

    Total 6073½ "

1691	6,073½	hhds.
1692	31,703	" <sup>110</sup>
1693	24,250	"
1694	15,580½	"
1695	25,862	"
1696	17,267	" <sup>111</sup>
1697	32,379	"
1698	27,623	"

The great falling off in the accounts for 1691 may have been due to the disturbance and unrest caused by the government of the Associates in Maryland during the revolution. Clearly the first upheaval in 1689 did not perceptibly affect the crop exported in 1690. The decrease may have been caused by delay in shipment during the autumn of 1691. John Twitt, a skipper trading in Maryland and Delaware, wrote in December, 1691: "It is generally reported in Maryland that half the crops of corn and tobacco failed, and that of fifty or sixty ships only two or three will be ready to sail in less than three months' time" (Cal. St. P. Col. 1689-1692, 1951). This statement could not refer to the crop harvested in 1691, which must have been unusually large. Possibly the figures for Patuxent are incomplete.

<sup>110</sup> 1692.	From Patuxent	27,377	hhds.
	" Potomac	3,306	"
	" Pocomoke	1,020	"
	Total	31,703	" (C. O. 5: 749)

These figures may include some of the crop of 1690, which was held over for shipment until 1692, when an unusually large fleet was in the colony.

1693.	From Patuxent	20,003	hhds.
	" Potomac	2,795	"
	" Pocomoke	1,452	"
	Total	24,250	" (C. O. 5: 749)
1694.	From Patuxent	12,355	"
	" Potomac	2,205	"
	" Pocomoke	1,020½	"
	Total	15,580½	" (C. O. 5: 749)
1695.	From Patuxent	21,619	"
	" Potomac	3,334	"
	" Pocomoke	909	"
	Total	25,862	" (C. O. 5: 749)
1696.	From Patuxent	6,571	"
	" Annapolis	4,092	"
	" Cecil Co.	616	"
	" Wm Stadt	1,951	"
	" Potomac	3,767	"
	" Pocomoke	272	"
	Total	17,269	" (C. O. 5: 749)

In 1696 Annapolis, Cecil County, and Williamstadt were given deputy naval officers, and consequently separate lists for those districts were sent to England.

<sup>111</sup> The records of the years from 1696 to 1698 are good examples of the unreliability of the reports sent home in letters by the governors and by private persons as to the size of the crops each season.



1699	28,825	hhds.
1700	21,903	"
1701	25,686	" 112
1702	33,625	"
1703	17,797	"
1704	31,718	"
1706	17,731	"
1707	25,331	"
1708	27,925	"

1696 was reported as a bad year for tobacco (C. O. 5: 719, Bundle 4, no. 12, June 12, 1696), while 1697, on the other hand, was supposed to have been unusually good (C. O. 5: 714, 25, 36). But the shipment of the crop of 1696 in the following year was, as may be seen, very large,—larger, in fact, than the amount which went home in 1698, although that too was a fairly good crop. This discrepancy in the figures was partly due to the fact that sometimes the fleets which went to the colony were not large enough to carry away the whole of one year's crop, which had, therefore, to wait over for the next season. The size of the fleet must have had something to do with the unusual shipment of 1697, in which year there were seventy-nine vessels in Maryland as against sixty the year before (C. O. 5: 749). In this case the difference is undoubtedly due also to carelessness in the rough estimate of the size of the crops. Robert Quary, for instance, in 1706 wrote home that nearly three hundred ships were going back from Virginia and Maryland laden with tobacco (C. O. 5: 1315, N. 63). This was an extremely large fleet, but the official figures show that the amount of tobacco imported in 1706 was rather less than usual. It has, therefore, been necessary to discount all unofficial statements about the tobacco export and to rely exclusively on the Naval Office and Custom House figures.

<sup>112</sup> From 1697 to 1701 the records of the amount of tobacco exported from Virginia and Maryland may be found also in the Custom House Accounts. The figures are for both colonies together, but a comparison of them with the Naval Office Lists, relating to Maryland alone, will show the average proportion of the whole export which came from Maryland. As the Naval Office Lists for the years 1700 and 1701 are manifestly incomplete, Potomac being excluded, it has been thought more accurate to consider only the years 1697, 1698, and 1699 in computing the percentage of all the tobacco that came from Maryland alone.

The complete lists of figures for the five years from both sources are as follows:—

1697.	From Patuxent	21,022	hhds.
	" Annapolis	25	"
	" Wm Stadt	3,652	"
	" Cecil Co.	907	"
	" Potomac	6,122	"
	" Pocomoke	651	"
	Total	32,379	" (C. O. 5: 749)

From Virginia and Maryland 35,328,637 pounds (Custom House Accounts, Inspector General's Accounts, vol. i).

From Maryland 32,379 hhds. or 12,951,600 lbs.

This calculation allows 400 pounds to the hogshead, which seems

1709	31,537	hhds.
1710	21,365	"
1711	25,711	"
1713	19,739	"
1714	26,762	" 113

to have been customary (Archives, vol. xxii, p. 481). Maryland, therefore, exported 36.6 per cent of the total export for the year.

1698. From Patuxent	14,423	hhds.
" Annapolis	6,721	"
" Wm Stadt	2,333	"
" Potomac	4,146	"
Total	27,623	" (C. O. 5: 749)

From Virginia and Maryland 31,096,571 lbs. (Custom House Accounts, Ledgers of Imports and Exports, vol. i).

From Maryland 27,623 hhds. or 11,049,200 lbs. Percentage 35.5 per cent.

1699. From Patuxent	16,729	hhds.
" Annapolis	6,575½	"
" Wm Stadt	1,094	"
" Potomac	3,137	"
" Pocomoke	1,289½	"
Total	28,825	" (C. O. 5: 749)

From Virginia and Maryland 30,640,914 lbs. (Custom House Accounts, vol. ii).

From Maryland 28,825 hhds. or 11,530,000 lbs. Percentage 37.9 per cent.

1700. From Patuxent	12,391	hhds.
" Annapolis	7,828	"
" Pocomoke	1,684	"
Total	21,903	" (C. O. 5: 749)

From Virginia and Maryland 37,166,454 lbs. (Custom House Accounts, vol. iii).

From Maryland 21,903 hhds. or 8,761,200 lbs. Percentage 23 per cent.

1701. From Patuxent	13,367	hhds.
" Annapolis	10,751	"
" Pocomoke	1,568	"

and 28,240 boxes (C. O. 5: 749. It is impossible to tell how many hogsheads this would make).

Total 25,686 "

From Virginia and Maryland 31,754,126 lbs. (Custom House Accounts, vol. iv).

From Maryland 25,686 hhds. or 10,274,400 lbs. Percentage 32 per cent.

Using only the first three years in computing the average proportion of tobacco which was exported from Maryland alone, it is found to be about 36.6 per cent of the total for the two colonies. It is upon the basis of this percentage that the figures for the years from 1702-1714 are reckoned.

<sup>113</sup>The complete records from 1702-1714 are as follows, all the figures for the two colonies being taken from the Custom House

Excluding from these estimates as manifestly imperfect the records for the years 1689 and 1691, it is seen that the average annual export of tobacco from Maryland during the years when the royal governors were in the colony was about 25,000 hogsheads or 10,000,000 pounds.<sup>114</sup>

Moreover, when the complete list is inspected it becomes evident that the amount of tobacco produced for exportation did not increase either in Maryland or in Virginia between 1689 and 1715. The low price received for the staple in England at the end of the century may account for this fact. At any rate, some of the inhabitants were so discouraged

Accounts, Ledgers of Imports and Exports, and the Maryland proportion of the crop being reckoned as 36 per cent.

Year	Exportation from Virginia and Maryland	Estimated Exportation from Maryland	
	In Pounds	In Pounds	In Hogsheads
1702	36,749,192	13,450,204	33,625
1703	19,451,094	7,119,100	17,797
1704	34,664,639	12,687,257	31,718
1705	.....	.....	.....
1706	19,378,550	7,092,549	17,731
1707	27,684,398	10,132,489	25,331
1708	28,716,339	11,170,180	27,925
1709	34,467,005	12,614,923	31,537
1710	23,350,735	8,546,369	21,365
1711	28,100,265	10,284,696	25,711
1712	.....	.....	.....
1713	21,573,111	7,895,758	19,739
1714	29,248,366	10,704,901	26,762

<sup>114</sup> Since the foregoing account was compiled I have found in the Colonial Office Papers another record of the amount of tobacco exported from Maryland between 1689 and 1701. The figures are not given for each year separately, and the total is much less than that made by the addition of the Naval Office Lists of ships' ladings. The account must therefore be incomplete, but it seems worth while to insert it here for comparison both with the amount of tobacco sent to England and with that exported to the other colonies as given on page 36.

#### Account of Tobacco exported from Maryland

Period	Hhds.	To England		To Plantations	
		Boxes	Lbs.	Hhds.	Lbs.
1690-February, 1691/2	1,661	.....	.....	199	300
1692-one half 1693	1,663	.....	.....	469½	.....
1693-1694	16,903	.....	.....	497½	5,000
1694-1696	33,427	.....	.....	709	21,200
1696-1698	34,736	.....	.....	134	23,925
1698-1700	39,343	.....	98,729	42	1,525
1700-one half 1701	28,251	28,240	7,450	53½	5,400

C. O. 390: 6, p. 145.

with tobacco raising that they tried to turn their hands to other industries in spite of efforts made by the authorities to foster the tobacco trade.<sup>115</sup> No actual decline in the trade resulted, however, for the majority of the colonists, following their naturally lazy inclinations, continued to plant tobacco as the easier although not always the more profitable occupation. On the other hand, its production did not increase, and the twenty-five years of royal government brought no marked change or improvement in economic conditions in Maryland.

In addition to the tobacco sent to England a small amount was exported to the other colonies,<sup>116</sup> the figures for the years 1689-1698 being as follows:—

Year	Amount	Year	Amount
1689	220 hhds.	1694	618½ hhds.
1690	305 "	1695	244½ "
1691	285½ "	1696	237 "
1692	252 "	1697	395 "
1693	398 "	1698	250 " 117

The average amount exported annually from Maryland to the other plantations was therefore about 320 hogsheads or 128,000 pounds, a very small proportion of the total export.

In all probability, then, neither the amount exported to England nor that sent to the other plantations increased in the years between 1689 and 1715. Furthermore, the price which the Maryland planter received for his tobacco in the home country or in the colony also continued more or less stationary until nearly the end of the period.

<sup>115</sup> C. O. 5: 716, H. 41.

<sup>116</sup> In a paper on the state of New England, written by Randolph in answer to certain queries (1676), it was stated that tobacco was imported into New England from Virginia and Maryland (Add. MSS. 28089, f. 16, British Museum). Nicholson also remarked on the tobacco carried to New England (C. O. 5: 719, 18, Bundle 3, 1695), while the Virginia Council in 1708 recorded the export of some tobacco (C. O. 5: 1316, O. 25). A trade was also carried on with Barbadoes, which seems, according to most accounts, to have been somewhat larger than that with New England (Archives, vol. xx, p. 125; vol. xxv, p. 202; C. O. 5: 1309, 24; C. O. 5: 1316, O. 25; C. O. 5: 716, H. 74).

<sup>117</sup> C. O. 5: 749, passim.



There were two ways in which the Maryland planter sold his crop. The first one was to ship it, at his own risk or insured, to a commission merchant in England, trusting the merchant to sell it for him at a price which would pay the freight, the duties, and the commission, besides insuring a profit to the planter himself.<sup>118</sup> The merchant then returned European goods to the colonial exporter to the value of what he thought the profit on the tobacco consigned to him would be. If, however, he was later forced to sell at a loss or contracted a bad debt, the loss was the planter's and the latter fell into debt to the merchant. This would force him, in an effort to clear himself, to send his next crop to the same merchant. If that, too, were not profitable, the poor planter might become heavily indebted to his London firm. This was the way in which many of the London merchants preferred to conduct their trade.<sup>119</sup> A paper in the British Museum shows how small the exporter's profit would be by this method of trade even in a favorable year. A hogshead of tobacco in England about 1730 brought £21. 10s., but of this amount the duty was reckoned at £16, the freight at £4, and the merchant's commission at 15s., leaving a net profit of 15s. for the planter.<sup>120</sup> In Rogers's *History of Agriculture and Prices* the retail prices of tobacco from 1681 to 1715 are cited somewhat higher than this figure, ranging from 2s. 6d. per pound, £50 per hogshead, for the best quality down to 1s. 3d. per pound, £25 per hogshead.<sup>121</sup> In any case the wholesale price which the planter received would be much smaller than this retail rate. His profit therefore in the most favorable circumstances would not be large, and was always uncertain.<sup>122</sup>

<sup>118</sup> Add. MSS. 22265, p. 102, British Museum.

<sup>119</sup> C. O. 5: 1315, N. 20, 21; Add. MSS. 22265, p. 102, British Museum.

<sup>120</sup> Add. MSS. 22265, p. 102, British Museum.

<sup>121</sup> J. E. T. Rogers, *History of Agriculture and Prices in England*, vol. vi, pp. 440-448; vol. vii, pp. 372-375.

<sup>122</sup> I have been unable to discover any list of the prices which tobacco brought when sold in this way in England between 1689 and 1715. All general statements about the price are therefore based entirely on the lists of prices of tobacco sold in the colonies.

The president of the Council of Maryland, writing home to the Board of Trade in 1710, said: "The Generallity of the Planters, especially such as have shipped their Tobo's to their Correspondents in London are become Greately Indebted to the Merchants, and very many of their Plantations and stocks are wholly mortgaged and forfeited to them and others Dayly Desert their Abodes for feare of being imprisoned and repair to the southern Colonys, viz<sup>t</sup> south and north Carolina or Elsewhere to seeke new Settlem<sup>ts</sup>."<sup>123</sup>

The other method of selling the annual crop was to dispose of it as it stood packed in the plantations, either to the merchant's factors living there or to the ship-captains who carried it to England. Most of the outport vessels purchased their loadings in this manner.<sup>124</sup> This method was more certain for the planter, but gave him no opportunity to take advantage of any possible rise in the market at home. Probably, too, he had more difficulty in disposing of his crop in the colony, as so many of the merchants preferred the other method of shipment—and the planter, because he was entirely dependent on the English fleets, was at the merchant's mercy. Some tobacco, however, was annually sold in this way in Maryland, and a list of the prices paid in the colony may be compiled for a number of years.<sup>125</sup> These figures are as follows:—

Year	Price per Lb.
1697	1½ d.
1698	1¾ "
1699	2 "
1700	1¾ "
1701	" "
1702	" "
1703	" "
1704	" "

<sup>123</sup> C. O. 5: 717, I. 46.

<sup>124</sup> C. O. 5: 1315, N. 20.

<sup>125</sup> The figures given in the Custom House Accounts, Ledgers of Imports and Exports, of "the original cost or value" of the tobacco exported into England must represent the price paid for that part of the crop which the planters sold in Maryland.

Year	Price per Lb.
1706	1¾ d.
1707	" "
1708	" " 126
1709	" "
1710	" "
1711	2¼ "
1713	" " 127
1714	" " 128

On the whole, whether the colonist sold his tobacco in England or as it stood packed in the colony, the price which he received for it was a low one, even in good years not much more than sufficient to pay him for the expense of growing it and hardly enough to support himself and his family. The people therefore frequently complained of the low prices,<sup>126</sup> and threatened to cease planting if the conditions of the trade were not improved. The men most interested in the province attributed the continued low value of colonial tobacco to several causes, for some of which they suggested possible remedies. One cause was undoubtedly

<sup>126</sup> In 1708 Governor Seymour stated concerning the price of tobacco in the colony that those who laid out their crop with the merchants in the country got only 3s. 6d. per hundredweight, or less than ½d. per pound (C. O. 5: 716, H. 74). Lloyd reported in 1710 that the price of tobacco was not above 4s. per hundredweight (C. O. 5: 717, I. 46). In view of the official figures these statements are probably exaggerated, but on the other hand they may indicate that in some cases the official figures must be modified.

<sup>127</sup> In July, 1712, President Lloyd of the Maryland Council reported to the Board of Trade a rise in the price of tobacco (C. O. 5: 717, I. 63).

<sup>128</sup> During all this period tobacco was passing current for money in the plantations at the rate of 1d. per pound, although the Upper House apparently succeeded in 1704 in having it pass at the rate of 10s. per 100 pounds in payment of salaries (Archives, vol. xxvi, pp. 201, 202). Since 1671 Lord Baltimore had been accepting tobacco for his quit-rents at the rate of 2d. per pound in return for the duty of a shilling per hogshead on tobacco exported from the province (*ibid.*, vol. xxvi, p. 312; vol. xxix, pp. 161, 166, 185; vol. xxx, pp. 80, 316, 364).

<sup>129</sup> C. O. 5: 714, 25; C. O. 5: 717, I. 63, I. 75, I. 78, document following I. 78, not numbered; C. O. 5: 1315, N. 37; C. O. 5: 1316, O. 7, O. 60, O. 88, O. 154; Archives, vol. xxix, p. 352. A MSS. vol. 6, letter 107, in the records of the Society for the Propagation of the Gospel refers to the low price of tobacco in 1711. A clergyman in the colony writes that he "can't subsist without some assistance as Tobacco our Money is worth nothing and not one Shirt to be had for Tobacco this Year in all our Country."

the great wars which cut off from English merchants the foreign markets where they had been accustomed to dispose of their tobacco. This deprivation taught other nations from necessity to grow the plant for themselves,<sup>130</sup> but war alone was not felt to be a complete explanation of the distress of the tobacco colonies. After peace was declared in 1713 the Lower House of Assembly presented an address of gratitude to the queen, but stated at the same time that war was not the only reason for the poverty of the country.<sup>131</sup> The other cause, which the colonists resented as a great hindrance to their prosperity, was the high duty levied on colonial tobacco in England, and earnest petitions for redress were sent from both Maryland and Virginia.<sup>132</sup> The suggestion from the colonies that conditions might be bettered if the import duties were lowered naturally fell on deaf ears in England, and nothing was done in this direction.

The colonists had a third grievance, possibly more serious to their minds than either of the other two. They asserted that small scattered fleets often came into the colony at irregular intervals, returning home whenever they pleased with all the tobacco they could secure, a practice which interfered with the well-ordered management of the trade. This grievance was brought to the attention of the Treasury Department in February, 1706, by Robert Quarry of Pennsylvania.<sup>133</sup> He asked that only one fleet a year might be sent to the colonies, as there was but one crop of tobacco annually. The certain coming of one fleet, he claimed, would settle and fix the price in England and abroad, whereas when there was no such certainty the price tended to fluctuate more widely. Heated controversy followed in England over the effect which the adoption of this suggestion would have on the trade. The merchants of London favored an annual fleet,

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<sup>130</sup> C. O. 5: 717, document between I. 78 and 79, Representation of the President's Council and Assembly in Maryland to the Lords Commissioners for Trade and Plantations; C. O. 5: 3, Feb. 2, 1705/6, 153; C. O. 5: 746, pp. 8, 9.

<sup>131</sup> Archives, vol. xxix, p. 354.

<sup>132</sup> C. O. 5: 717, I. 75; C. O. 5: 1316, O. 154.

<sup>133</sup> C. O. 5: 3, Feb. 2, 1705/6.



because they knew that a large part of it would come from their city. The outport merchants on the other hand, realizing that this scheme would place them at a disadvantage, contended that it would be better to have the annual crop arrive in separate consignments and be sold gradually in order to prevent the market from becoming glutted.<sup>134</sup> The colonies naturally supported Quarry in his contention, objecting strongly to the arrival in the provinces of small fleets at frequent intervals.<sup>135</sup> The representations of Quarry and the London merchants were successful, probably because of the pressure which the latter could bring to bear on the Board of Trade as well as because of the strength of their arguments; the Board therefore approved of Quarry's suggestion,<sup>136</sup> and in February, 1706/7, an Order in Council was issued directing a convoy to be prepared for Virginia and Maryland for that season as soon as possible, and succeeding convoys to be sent annually.<sup>137</sup> Unfortunately it is impossible to discover from the records whether the order was carefully observed and, if so, whether it had any effect upon the trade. As the price of the commodity was not raised until peace was in

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<sup>134</sup> C. O. 5: 1315, N. 20, Protest of Whitehaven merchants; C. O. 5: 1315, N. 23, An anonymous letter arguing for one fleet annually; C. O. 5: 1315, N. 26, Sentiments of the merchants from Liverpool; C. O. 5: 1315, N. 31, 33, Quarry's answer to objections against his plan; C. O. 5: 1315, N. 21, An argument of some merchants trading in London against this plan.

<sup>135</sup> In 1695 Sir Thomas Lawrence seems to have objected to the fact that fleets came only once a year to Maryland by reason of the convoys (C. O. 5: 713, 115); but from 1697, when Nicholson asked that the fleets arrive before April, 1698 (C. O. 5: 714, 25), the colony was firm in the opinion that an annual fleet was necessary for its prosperity. Later Nicholson seems to have wanted this fleet to arrive in the autumn (C. O. 5: 1313, 4 (i), 16 (i)). "This method [the one fleet]," Virginia stated, "would be attended with abundance of good Consequences [to] the Trade, Time would be allowed for the consumption of one years Crop before the market were troubled with another, and the plenty of ships and goods in this Country at one time would make Tobacco to be more in demand, and goods more plenteous, and vendible at more reasonable Rates, and the carriage more safe and secure before the winter, which season proves commonly fatal to the Fleets, and impossible to keep Convoy in" (C. O. 5: 1315, N. 37).

<sup>136</sup> C. O. 5: 3, 121, April 26, 1706.

<sup>137</sup> C. O. 5: 1315, N. 64.

sight, it is improbable that the provision for one fleet a year made very much difference.

With the year 1711, however, the price of tobacco sold in the colony increased by  $\frac{1}{2}$  penny per pound, rising from  $1\frac{3}{4}$  pence to  $2\frac{1}{4}$  pence per pound, a price at which it remained at least until 1715.<sup>138</sup> The History of Agriculture and Prices does not show an increase in the price of tobacco sold in England during this period,<sup>139</sup> but the evidence of the official figures for sales in the colonies indicates that even the prospect of peace with France, contrary to contemporary impressions,<sup>140</sup> must have had a somewhat favorable effect on colonial commerce. The war was about to end and the danger from French ships to disappear. Trade tended to become less restricted. The price of tobacco was still low, only  $2\frac{1}{4}$  pence a pound, but at least it was higher than at the beginning of the century. This increase at the end of the period of royal government would seem to indicate that an era of somewhat greater prosperity in the production of their staple commodity was about to dawn for the colonists of Maryland.

The revenue furnished by the tobacco trade, both to the king and to the proprietor, is also of importance in the consideration of this chief export of Maryland. Although the planters, discouraged at the prevalent low prices, were not inclined to increase the amount of tobacco which they were producing, the English government, on account of the revenue, was careful to extend protection to the trade. In the beginning, it is true, the English had opposed tobacco culture and had tried to establish other industries in Maryland, but it was not long before the importance of the new commodity was seen and its almost exclusive growth was zealously encouraged. By the end of the century every governor who went to Maryland was convinced of the importance of preserving the staple and discouraging all other forms of

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<sup>138</sup> See page 39.

<sup>139</sup> Vol. vii, pp. 373 iv, 374 iv.

<sup>140</sup> See the passage from the Assembly Journal of 1714, quoted on pages 27-28.

industry. Sir Thomas Lawrence, secretary of Maryland, wrote home in 1695 complaining that when few ships came into Maryland some counties in the colony "almost cloath themselves by their linnen and woollen Manufactures and plant little Tobacco which learning of one another they leave off planting." He "humbly offered" it to "Consideration whither an Act of Parliament in England ought not to pass for Prohibiting the planting of Cotton in these Colonys."<sup>141</sup> The Board of Trade in a letter to Governor Seymour, 1708/9, remarked: "We are glad to find, the Inhabitants of Maryland do not apply themselves to Manufactures, which ought to be imported from this Kingdom; And We doubt not but they will be Supply'd therewith from hence, that they will not need to turn their thoughts to anything but the Culture of Tobacco."<sup>142</sup> Again, the reason that the Commissioners of the Customs gave for repealing the bill for ports in Virginia in 1709 was that such an act would increase the ease of manufacturing in towns and prevent the due cultivation of tobacco.<sup>143</sup> Several other instances might also be given to show the anxiety of the home government to foster the trade. This anxiety may be easily understood when one considers the number of imperial duties levied on tobacco imported into England and the amount of revenue those duties produced.

In 1660 a law of Charles II granting a subsidy of tonnage and poundage to the king levied a duty of a penny a pound on tobacco at entry and an additional penny a pound payable nine months after importation.<sup>144</sup> No other duty was imposed until 1685, when, in spite of some opposition on the ground that any further levy would greatly discourage the trade,<sup>145</sup> a new impost of three pence a pound, payable

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<sup>141</sup> C. O. 5: 713, 115; C. O. 5: 1314, M. 62.

<sup>142</sup> C. O. 5: 727, p. 112.

<sup>143</sup> C. O. 5: 1316, O. 44, 45, 50.

<sup>144</sup> Statutes of the Realm, London, 1810-1822, vol. v, p. 181. 12 Charles II, c. 4. In this study the references to the laws of England are all made from the Statutes of the Realm.

<sup>145</sup> Harleian MSS. 1238, f. 2, British Museum, The Advantages of the Tobacco Trade.



eighteen months after importation, was laid on all tobacco.<sup>146</sup> The duty was not again raised until 1698, when another subsidy of tonnage and poundage, increasing the rate another penny, and payable this time within three months, was given to William III.<sup>147</sup> Finally, in 1703 Anne received from Parliament a one-third subsidy grant which made the duty one third of a penny higher.<sup>148</sup> This brought the duties up to six and one third pence a pound levied on all tobacco imported into England. Certain reductions or allowances were made, however, for cash and for the prompt payment of all those duties which could be bonded for three, nine, or eighteen months as the case might be. One half of the first subsidy of a penny a pound and the whole of all the other duties were drawn back or refunded to the merchant who reexported within twelve months any tobacco that had paid the duties. In 1685 the time allowed for reexport was increased to eighteen months.<sup>149</sup> Debentures were allowed for all damaged tobacco that came into the kingdom, the collectors allowing for the amount of damage after an examination had been made by two disinterested judges.<sup>150</sup> Allowances were made for shrinkage of the amount imported during the voyage to England. To sum up: During most of the period of royal government tobacco that was consumed in England paid six and one third pence per pound duties, while that reexported was liable to a duty of one half penny per pound, both duties being materially lessened by various allowances.

That the London merchants and the colonial planters felt these duties to be too high and the regulations for their payment extremely hard, even with all allowances made, is amply demonstrated.<sup>151</sup> The case of the merchants whose ships

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<sup>146</sup> 1 James II, c. 4.

<sup>147</sup> 9 William III, c. 23.

<sup>148</sup> 2 & 3 Anne, c. 18.

<sup>149</sup> 1 James II, c. 4.

<sup>150</sup> 12 Charles II, c. 4.

<sup>151</sup> House of Lords MSS., June 5, 1714. Mr. Beer has pointed out that of course these import duties were ultimately paid by the consumer, but that the English government and the colonists thought



lay in the Thames ten months with four thousand hogsheads of tobacco on board because the importers could not afford to pay the duties was a particularly hard one, but it well illustrated the necessity for more lenient regulations.<sup>152</sup> The English government was too much in need of revenue to lower the duties, but the act of 1713, which encouraged the trade, besides relieving the specific case of the ships in the Thames made all the duties payable under easier conditions and made uniform allowances for damage, shrinkage, and so on.<sup>153</sup> This law was, however, passed only at the very end of the period of royal government in Maryland, and the revenue from tobacco which the English government received between 1689 and 1715 was for the most part collected under the old regulations.

It is possible to indicate only in a general way the actual amount of such revenue.<sup>154</sup> The gross receipts from the tobacco duties seem to have averaged about £350,000 annually,<sup>155</sup> and the net income to the government was probably

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that the latter paid them. As he says, they really "affected the colonial producer only to the limited extent that they restricted the available demand by enhancing the retail price" (*The Old Colonial System, 1660-1754, part i, vol. i, pp. 35, 36*).

<sup>152</sup> Treasury Papers, clxiv, 7.

<sup>153</sup> 13 Anne, c. 8.

<sup>154</sup> I have used a number of documents in attempting to find out the amount of revenue from the tobacco duties: Declared Accounts, Audit and Pipe Offices, several different collections of Treasury papers, and Stowe MSS. 316, 324, Sloane MSS. 2902, and Harleian MSS. 1238, in the British Museum. No two accounts for the same year agree at all closely, and it has been next to impossible to tell which set of figures was most nearly correct. Even the comptroller general's account and that of the receiver general of the customs in Declared Accounts were evidently in some way based on different calculations because their figures for the imposts on tobacco are quite unlike. Sometimes the accounts are made out from Christmas to Christmas, and again from Michaelmas to Michaelmas, or from Lady Day to Lady Day; some are probably not complete for a whole year, and others do not include all of the several duties. There is no way of telling what they do include. The most that can be done is to look over all these accounts carefully, and, by using those official figures which seem most nearly correct, to compute an average amount which will at least give some idea of the revenue received by the Custom House during a year.

<sup>155</sup> This account is compiled from Sloane MSS. 2902, f. 114, British Museum, for the years from 1692-1695 inclusive; and from Declared Accounts, Audit Office, Bundles 621-644, from 1695-1715.

not far from £100,000.<sup>156</sup> Of this revenue Maryland tobacco must have paid a little over one third, or about £36,000. It may be easily understood, therefore, that, for this reason if for no other, the careful protection of the tobacco industry in Virginia and Maryland was the consistent policy of the English government. Principally from this care for their revenue came the consideration of the government for the petitions of the London tobacco merchants, the anxiety to increase the continental trade in tobacco, and finally the law of 1713 for encouraging the trade. Tobacco was an import of great value to England, and the preservation and increase of the industry were objects of much care.

The interests of the British government led them not only to encourage the trade by concessions, but also to pass laws to prevent the evasion of the high duties. The importation of tobacco in bulk rather than in hogshead was prohibited mainly on this score. The chief difficulty with which the authorities had to deal was the ease with which the duty could be drawn back by debenture for reexport and the tobacco landed again without paying the duty. Proposals were made by several persons to remedy this and other defects in the customs regulations,<sup>157</sup> and a law was passed inflicting a severe penalty for any attempt to evade payment of the duties in this manner.<sup>158</sup> So, hand in hand with the systematic encouragement of the legitimate trade in tobacco went naturally a severe repression of any attempt at smuggling the commodity into England, both policies being the result of the anxiety of the government to preserve and increase its revenues.

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<sup>156</sup> Treasury Accounts, Revenue Yearly, vols. i-iv, give the net receipts on tobacco after all duties have been paid as about £90,000. Harleian MSS. 1238, f. 2, British Museum, makes the net revenue on tobacco larger than this, but the figures are in round numbers and there is no way of verifying them. The revenue is given in the Harleian MSS. as from £100,000 to £130,000. Compare also Mr. Beer's account of the revenue derived from the tobacco impost between 1688 and 1692 (Old Colonial System, vol. i, p. 166).

<sup>157</sup> Harleian MSS. 1238, f. 1, f. 29, British Museum; Sloane MSS. 2717, f. 48, 54-61, British Museum.

<sup>158</sup> 8 Anne, c. 14.

Not only did the tobacco trade pay a large sum in import duties in England, but the English officials in Maryland were almost entirely supported by the income derived from an export duty levied on the commodity. The most important of the tobacco duties through which the colony obtained its revenue was the export duty of two shillings per hogshead. This duty was first levied in 1671 and continued to be imposed between 1689 and 1715. One half was used for the support of the government, while the other half went to the proprietor. When the royal government was established in Maryland, the proprietor was allowed to keep his half of the duty,<sup>159</sup> while three fourths of the half for the support of the government was paid to the royal governor and one fourth for arms for the defence of the province. Two other duties on tobacco were collected during the period of royal government. The first one, levied in 1692, was three pence per hogshead for the use of the governor during his term of office. This provision continued to be made for every governor up to 1715.<sup>160</sup> By a law, passed in May, 1695, and re-enacted in 1696, 1701, 1704, 1708, and 1714, a second duty of three pence per hogshead was levied to defray the public charges of the province.<sup>161</sup> The money gained by this duty was used at first for building the church at Annapolis, but was later put to other uses as the need arose. These three laws together made the customs duty two shillings and six pence on every hogshead of tobacco exported from the province.

If it may be taken for granted that Maryland exported about 25,320 hogsheads of tobacco annually,<sup>162</sup> then the income derived from the shilling duty, which was entirely devoted to the support of the government each year, must have been about £1266. One fourth of this, or about

<sup>159</sup> Archives, vol. viii, p. 235.

<sup>160</sup> Ibid., vol. xiii, p. 441; vol. xix, p. 455; vol. xxii, pp. 480, 496; vol. xxiv, p. 416; vol. xxix, p. 442.

<sup>161</sup> Ibid., vol. xix, pp. 193, 375; vol. xxiv, pp. 202, 414; vol. xxvi, p. 347; vol. xxvii, p. 372; vol. xxix, p. 443.

<sup>162</sup> See above, pages 35, 36.



£316. 10s., was supposed to be spent annually for arms for the province, and the remainder went to pay the governor's salary. But the additional duty of three pence per hogshead, also paid to the governor, secured to him an annual salary of £1266. The extant records for specific years naturally do not agree with this estimate of the salary, which is based on the Custom House figures, but their evidence does imply that it could not have averaged less than £1266. The Account of Revenues in the Plantacons in America by John Povey (August 26, 1701) stated that in Maryland one half of the impost applied to the use of the government amounted in 1700 to £1786. 12s. 6d.<sup>163</sup> Mr. Blathwayt in a Report Concerning the Revenues of the Plantations in America, dated March 22, 1702/3, estimated that the half of the two shillings duty appropriated to the government for the year 1701 amounted to £1605. 15s. 6d.<sup>164</sup> A report of the Board of Trade for 1703 gave the salary of the governor of Maryland for 1701 as about £1700.<sup>165</sup> A list of governors, presented to the Committee of Accounts in England about 1711, contains the following statement with regard to Maryland: "John Corbett, Esqr appointed Govern<sup>r</sup>. by Her Maj<sup>ty</sup> in the room of the late Coll Seymour deceas'd, to whom ye Assembly had given for his Life  $\frac{3}{4}$  of 2<sup>s</sup> p Hhd on Tobacco exported & ye whole Addit<sup>l</sup> Duty of 3<sup>d</sup> p Hhd on Tobacco exported & 3<sup>d</sup> p Tunn on all Ships & Vessells trading thither and not belonging to the Province, which all together amounted yearly to about £1600."<sup>166</sup> In some years, therefore, the governor must have received considerably more than £1266.<sup>167</sup> His salary was always increased by certain

<sup>163</sup> Treasury, 64: 89, p. 48.

<sup>164</sup> Treasury Papers, lxxxv, 22.

<sup>165</sup> Acts of the Privy Council, Col. vol. ii, p. 430.

<sup>166</sup> Treasury, 64: 90, p. 55.

<sup>167</sup> Besides the specific figures given in the text there are also in the Archives several accounts of the tobacco imposts which do not agree much more closely than the others with the stated sum of £1266. I have, however, in spite of all discrepancies, considered it best to use the lists already compiled for the amount of tobacco exported, because they are for the most part official figures, regularly added from Lady Day to Lady Day, while it is often extremely uncertain how long a time the collector's figures include.



perquisites of his office, such as fees and a small tonnage duty,<sup>168</sup> consequently the position was one not to be despised by any needy officer of the king.<sup>169</sup> The governor, moreover, was not dependent on the legislature year by year, for although the other expenses of the government were met by detailed annual appropriations,<sup>170</sup> the salary of the governor was definitely fixed from the beginning of the royal period by a permanent grant of the shilling per hogshead for his support.<sup>171</sup> In case of a dispute with his legislature the governor of Maryland could afford to be less subservient than the governors of New York or Massachusetts, who were dependent on annual salary grants.

The total revenue that accrued to the royal government and to the proprietor from the export duties on tobacco in Maryland must have been about £3165 per annum. It was natural that the English authorities should demand regular accounts of their share of this revenue. Such accounts were frequently sent home, but there was often complaint that they were too general, that the vouchers for payment were not included, or that they were unsatisfactory for other

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<sup>168</sup> The tonnage duty was imposed in September, 1694, for the benefit of Governor Nicholson during his term of office. This act was unlimited in its duration, and must have been in operation at least until 1700, when John Povey estimated that this duty had amounted that year to £186. 16s. (*Treasury*, 64: 89, p. 48).

<sup>169</sup> That the payment of the governor's salary was fairly regular the frequent accounts in the Archives imply, although a certain proportion of it was probably lost through insufficient securities for bonds or bad bills of exchange (*Archives*, vol. xx, pp. 247, 295-296; vol. xxiii, p. 124; vol. xxv, pp. 54, 55).

<sup>170</sup> H. L. Osgood bears witness to the care with which appropriations were made in Maryland. "In the English provinces, with the exception of New York, the proprietors and their officials were dependent from the first on their legislatures for appropriations. . . . After the middle of the century, the appropriation acts in Maryland became very detailed and specific. . . . As expenditures increased, the list of items became larger and the acts contained an ever growing accumulation of details. Under this system,—and it was one which came to exist in many of the provinces,—though the treasurers were appointed by the proprietor or his governor, and though they paid out money exclusively on the governor's warrant, the discretion of the executive in the matter of expenditures was effectively limited" (*American Colonies in the Seventeenth Century*, vol. ii, pp. 370-372).

<sup>171</sup> *Archives*, vol. xiii, p. 437; vol. xxvi, p. 312.

reasons.<sup>172</sup> The effort to keep track of the tobacco revenue and of provincial expenditure was one phase of the general attempt of the English government to control more closely the administration of the colonies.

One other branch of the revenue accruing to the government from tobacco either in England or in the colony still remains for discussion: the penny a pound on all tobacco exported to other plantations. This duty, with others, was levied by the English government in the act of 1672 "For the encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation Trade,"<sup>173</sup> and its purpose was not so much to obtain revenue as to "prevent exportation of goods from Colony to Colony and so to foreign countries in Europe, evading the English customs."<sup>174</sup> By this act a collector was to be appointed in each province to enforce the payment of these duties from all persons exporting certain goods elsewhere than to England, Wales, and Berwick-on-Tweed. The amount of tobacco exported from Maryland to other colonies was, as has been stated above,<sup>175</sup> about 320 hogsheads per annum, or about 128,000 pounds. A duty of a penny a pound on this amount would therefore come to about £533.<sup>176</sup> Of this the British government at first received one fourth, one half went to the collector, and the remaining fourth to the surveyor of the

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<sup>172</sup> Archives, vol. xx, p. 476; Treasury, 64: 89, p. 17; Treasury Papers, lvii, 44.

<sup>173</sup> 25 Charles II, c. 7.

<sup>174</sup> Cal. St. P. Col. 1689-1692, 2306.

<sup>175</sup> See page 36.

<sup>176</sup> An actual account of the penny a pound in Maryland for the year 1678 has been preserved. In this year Christopher Rousby collected £347. 13s. 2d. from the duty on tobacco sent to other plantations. As this was an early account, and made for Patuxent District only, it tends to confirm the average amount of £533 collected annually during the period of royal government (Audit Office, Accounts Various, 589, The State of the Acco<sup>ts</sup> of his Ma<sup>ties</sup> Customs in the American Plantacons Stated w<sup>th</sup> the Acco<sup>ts</sup> of his Ma<sup>ties</sup> Customs in England &c. for the Yeare ending at Michas: 1678). In June, 1692, the Commissioners of the Customs stated to the Lords of the Treasury that if the duty of a penny a pound were well collected it would bring in £300 or £400 above the cost of collection (Cal. St. P. Col. 1689-1692, 2306).

customs in Maryland. In 1694<sup>177</sup> it was decided that the money from this duty in Virginia and Maryland should be paid to the College of William and Mary in Virginia, and in the following year the salary of the collector for the collection of the penny a pound was lowered to twenty per cent, with one third of all forfeitures. The duty of comptroller or surveyor of this account was assumed by the rector of the college, in order that its revenue might be increased. After this time most of the revenue from the penny-a-pound duty in Maryland was paid to the college, but it never provided a very substantial source of income.

This brings to a close the discussion of the most important staple produced in Maryland. It has been shown that tobacco was almost the only product grown for profit, and that the inhabitants were exclusively occupied in its production. While the royal governors were in Maryland the amount grown for export averaged about 25,320 hogsheads annually. The price of tobacco in England was low and the province was far from prosperous. Toward the end of the period of royal government, however, on account either of the prospect of peace, or of the annual fleets, or perhaps because the market was not glutted by a surplus amount, the price in the colony rose from one and three fourths pence per pound in 1710 to two and one fourth pence in 1711,—a fact which argued hopefully for the colonists. Almost all the tobacco raised in Maryland was apparently shipped directly to England, and the large revenue, nearly £100,000, annually received from colonial tobacco by the duties on its import gave rise to the greatest care in the protection of the industry and eventually in 1713 to the law easing the conditions of import into England. The slight rise in price, combined with this improvement in the arrangements made for collecting the

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<sup>177</sup> The first proposal to pay the duty to the college was not accepted by the Commissioners of the Customs. They proposed that the collector should receive a regular salary from the proceeds of the duty, and that the tobacco, in which it was usually paid, should be sold in England. The balance, if there was any, might go to the college (Cal. St. P. Col. 1689-1692, 2306). For arrangement reached in 1694 and 1695 see Archives, vol. xx, pp. 123, 341.



duties on tobacco in England, while not altering conditions during the twenty-five years of royal government, certainly would seem to foreshadow prosperity for the future.

It was thus in line with England's general colonial policy that Maryland should devote herself exclusively to the production of tobacco, and should neglect to exploit her natural resources of fur and fish or to raise food-stuffs for exportation. There was, however, one important respect in which this attitude of the government was qualified, to wit, in regard to naval stores, to the production of which the English statesmen at the end of the century were more than willing to give definite encouragement. Indeed, from the beginnings of English colonization it had been considered desirable that the colonies should furnish naval stores in order that the English navy might not be dependent for its existence on imports from foreign and possibly hostile countries. At first in the southern colonies the production of such stores was encouraged even at the expense of tobacco as being more directly profitable to England. Maryland promoters from the beginning reported that the soil of the province was suitable for the growth of hemp and flax, and that pitch and tar could be easily obtained from the neighboring woods.<sup>178</sup> Undoubtedly the production of such commodities should be encouraged by the home and colonial governments. In 1664, when the price of tobacco had fallen very low and the colonists were greatly in debt, the English government directed that hemp, pitch, and tar be brought into the kingdom customs free for five years, for the purpose, as the Lords Committee of Trade of the Privy Council put it, of encouraging "the planters to apply themselves to the planting of other commodities which may be of more benefit than tobacco."<sup>179</sup> In Maryland the colonial

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<sup>178</sup> A Relation of Maryland, p. 27. A Relation of the Colony of Lord Baron of Baltimore in Maryland near Virginia, in Force Tracts, vol. iv, no. 12, p. 7. The Relation of the Successful Beginnings of Lord Baltimore's Plantation in Maryland, in Shea, Early Southern Tracts, 1865, p. 22.

<sup>179</sup> E. L. Lord, Industrial Experiments in the British Colonies of North America, in Johns Hopkins University Studies, extra volume xvii, p. 5.



legislature supported the effort to grow hemp and flax by the passage of a number of laws, in 1671, 1683, and 1688.<sup>180</sup> Unfortunately this legislation had but little effect, and the amount of hemp and flax raised in the province during the proprietary period was inconsiderable.

By the end of the century the point of view of England concerning tobacco had radically changed, but the question of securing naval stores for her fleet continued to be a vital consideration. She was at war with France, and the trade for naval stores with the Baltic was in a most unsatisfactory condition.<sup>181</sup> All the colonies, whatever their chief occupation, must be encouraged to produce naval stores also. The commission sent to America by the Board of Trade in 1698 confined its attention to the investigation of the conditions for the production of such stores in the northern colonies,<sup>182</sup> and at first no emphasis was laid on producing them in Maryland. The importance assigned to the whole question in England, however, did influence the resident royal officials in Maryland to emphasize strongly in their letters to the home government the suitability of that province for the production of naval stores as well as of tobacco. Edward Randolph sent a memorial to William Blathwayt, the auditor general of plantation revenues in England, offering to survey the woods in the plantations, and stating that there was much oak timber for ship-building in New England, New York, Maryland, Pennsylvania, and Virginia, as well as possibilities for producing resin, hemp, flax, and saltpetre.<sup>183</sup> The Assembly of Maryland stated several times that if due notice were given the province was capable of furnishing in large quantities masts of all kinds, yards, bowsprits, tar, knees, pipe staves, and barrel staves.<sup>184</sup> In 1695 an address to the same effect was sent to England, and Nicholson added

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<sup>180</sup> Archives, vol. ii, p. 300; vol. vii, p. 325; vol. xiii, p. 222.

<sup>181</sup> See Lord, p. 56 ff., for discussion of the question of the need of England for naval stores from the colonies.

<sup>182</sup> Lord, p. 9 ff.

<sup>183</sup> Treasury Papers, xvi, 20. Randolph also presented to the Board of Trade a paper on naval stores (C. O. 323: 2, 4).

<sup>184</sup> Archives, vol. xix, pp. 80, 541.

in a letter to the Duke of Shrewsbury that it was a pity that "either his Majesty, or the people of England, that want them, should have so little Benefit from Such vast quantities as these Countreys affoord."<sup>185</sup> In 1704 a proposal was made to Governor Seymour by one Andrew Tonnard, a shipwright from Deptford, that sawyers should be sent for from England and shipyards be erected in Maryland to build fourth-rate ships for the navy, and so utilize the vast stores of timber in the province.<sup>186</sup> As hemp for cordage and pitch and tar could also be easily obtained in Maryland, it would be a most suitable place for the erection of such a yard. Nothing ever came of this elaborate proposal, although Governor Seymour recognized the advantages of the province for the production of naval stores. The lower Eastern Shore was, he declared, most suitable for making tar and pitch.<sup>187</sup> He thought that many of the inhabitants had old fields worn out with tobacco which might prove good for hemp. "Masts, Yards, and Bowspritts will at present, while the freight of Tobacco goes so high (tho' enough to be had here) be only Supplyd from New England etc the usuall places where the Shippes go to ffetch them. Many people are Aiming at Rozin, Pitch, Tarr, and Turpentine, and believe will send home some Pitch this Shipping, But tho' we have in many places great Quantitys of Pines that will afford all these, yet for want of Skill in the Tapping, Drawing off, and otherwise Burning the Tarr kilns, it is Complained of to be too hott for the Ropes, which might be easily Corrected by art."<sup>188</sup>

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<sup>185</sup> C. O. 5: 719, 18, Bundle 3, 1695.

<sup>186</sup> C. O. 5: 715, 79, Bundle 1704, F. 3.

<sup>187</sup> C. O. 5: 716, H. 14.

<sup>188</sup> C. O. 5: 716, H. 22. Gerard Slye, however, who offered to supply England with naval stores from Maryland, differed from Governor Seymour in his conception of the kinds of stores most easily furnished by Maryland: "Virginia and Maryland can Supply their Majesties with Pitch, Tar, and deal Plank but New England much better because of the Infinite number of Pine trees that Country affords, tho' masts and bolesprits Virginia and Maryland can supply with better then New England the Land being richer the trees are much bigger and taller and the rivers more convenient to

The province, then, was suited for the production of naval stores, and in spite of possible difficulties in securing skilled labor,<sup>189</sup> the governors thought that all that was really needed was systematic encouragement from England. This would best be given if the colonists could be assured of a steady demand in the home country for colonial naval stores<sup>190</sup> and if they could be taught by Englishmen the methods of preparing the commodities for the home market.<sup>191</sup> When the attention of the English government was called to the situation, it was willing to protect the production of naval stores provided this would not interfere with tobacco raising. "Tho' the Encouragement of the Production of Naval Stores in the Plantations being of the highest Importance to England, yet it is not fitting to be encouraged in those Places which are proper for the Production of Tobacco, and therefore you will take care therein; but that the Production of Naval Stores may be in such parts of your Governm<sup>t</sup> as are only proper for them."<sup>192</sup> Several efforts were made to give such systematic encouragement,<sup>193</sup> and the law concerning naval stores in the colonies<sup>194</sup> was of course sent to Maryland, where Governor Seymour expressed his hope that it would be favorably received by the people and would result in an increase of production in that colony.<sup>195</sup> The province itself had already made laws encouraging the growing of hemp and flax for naval stores, and after considerable

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take them in, and for the rest of the Species the land will produce the best of Hemp and theres Oak enough, and if the charge of bringing it for England be thought too great, if men of War be order'd to be built there that charge will be saved and they may be built for half the charge that they are built for in England; and if incouragement be given Trades-men nor labourers will not be wanting" (Letter from Gerard Slye to Mr. Povey at Whitehall, March 20, 1693/4, in C. O. 323: 1, 82).

<sup>189</sup> Archives, vol. xix, p. 541.

<sup>190</sup> Treasury Papers, xvi, 20.

<sup>191</sup> C. O. 5: 719, 18; C. O. 5: 716, H. 22.

<sup>192</sup> C. O. 5: 726, p. 429, Letter from the Board of Trade to Governor Seymour, March 26, 1707; C. O. 5: 716, H. 14.

<sup>193</sup> C. O. 5: 713, 117, 117 (i); C. O. 5: 1260, 76; C. O. 5: 715, Bundle 1705, G. 31. See also quoted comments of colonial governors.

<sup>194</sup> 3 & 4 Anne, c. 9.

<sup>195</sup> C. O. 5: 716, H. 14, H. 22.



effort,<sup>196</sup> in 1706 a new act was passed in response to the appeals of the government at home and of the royal officials in the colony.<sup>197</sup> The colonial law made it obligatory for any creditor to accept good hemp and flax at fixed rates in payment of one fourth part of any debt.

But in spite of the planters' assertions, they needed more than government support to enable them to send large quantities of naval stores to the home country. Whatever may have been the reasons—and probably the principal one was simply the preoccupation of the colony with tobacco-raising—the production of naval stores in Maryland was more or less of a failure. During the whole period of royal government no hemp or flax was exported to England, and the preparation of large timber for the navy was almost equally unsuccessful.<sup>198</sup> Only the smaller kinds of wooden products, principally pipe and barrel staves, were exported in any appreciable quantities, and that not until after the beginning of the century. In 1715 Maryland and Virginia together exported about 3610 hundred pipe staves and 1115 hundred barrel staves to England. In the same year 189 last (12 barrels) of tar and pitch were sent over from the two colonies, but Maryland's proportion is uncertain. Even after the passage of the English bounty law of 1705 the exportation of any variety of naval stores increased but slowly.<sup>199</sup>

The value of these exports was also, of course, small. In 1694 Gerard Slye of Maryland was willing to contract for tar delivered in the province at £5. 4s. per last, and for pitch at £4. 16s. per ton,<sup>200</sup> but since the two provinces together never exported more than 189 last in any one year between

<sup>196</sup> Archives, vol. xix, p. 149.

<sup>197</sup> Ibid., vol. xxvi, p. 632.

<sup>198</sup> It has been possible to obtain a complete account of the naval stores exported from Maryland and Virginia between 1697 and 1715 from the Custom House Accounts, Ledgers of Imports and Exports, vols. i-xvii, and C. O. 390: 8, 6. These accounts are printed in full in Appendix I to this study.

<sup>199</sup> See Appendix I.

<sup>200</sup> C. O. 323: 1, 82 (i).



1689 and 1715, the value to Maryland of the pitch and tar trade was very small. Pipe and barrel staves were really the only profitable ventures in timber exportation. As pipe staves brought about 15s. per hundred in the colony,<sup>201</sup> the profit must have been considerable.

The conclusions of this chapter on the staple products of Maryland may be broadly stated. The colonial authorities never succeeded in inducing the inhabitants to turn their attention to exporting furs or fish or food-stuffs, and the royal governors at the end of the century not only acquiesced in the natural line of economic development in the colony, but did everything in their power to foster the growth of tobacco. This was to an even greater extent the aim of the English government, which the colonial governors represented, but on account of the necessities of the English fleet the home authorities were forced to make one exception to their policy in the encouragement of the production of naval stores in Maryland as well as in the other colonies,—an effort that proved to be futile. The staple commodity of Maryland was, and continued to be, tobacco, and with a few minor exceptions it was tobacco only that was produced in sufficiently large quantities to be exported to England or to the English colonies.

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<sup>201</sup> Custom House Accounts, Ledgers of Imports and Exports, vols. i-xvii.

## CHAPTER II

### IMPORTS

We have seen that the staple product of the colony of Maryland was tobacco, and that almost all of that part of the crop which was exported had to be sent directly to England. It is clear, therefore, that most of the commodities imported must have come from England, and must have been obtained either as purchases made by the planters from the profits of their sales in England or as ventures sent over by English merchants, to be sold in the colony for a return cargo of tobacco. From the records this is found to be the case. For example, traders to Virginia and Maryland in 1689 asserted that those provinces depended on them wholly for clothing and other necessaries from England.<sup>1</sup>

This natural tendency received systematic encouragement in the home country. English statesmen, who had at first been more interested in the colonies as sources of supply for raw materials,<sup>2</sup> were now realizing their value as outlets for home manufactures.<sup>3</sup> By the end of the century the planters of Virginia and Maryland were pointedly and repeatedly enjoined to import not only their luxuries but practically all their necessities from the home country. The inducement afforded by the natural course of trade and the added exhortations of the authorities amply secured the desired result. But while English manufactures constituted by far the largest and most important class of imports into Mary-

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<sup>1</sup> Cal. St. P. Col. 1689-1692, 579. The Virginia Council stated in 1708 that that colony traded mostly with Great Britain for manufactured goods from the home country (C. O. 5: 1316, O. 25).

<sup>2</sup> Beer, *Origins*, p. 73.

<sup>3</sup> Harleian MSS. 1238, f. 2, British Museum. See also Quarry's statement to Lord Godolphin in 1706 that the tobacco colonies were a market for English manufactures (C. O. 5: 3, 112).

land, they were not the only imports from British sources, the trade being further swelled by the importation of continental and Asiatic goods which, in accordance with the provisions of the Navigation Acts, had for the most part to be shipped to the colonies by way of England as an entrepôt.

An idea of the great amount and variety of these goods sent to Virginia and Maryland during the period of royal government may be gained from the sample list of English exports to those colonies, taken from the Custom House Accounts for 1699,<sup>4</sup> and printed in Appendix II of this monograph. Evidently the British manufacturers supplied most of the necessities of colonial life, ranging from shovels, soft soap, and candles to great quantities of woollen cloths of qualities good, bad, and indifferent. The importation of home products was by no means confined to stern necessities; it included chariots, window-glass, stitched gloves, stays, looking-glasses, and perukes. Learning was supposed to be at a low ebb in Maryland at the end of the seventeenth century, yet almost every fleet brought boxes of books, maps, and pictures. In 1699 there were even two printing presses and letters (presumably type) and some mathematical instruments. From the continent and from the far east came groceries and spices, all kinds of linens, some of very handsome quality with elaborate eastern names, silks, wines, drugs, some paper fans, and toys made perhaps in Germany. It must indeed have been true, as the colonists said, that Virginia and Maryland depended almost wholly on England for their clothing as well as for many other necessities of life.<sup>5</sup> Colonial manufactures could not have been of much importance when such large quantities of woollen and linen goods, of coarse as well as fine quality, and of leather, hats, and wrought iron were annually imported.

Such lists as these from the English Custom House indicate that the colonists had passed beyond the early stages of their

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<sup>4</sup> Custom House Accounts, Ledgers of Imports and Exports, vol. iii.

<sup>5</sup> Cal. St. P. Col. 1689-1692, 579.

economic life. They imported only small quantities of food-stuffs from England. They no longer wanted only such articles as were needed to maintain life in the wilderness, the coarser sorts of clothing, arms and ammunition, and different kinds of agricultural implements. These commodities continued in demand of course, presumably for the use of the smaller planters, servants on the great estates, and frontier settlers, but in addition planters in the older settlements were demanding a greater variety of products, including the luxuries as well as the necessities of life. The large market for such things as East Indian fabrics presupposes a certain degree of comfort and some pretensions to the amenities of social intercourse.

With the increased demand for greater variety, foreign articles of all kinds and descriptions, expensive and cheap, useful and ornamental, were widely distributed throughout the province. The more costly imports must have been procured from England or purchased from incoming vessels by wealthy planters from different parts of the provinces, and stored by them on their plantations for future use. A colonist of good family and estate in almost any section of the province would leave at his death, besides his house, live stock, and negroes, large quantities of imported furniture, linen, and so on.<sup>6</sup> For example, the inventory of the estate of Madam Henrietta Maria Lloyd of Talbot County on the Eastern Shore,<sup>7</sup> made in the year 1697, shows that she died possessed of a stock of furniture, bedding, linen, woollen goods, and personal clothing which would not be scorned by any woman of the present day living far from a large city. Many ells of English canvas, crocas, dowlas, ozenbrig, and kersey were inventoried, with enough pins, needles, thimbles, tape, buttons, and so on, to equip a modern dressmaking establishment. Many varieties of farm utensils and carpen-

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<sup>6</sup> Collection of Inventories and Accounts at Land Commissioner's Office in Annapolis, Maryland.

<sup>7</sup> Inventories and Accounts, vol. 15, f. 198, ff.



ters' tools, servants' clothing, coarse woollen goods,<sup>8</sup> shoes, hats, and so forth, had been imported by her and formed considerable assets of the estate. In the house itself were no less than fifteen beds or mattresses (whether bedsteads or not is not stated), most of them with hangings and furnishings, eight looking-glasses, and numerous chairs, chests of drawers, and carpets. Madam Lloyd had accumulated a stock of foreign linen amounting to twelve table-cloths of varying qualities, eight dozen and three napkins, twenty-six pairs of sheets, and ten pairs of pillow-cases.<sup>9</sup> Her own personal clothing was evidently handsome and adequate to most occasions: she rejoiced in the possession of eleven gowns and petticoats, some of them of silk and satin, one mantle, three coats, three pairs of stays, nine pairs of shoes, five pairs of silk stockings, and four headdresses, besides many smaller articles of clothing and a pearl necklace, not, however, of great value. Her complete outfit was worth £86. 15s. 6d., no mean sum for a woman of her day exiled in the colonies. Madam Lloyd was clearly a great lady, and the presence in the colony of other ladies and gentlemen of similar rank explains the necessity for a variety and a wide distribution of British and foreign manufactures. This and similar inventories of estates also support the declaration of Hugh Jones, quoted in Chapter I, that some planters had gained great estates by tobacco growing. The larger ones at least were evidently not so poor as they believed themselves to be.

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<sup>8</sup> Most of the coarse woollen goods must have been foreign in origin, because it was evidently carefully stated when such was not the case, as in the following two items in the account: "1¼ [yd.] of this Country Cloth 1s. 8d. 2 petty Coates 2 Waste coates and 2 pr of Draw<sup>s</sup> of this Country Cloth £1. os. od." (Inventories and Accounts, 15, f. 198).

That other articles mentioned in these inventories were largely of foreign origin seems indicated by the fact that they are nearly all mentioned in the Custom House Accounts of British and foreign manufactures imported to Virginia and Maryland, for a sample list of which see Appendix II. Of most of these articles, moreover, there is no record whatever of local manufacture.

<sup>9</sup> Or "pillowberes" as they seem to have been called at that time.

It was not only the wealthiest classes that patronized the English merchants; less important families as well made almost exclusive use of foreign products. More modest estates were those of Major Robert King of Somerset County and Mr. John Hewitt, minister of Stepney parish, but their possessions also included for the most part articles which must have been imported. Major King left an estate valued at £629, consisting largely of imported furniture, household goods, and various kinds of hardware.<sup>10</sup> Mr. Hewitt left behind him a library worth £12; some broadcloth, serge, dowlas, holland, and other materials; five feather beds, three silver spoons, one silver cup, one pair of silver buckles, three pewter porringers, fourteen pewter spoons, and a pair of fringed gloves.<sup>11</sup> Probably all these articles came from England.

Even the inventories of poor men's estates contained such things as ozenbrigs,<sup>12</sup> iron pots, and brass kettles,<sup>13</sup> which were probably of foreign manufacture. It is quite clear, then, that the British and foreign manufactures brought into Maryland were varied in character and extent, ranging all the way from expensive luxuries to the commonest necessities of life, and that they were widely distributed throughout the province.

The amount and value of the goods thus imported varied considerably from year to year.<sup>14</sup> The total for Virginia and Maryland in 1699 was £205,078. os. 2½d.,<sup>15</sup> but this was unusually large, the average being about £135,000.<sup>16</sup> Of this amount Maryland probably received about one third, the equivalent of her share of the exports of the two colonies.

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<sup>10</sup> Inventories and Accounts, 19, f. 62.

<sup>11</sup> *Ibid.*, 16, f. 219.

<sup>12</sup> *Ibid.*, f. 60.

<sup>13</sup> *Ibid.*, f. 162.

<sup>14</sup> The imports seem to bear no immediate relation to the exports. That is, a small tobacco crop sent to England one year did not necessarily mean a proportionately meagre supply of manufactures imported the following year.

<sup>15</sup> Add. MSS. 29903, f. 1, British Museum.

<sup>16</sup> *Ibid.*, passim, ff. 1-17. The average is computed for the years from 1699 to 1715.

On the whole, it is no wonder that the English government was anxious that this trade should be preserved.

It is true that the value of the raw materials exported from Virginia and Maryland—most notably, of course, tobacco—generally exceeded the value of the English and continental imports.<sup>17</sup> The following list of imports and exports from 1699 to 1715 will show this clearly. As the list is from an English source, the words 'imports' and 'exports' used in the list are to be reversed when applied to the colonies. The figures show an excess of imports into England, that is, of exports from America.

THE IMPORTS AND EXPORTS COMPARED WITH THE EXCESS FOR EACH COUNTRY

For Virginia and Maryland

Year	Imports £.	Exports £.	Excess of Imports £.	Excess of Exports £.
1699	198,115	205,078	—	6,962
1700	317,302	173,481	143,821	—
1701	235,738	199,683	36,055	—
1702	274,782	72,391	202,391	—
1703	144,928	196,713	—	51,785
1704	264,112	60,458	203,654	—
1705	116,768	174,322	—	57,553
1706	149,152	58,015	91,136	—
1707	207,625	237,901	—	30,275
1708	213,493	79,061	134,432	—
1709	261,668	80,268	181,400	—
1710	188,429	127,639	60,790	—
1711	273,181	91,435	181,645	—
1712	297,941	134,583	163,357	—
1713	206,263	76,304	129,959	—
1714	280,470	128,873	151,597	—
1715	174,756	199,274	—	24,518 <sup>18</sup>

The principal export of the two colonies, however, paid heavy customs duties to the government, and much of it also was reexported to the Continent in manufactured form. So

<sup>17</sup> Sloane MSS. 2902, f. 171, British Museum, Report of the Lords of Trade and Plantations on the State of Trade in England.

<sup>18</sup> Add. MSS. 29903, ff. 1-17, British Museum. These figures have been compared with the Custom House Accounts, Ledgers of Imports and Exports, and with one or two unimportant exceptions have been found to correspond exactly.

even the mercantilist writers thought that the trade was enriching the kingdom, and laid no emphasis on the fact that the actual balance was against England.<sup>19</sup>

In Maryland there was not so much satisfaction manifested at the state of the trade. The amount of tobacco exported to England varied largely from year to year. The English merchants naturally were loath to import into Maryland and Virginia large quantities of British and foreign manufactures which in the event of a bad harvest might be left on their hands.<sup>20</sup> As there was no foreign competition, the merchants had the colonists completely at their mercy, and even in average years the supply of goods imported seems to have been barely adequate to meet the needs of the inhabitants. At times it certainly fell far below the average requisite amount. In the bad years complaints were frequent from both colonies that they were entirely dependent on these English imports, that the quantity they were receiving did not suffice to supply their needs, and that the dearth of manufactures was causing great distress in the country. In 1704, for instance, a scarcity of goods was reported.<sup>21</sup> The next year it was asserted in Virginia that, "the quantity of Goods and especially of Cloathing imported of late, not being sufficient for supplying the Country, Many of the Inhabitants, . . . have this last year, planted a considerable quantity of Cotton."<sup>22</sup> Governor Jennings of Virginia said in 1714 that the planters were "in the most want of Cloaths and the fewest Goods in the Country that I ever knew,"<sup>23</sup> and Governor Seymour of Maryland stated the whole case quite clearly to the Board of Trade, representing to them what he considered to be the pitiful condition of the planters.

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<sup>19</sup> J. Gee, *The Trade and Navigation of Great Britain Considered*, 6th ed., p. 20. In spite of the trade balance in their favor, Virginia and Maryland received very little actual coin from England, the difference probably being made up in the form of bills of exchange drawn on London to pay for slaves and goods bought from other colonies.

<sup>20</sup> Bruce, vol. ii, p. 336.

<sup>21</sup> C. O. 5: 1314, 21.

<sup>22</sup> C. O. 5: 1315, N. 8.

<sup>23</sup> C. O. 5: 1315, N. 89.



The people, said Seymour, "being in debt to the Merchants Consignees in England, they Send them little or no goods at all, most of the Shippes coming from London, upon freight, in their Ballast with their provisions only for the Voyage, So that many people here are almost starke naked, which has occasioned Some to turne their hands to manufacture of Linnen and Woollen, and if your Lordships in your Wisdome do not find out Some Expedient to have the Necessity of the Country relieved, by obliging the Merchants to Send Suppys, it may be of ill Consequence to the Revenue arising on tobacco, which will be in greate measure layd aside by Such who find they can have nothing for it."<sup>24</sup> One paper on the state of trade in Virginia and Maryland in 1714 even went so far as to assert, with considerable exaggeration, that the importation of English manufactures to those colonies had fallen off one half in recent years.<sup>25</sup> Clearly the colonies themselves were far from satisfied with the condition of their trade with the home country, and their supply of foreign goods, although perhaps large enough to please the authorities at home, did not suffice to meet colonial demands.

The colonial governors did not confine themselves to pleading the pitiful condition of the inhabitants. They went on to show that in their opinion this inadequate supply of goods would drive the colonists to manufacturing on their own account. Governor Nicholson warned the Lords of Trade in 1695 that if ships did not come from England "to fetch the Tobaccos, and bring a good quantitie of linnen and woollen, working Tools, and other necessarys, it may put the people upon cloathing themselves," but he said that if enough ships came with suitable cargo, "the planters will mind nothing but planting, and leave of other projects."<sup>26</sup>

<sup>24</sup> C. O. 5: 716, H. 41. The same reference is to be found in Archives, vol. xxv, p. 266. See also C. O. 5: 716, H. 22, H. 74.

<sup>25</sup> C. O. 5: 1316, O. 160.

<sup>26</sup> C. O. 5: 724, p. 198. Nicholson makes a somewhat similar statement in a letter to the secretary of state (C. O. 5: 719, 18, Bundle 3). Cf. also Sir Thomas Lawrence's memorial to the Lords of Trade, 1695 (C. O. 5: 713, 115).

The Virginians blamed the low price of tobacco for the lack of clothing, a lack which had "put them upon making diverse Manufactures themselves."<sup>27</sup> If the colonists were not clothed by English manufactures, they would learn to clothe themselves, and the demand for those English manufactures would soon cease entirely. That, at least, was the argument of the colonial governors.

Letters like these evidently lessened the satisfaction of English statesmen with the condition of the trade with the tobacco colonies at the end of the century. That the colonists might take to manufacturing and therefore compete with English goods was a most disconcerting suggestion. What a calamity it would be should Virginia and Maryland no longer provide an annual market for home and foreign products! The Commissioners of the Customs moved the disallowance of the Act for Ports in Maryland, on the ground that it would encourage manufacturing and prevent the due cultivation of tobacco.<sup>28</sup> The Board of Trade told the Maryland authorities that all manufactured articles ought to be sent from England.<sup>29</sup> It asked them where the people now got those manufactures with which the home country had formerly supplied them.<sup>30</sup> It promised to try to induce the merchants to send over enough to supply the colony at a reasonable rate.<sup>31</sup> When Governor Seymour complained that the importations were not large enough to answer the needs of his province, he was told that the merchants had been informed of his complaint and that the matter would doubtless be remedied, a statement repeated in 1708.<sup>32</sup> As a matter of fact these hopes for an adequate supply were not realized during the period of royal control in Maryland. Nevertheless, according to the English point of view, English imports must be protected even at the cost of colonial

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<sup>27</sup> Egerton MSS. 921, f. 9, British Museum, *The State of the Virginia Trade*, by Arthur Bayley, 1708.

<sup>28</sup> C. O. 5: 1316, O. 44.

<sup>29</sup> C. O. 5: 727, p. 112.

<sup>30</sup> Archives, vol. xx, p. 500; C. O. 5: 726, p. 437.

<sup>31</sup> Archives, vol. xxiii, p. 350.

<sup>32</sup> C. O. 5: 726, p. 472; C. O. 5: 727, p. 112.

interests. The merchants were to be urged to supply the demand, but even if they refused to do so the colonists were not to be allowed to manufacture for themselves, lest ultimately the market for English goods should be lost.

What meantime was the attitude in Maryland toward colonial manufactures? Had the colonial officials always consistently supported the British government in the attempt to forbid the development of colonial industry to meet colonial needs, or had their point of view changed with the arrival of the royal governors? How much inclined, also, had the province ever been to develop any real manufacturing on its own account? It may be said in answer to the first of these questions that while the proprietary government was in control in Maryland there was certainly no official discouragement of manufacturing on the part of the representatives of the proprietor, and little attention was paid to the opposition of England. Indeed, as in Virginia,<sup>33</sup> the colonial government was not averse to direct encouragement of home production. As early as 1662 an ordinance prohibiting the exportation of untanned leather was issued by the governor and Council for the encouragement of tanners,<sup>34</sup> and a statute to the same effect was passed in 1681.<sup>35</sup> In 1682 Maryland and Virginia both passed laws encouraging the making of linen and woollen cloth.<sup>36</sup> The Maryland act was renewed in 1688 at the instance of the Upper House of Assembly.<sup>37</sup> This house also asked for a grand committee to debate the question of promoting husbandry, the sowing of hemp and flax, the encouraging of the making of linen and woollen, and the encouraging of tradesmen to inhabit towns and carry on manufactures.<sup>38</sup> The policy of the colonial authorities during the proprietary period must therefore have been directly

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<sup>33</sup> Bruce, vol. ii, pp. 457-458.

<sup>34</sup> Archives, vol. iii, p. 457.

<sup>35</sup> *Ibid.*, vol. vii, p. 206.

<sup>36</sup> *Ibid.*, p. 324; Hening, vol. ii, p. 503.

<sup>37</sup> Archives, vol. xiii, p. 220.

<sup>38</sup> *Ibid.*, p. 169.

opposed to that of the home government. They considered that certain forms of industry would be distinctly beneficial to the colony, and did what they could to foster their development.

Enough has already been said to show that when the royal governors came to Maryland the policy of the executive fell into line with that of England. The governors told the inhabitants of the English objections to colonial manufacturing, informed the home government of the exact progress of different industries from year to year, and aroused the fears of merchants and manufacturers that colonial goods might at no far distant date compete with their own importations.<sup>39</sup> Apparently the Maryland Assembly followed the royal policy with reluctance, for at least one definite attempt to pass an act encouraging the planting of cotton, flax, and hemp was checked by the governor.<sup>40</sup> On the whole, however, the attitude of the executive forced the colonial government to support the home authorities, and prevented any legislation encouraging Maryland industries.

The second question with respect to the colonial attitude toward domestic manufactures remains to be answered. How far was Maryland at this time naturally inclined to develop home industries? Did the discouraging prohibitions of the British government and of the colonial authorities under its control really crush any incipient manufactures which might have increased the prosperity of the colony? Contemporary testimony all goes to show that Maryland had practically no incipient industries which, even if not interfered with, could have reached any considerable propor-

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<sup>39</sup> See Seymour's letter to England quoted above. Other letters from the different governors express similar fears.

<sup>40</sup> C. O. 5: 713, 115; C. O. 5: 1314, M. 62. Virginia had passed two sets of acts for the encouragement of manufactures, one establishing a premium on hemp, flax, or manufactured articles, and the other making these commodities legal tender for debt. The premium law was not in force between 1684 and 1693, nor after 1699, and the debt act during only part of this period (Hening, vol. ii, pp. 503, 506; vol. iii, pp. 16, 30, 50, 121). See also on the Virginia policy C. O. 5: 713, 115, and Colonel Jennings's statement that Virginia encouraged manufactures (C. O. 5: 1316, O. 7).



tions. In fact, both Virginia and Maryland were agricultural communities, primarily interested in the cultivation of their one staple, and they turned to any form of manufacture only with the greatest reluctance. Governor Nicholson's statement in 1695 that the planters cared nothing for manufacturing when the English ships brought in suitable cargoes has already been quoted.<sup>41</sup> He expressed a similar opinion to the secretary of state, that if no goods came the planters might clothe themselves, for "Necessity hath no law, and is the Mother of Invention."<sup>42</sup> The same paper on the state of the tobacco trade which commented on the ill effects of manufacturing said that the people of Maryland and Virginia took it up "out of Meere Necessity."<sup>43</sup> Governor Spotswood of Virginia was sure also that the colonists there manufactured more from necessity than from inclination.<sup>44</sup> A representation of the Virginia Council in 1713 complained of the pitiful state of the people, and said that some of them had already stopped raising tobacco and "betake themselves to Manufactures of Cotton, flax and hemp, which they would never have thought of, had tobacco but yielded them a living price."<sup>45</sup> Clearly the tobacco colonies would manufacture for themselves only when literally driven to it. They had discovered long before this that their economy was unfavorable to the development of any kind of manufacturing interests on a large scale,<sup>46</sup> and that at almost all times, in

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<sup>41</sup> See page 65.

<sup>42</sup> C. O. 5: 719, 18.

<sup>43</sup> C. O. 5: 716, H. 75; C. O. 5: 1316, O. 25.

<sup>44</sup> C. O. 5: 1316, O. 88.

<sup>45</sup> C. O. 5: 1316, O. 153.

<sup>46</sup> "In this province [Maryland], as well as in that of Virginia, the planters live mostly in separate situations and not in towns, for the convenience of the great number of rivers, and of creeks and in-lets of the great Bays of Chesapeak and Delawar, whereby they so easily convey their tobacco to the ships: so that in neither of those colonies are there as yet any towns of considerable bulk or importance. For the greater planters have generally storehouses within themselves, for all kinds of necessaries brought from Great Britain, not only for their own consumption, but likewise for supplying the lesser planters and their servants, etc.— And, whilst that kind of œconomy continues, there can be no prospect of towns becoming considerable in either province; which is so far a benefit

spite of temporary scarcities of British and foreign goods, it was on the whole to their own "economic advantage to produce tobacco, to sell it in England, and out of its proceeds to buy English manufactures."<sup>47</sup>

Naturally this does not mean that there was no manufacturing of any kind in the colony.<sup>48</sup> Thrifty housekeepers made coarse cloth to clothe their families, occasionally a venturesome inhabitant attempted to produce primitive articles of home manufacture for sale, and one or two small industries were developed in connection with the tobacco trade. Coopers and carpenters flourished in Maryland and Virginia where there was most need for their trades,<sup>49</sup> but the absence in the records of any mention of other kinds of artificers makes it probable that they were few in number.

Aside from carpentry, the most considerable activity of the inhabitants was that of spinning and weaving small amounts of wool, flax, or cotton for clothing, especially in the years when English imports were scarce. Such activity naturally developed on the individual plantations and not in any centre. The purely domestic form which this industry took is best shown by different reports from the colonies. Colonel Nott of Virginia wrote home that "Many of the Inhabitants, and more particularly in the Countys where they plant Aronoco tobacco, have this last year, planted a considerable quantity of Cotton, which they have manufactured with their wooll, for cloathing their famillys, and others have sowed Flax, and made Linnen."<sup>50</sup> The Council of Mary-

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to their mother country, as without towns, wherein home manufactures and handicrafts are generally first propagated, they must continue to be supplied from Britain with cloathing, furniture, tools, delicacies, etc." (A. Anderson, *An Historical and Chronological Deduction of the Origin of Commerce*, Dublin, 1790, vol. ii, p. 467).

<sup>47</sup> G. L. Beer, "The Commercial Policy of England toward the American Colonies," in *Columbia University Studies*, vol. iii, no. 2, p. 70.

<sup>48</sup> An answer to queries of the Board of Trade stated that only about one sixtieth of the inhabitants of Maryland did not plant tobacco (*Archives*, vol. xix, p. 540).

<sup>49</sup> See laws on coopers and gage of tobacco hogsheads in Maryland Assembly Records.

<sup>50</sup> C. O. 5: 1315, N. 8.

land told the Board of Trade in 1697 that the colony had no general supply of woollen manufactures except from England, although necessity had taught some of the inhabitants to use the native wool of the province for coarse stockings and clothing for servants and slaves.<sup>51</sup> Governor Seymour reported that "Pinching Want has put some few on making of a little Linnen and Woolen but not sufficient to Supply their owne familys."<sup>52</sup> In 1713 the Council of Maryland petitioned the Board of Trade for relief from poverty, and affirmed that "had not many people Applied themselves to Spinning the little wooll their Small flocks of Sheep afford, and likewise some Small Quantitys of Flax, they would have Suffered very much for want of Necessary Cloathing, which too many, not So carefull, and Industrious have woefully Experienced."<sup>53</sup>

Even this domestic form of manufacture, though it caused the English officials such needless apprehension, was confined almost entirely to the Eastern Shore. Hugh Jones wrote to England in 1698 that "We have little or no woollen or Linnen manufactures . . . (Except what is done in Somerset County over the Bay) because we are yearly Supplied from England w<sup>th</sup> necessaries."<sup>54</sup> Governor Nicholson stated that "Somerset County in this province (into which, about 10 or 11 year past came 6 or 700 of ye Scotch-Irish from Ireland) doth allredy well nigh cloath ymselves, and others: and ye next County learns of ym."<sup>55</sup> Thus it was practically only in the places farthest removed from the British sources of supply that cloth-making developed to any marked extent, and even there it was of such small proportions and so purely domestic that the English Wool Act of 1699<sup>56</sup> had no effect upon it.

<sup>51</sup> Archives, vol. xix, p. 540.

<sup>52</sup> C. O. 5: 716, H. 74.

<sup>53</sup> C. O. 5: 717, I. 75.

<sup>54</sup> Royal Society, Letter Book, I, i, 183.

<sup>55</sup> C. O. 5: 714, 25 (iii); C. O. 5: 716, H. 74; Archives, vol. xix, p. 542.

<sup>56</sup> 10 William III, c. 16.

The only other industry which was large enough to find a place in the records of the period was that of tanning leather and making shoes. The exportation of untanned leather was prohibited by ordinance in 1662 and by statute in 1681, 1692, and 1712.<sup>57</sup> An attempt was made in 1695 to improve the quality of leather tanned in the province, but apparently nothing was accomplished.<sup>58</sup> Aside from these laws, statements with regard to the making of shoes are rare. In the session of 1695 the Lower House of Assembly thought it advisable that tanners be obliged to make shoes of a certain amount of durability.<sup>59</sup> Governor Seymour at one time remarked, "As to Manufactures here they are inconsiderable Shoes being the Chiefest, and those not to be had but at farr dearer rates then from Great Brittain."<sup>60</sup> Tanning and shoemaking and the manufacture of linens and woollens were the only industries considered worthy of mention by Governor Andros of Virginia.<sup>61</sup> Since these are the only references on the subject during the period of royal government in Maryland, it is evident that the inhabitants preferred on the whole to import their shoes as well as other manufactured articles from England.

As early as 1720 Governor Hart of Maryland reported that there was a great quantity of iron ore in the province but that it was not worked for want of skilled labor.<sup>62</sup> The development of the iron mines at the head of Chesapeake Bay was begun about ten years after this date.<sup>63</sup> The industry was exploited by a company of English merchants who sent over managers and set up a forge at Principio. This company seems to have made little money at first, although mention is made in a letter of sixteen tons of pig

<sup>57</sup> Archives, vol. iii, p. 457; vol. vii, p. 206; vol. xiii, p. 496. The act of 1692 expired in 1695, and there was no further legislation on the subject until 1712 (*ibid.*, vol. xxix, p. 191).

<sup>58</sup> *Ibid.*, vol. xix, p. 183.

<sup>59</sup> *Ibid.*

<sup>60</sup> C. O. 5: 716, H. 74.

<sup>61</sup> C. O. 5: 1309, 24.

<sup>62</sup> C. O. 5: 717, I. 106.

<sup>63</sup> Papers Relating to America, Carew Papers, 1725-1775, in Add. MSS. 29600, British Museum.



iron shipped on one vessel; in 1736 the company evidently feared competition from some new mines on the Patapsco which had already secured a good reputation for their iron. The detailed history of this industry belongs to a later time.

During the period of royal government, moreover, there is not a single record of the export from Maryland of articles of native manufacture.<sup>64</sup> It is clear that in this period the colony developed no industries either for home use or for export that could cause any immediate anxiety even to the most zealous royal governor.

Before passing to the discussion of minor imports it seems necessary to mention another problem to which the trade in British imports gave rise. Although the occasional scarcity of British manufactures and of European goods and the consequent suffering of the people did not tempt the inhabitants to manufacture for themselves, they gave rise to an acrimonious controversy with Pennsylvania over the subject of European goods which increased the already strained relations with that colony. The Maryland government thought that it was bound to keep all imported foreign commodities in the province. Consequently every precaution was taken to prevent the reexportation of European goods. The principal offenders against this policy were the merchants of Pennsylvania, who imported considerable amounts of foreign goods through Maryland and so lessened the quantity of such articles remaining to be sold in the latter colony.<sup>65</sup> The bill passed by the Maryland Assembly in 1695 imposing a duty of ten per cent on all European goods exported from the province was particularly meant to affect the Pennsylvania traders, as Virginians seem to have been exempted from the law.<sup>66</sup> William Penn, who naturally resented this

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<sup>64</sup> This statement is based on the Ledgers of Imports and Exports from the Custom House Accounts. The only possible exception to the general statement is the record of the export of a few hats from Virginia or Maryland to England. These may have been, but more probably were not, of native manufacture.

<sup>65</sup> C. O. 5: 1257, 6 (xi).

<sup>66</sup> Archives, vol. xix, pp. 238, 487.

discrimination against his colony, protested to the Board of Trade that the duty was imposed even on goods consigned through to Pennsylvania, his merchants thus being denied the "freedom of the Kings highways."<sup>67</sup> The merchants complained even more bitterly to Governor Nicholson because articles consigned to them had been held in Maryland to pay the duty.<sup>68</sup> The Maryland Assembly, evidently acting upon the theory that the law was intended to apply to just such cases, refused to allow the goods to pass.<sup>69</sup> Upon this decision a Pennsylvanian wrote to William Penn: "It not strange if Maryland endeavours the Subverting yo<sup>r</sup> Gov<sup>er</sup>mt since they Soe Publiqly show their disaffection to the Place by laying an Imposition of 10 p ct upon all Euro-  
pian Commodities imported through their Country Though a Pennard thereof be not exposed to Sale in their Province nor a Penny benifit rec'd from them."<sup>70</sup> Penn wrote again to the Board of Trade urging that Governor Nicholson should be instructed not to execute the law in Maryland, and implying that he knew it was about to be repealed by the English government.<sup>71</sup> Apparently the law was not repealed, however, and the Maryland Assembly in 1698 manifested its intention of continuing it in force.<sup>72</sup> Contrary to expectations this measure did not prevent the reexportation of European goods to neighboring provinces, but it did secure to Maryland a small revenue from the duty. Sometimes as much as £400 or £500 was collected on one consignment, and these consignments continued to go for the most part to Pennsylvania.<sup>73</sup>

<sup>67</sup> C. O. 323: 2, 50.

<sup>68</sup> C. O. 5: 1257, 6 (x).

<sup>69</sup> Archives, vol. xix, p. 487.

<sup>70</sup> C. O. 5: 1257, 4.

<sup>71</sup> "And I begg, that since the law of 10 p ct, is returned to ye Att. Gen<sup>l</sup> after reported injurious to Trade, by w<sup>ch</sup> means, the fleet proceeding in few days, we may be lyable to ye great oppression in Maryland, It would please the Lords to Intimate to Gov<sup>r</sup> Nicolson that he forbear yt practice upon us, because the law will not have the Kings approbation here" (C. O. 5: 1257, 3).

<sup>72</sup> Archives, vol. xxii, p. 41; C. O. 5: 741, p. 497.

<sup>73</sup> An Additional Account Taken from the Originalls from the year 1695 to 1698, in C. O. 5: 749. Accounts of the duty on re-exported European goods occur more frequently in the lists from Cecil County, which would indicate that it was to Pennsylvania that the bulk of the export was made.

It may have been because the law was not accomplishing its main purpose of stopping the trade that a new act concerning reexported goods was passed in 1706.<sup>74</sup> The exportation of European goods was entirely prohibited, although articles consigned directly to Pennsylvania as well as those consigned to Virginia could be sent through the province without paying duty. Possibly the representations of Penn and of his merchants had had their effect on the Board of Trade and Maryland had been directed to change her law, although no such instruction from England has been preserved.<sup>75</sup> This measure was probably directed more against the traders of New England than against those of Pennsylvania.<sup>76</sup> Their course of trading Governor Seymour described as very prejudicial to his colony. "And our diligent Neighbours the New England men, against which this Law is Leveled, for ffish Rum and Wooden Ware take the Oppourtunity of purchasing Considerable Quantitys of our Tobaccco, and leave the same Ready against the Outport Vessells come in, (being the only Trade that Supply us with Goods, now, the London Shippes generally coming Empty) to purchase whole Shippes loadings, which they immediately Export to New England, to the great Disappointment, and Dissatisfaction, of our Gaping Planters; The merchants being willing to Deale where they can purchase their full Cargoe rather than Stragling Hogsheads."<sup>77</sup> Although this may have been true, the

<sup>74</sup> Archives, vol. xxvi, p. 631.

<sup>75</sup> At this time the Privy Council could and frequently did disallow laws passed by the Maryland legislature, as, for example, the laws for the establishment of the church, which were rejected no less than three times (Privy Council Register, 76, pp. 253, 254; 77, p. 396; 78, p. 136). The Board of Trade, therefore, could have brought pressure to bear on the colony for a change in any law of which it did not approve.

<sup>76</sup> Archives, vol. xxvi, pp. 572, 573. At this time the committee on grievances in the Lower House of Assembly considered it a grievance that the Pennsylvania traders still exported from Maryland "most of the European goods imported here." The House itself, however, considered this no grievance, so the state of affairs was probably much exaggerated. The law would cover all goods reexported to Pennsylvania unless actually consigned from England to that province.

<sup>77</sup> C. O. 5: 716, H. 22.



Assembly soon found that the embargo did not so much serve to keep goods in the country as to hamper the trade with England, and the following year the law was repealed.<sup>78</sup> This ended all legislative attempts to prohibit the exportation of British and foreign products from Maryland.

Many merchants and sea-captains trading in the province found it profitable to import white servants, for whom there was a continuous demand. In earlier days prospective colonists themselves imported servants, basing their claims to land on the number brought over at their own expense, but this practice had ceased. The transportation of white servants had become a regular business between planter and merchant,<sup>79</sup> and large numbers were annually imported from England and Ireland. A discussion of the total number of these white servants in the colony, their proportion to the freemen and to the negroes, their economic status, and so forth, does not come within the limits of this paper. In order, however, to find out the extent of Maryland's import trade, it is desirable to ascertain if possible the number of servants annually imported into the colony and the consequent importance of this branch of the trade with England.

It is well known that from the first settlement of Maryland white servant labor played a very important part in its development. An abundance of cheap labor was absolutely necessary to cultivate tobacco. This was true throughout the seventeenth century, and, in spite of the fact that negroes were beginning to be imported to some extent from Africa,<sup>80</sup> white servant labor was still the primary economic factor of plantation life during the period of royal government. It is clear, therefore, that the importation of servants was an

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<sup>78</sup> Archives, vol. xxvii, pp. 39, 156. The governor and the Council stated that "the Act of Assembly against the Exportation of European Goods is Experienced since the short Time it has been in force, to be a great discouragement to the Trade of Import, which is Diverted thereby from this Province & carried directly to other Ports. Whereas this Country would be the Port of Trade for such Vessels therefore advise it be repealed."

<sup>79</sup> E. I. McCormac, "White Servitude in Maryland," in Johns Hopkins University Studies, vol. xxii, pp. 124-133.

<sup>80</sup> *Ibid.*, p. 145.



essential feature of the English trade to the tobacco colonies. They were brought over in various ways, either signing an indenture before leaving England, or being transported by ship-captains without any indenture, to be sold to pay for their passage upon reaching the colony. It is well known that the trade was a prosperous one, but it has proved almost impossible to get an accurate account of its extent for more than one or two years between 1689 and 1715. In 1698 Governor Nicholson told the Board of Trade that the number of servants imported that year was about five or six hundred, and again he put the number at between six and seven hundred.<sup>81</sup> A compilation of scattered figures in various revenue lists from 1696 to 1698 gives the figures for white servants imported into the province as follows: 1696, 625; 1697, 353; and 1698, 703.<sup>82</sup> It is possible that the figures for 1697 are incomplete, in which case Nicholson's estimate would not be far wrong. In 1708 there are supposed to have been three thousand and three servants in Maryland.<sup>83</sup> If they came in under a four-year indenture, this would mean an annual importation of about seven hundred and fifty; if the agreement was for five years, the number would be nearer six hundred. Probably it varied during the period of royal government somewhere between these two figures. Every white servant brought into the country sold at a price ranging between £15 and £20,<sup>84</sup> which paid the cost of passage and must also have given a considerable commission to the importer. A sufficient number of servants was annually sold in Maryland to make the trade comparatively profitable, and many of the English ships, especially those from the outports, landed white servants in the province.

Although the constant importation of white servants of all kinds was extremely valuable to the tobacco planters,

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<sup>81</sup> Archives, vol. xxiii, p. 498; C. O. 5: 714, 47, B. 35.

<sup>82</sup> These figures are compiled from the Naval Office Lists for 1698 (C. O. 5: 749), and from some general revenue accounts in Maryland to be found principally in the same volume.

<sup>83</sup> Archives, vol. xxv, p. 258.

<sup>84</sup> McCormac, p. 154.

some slight attempt was made to regulate their quality and even to restrict their number in the larger interests of the colony itself. The presence of English convicts in Maryland was regarded as a distinct menace to colonial welfare, and as early as 1676 a law was passed forbidding their importation as servants.<sup>85</sup> This law, although renewed in 1692,<sup>86</sup> seems to have been ineffective, largely because it was against the policy of the home government. In the latter part of the eighteenth century Maryland certainly received large numbers of convict laborers.<sup>87</sup> In 1699 the Protestant government in the colony viewed with disfavor the importation of Irish Catholic servants as a danger to the new Establishment, and a law was passed laying a heavy duty on all such servants, "to prevent too great a number of Irish Papists in the colony."<sup>88</sup> This law, twice renewed under Governor Seymour,<sup>89</sup> an especially vigorous supporter of the Establishment and opponent of Roman Catholicism, lessened the number of Irish servants in the province, but did not entirely prevent their importation.<sup>90</sup> A duty was also levied in 1696 on all white servants imported; but its object was not to prohibit the trade, but to secure a revenue for the province.<sup>91</sup> On the whole, the efforts to regulate the character of servants imported were but sporadic and not very effective. The number of laborers received was apparently not seriously affected by any adverse legislation during the twenty-five years of royal government, and remained pretty constant throughout the period. White men and women servants, therefore, formed a continuous if a minor import from the home country to the colony.

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<sup>85</sup> Archives, vol. ii, p. 540.

<sup>86</sup> *Ibid.*, vol. xiii, p. 539.

<sup>87</sup> McCormac, chapter viii.

<sup>88</sup> Archives, vol. xxii, p. 497.

<sup>89</sup> *Ibid.*, vol. xxiv, p. 416; vol. xxvi, p. 289; vol. xxvii, p. 371.

<sup>90</sup> McCormac, p. 142. In 1708 Governor Seymour stated to the Board of Trade that few white servants were imported from England and that most of these were women, while several men as well as women came from Ireland (C. O. 5: 716, H. 74).

<sup>91</sup> Archives, vol. xix, p. 167.

The most important product of foreign countries brought into Maryland was the negro. Negroes were imported in increasing numbers to supply the demand for laborers in the tobacco fields. By the time of the first royal governors they were beginning to form a considerable factor in labor conditions in the colony, although they were comparatively few in number until the early part of the eighteenth century.<sup>92</sup> Most of the negroes at this time seem to have been brought directly from the Guinea coast, although a few came from the West Indies or the neighboring colonies.<sup>93</sup> The amount and value of this annual importation must be considered. In the spring of 1698 Governor Nicholson reported that there were expected in the colony that summer between four and five hundred negroes;<sup>94</sup> in August he gave the number for the year as four hundred and seventy odd, three hundred and ninety-six of them being from Guinea.<sup>95</sup> Between 1699 and 1707 the annual number imported was somewhat smaller, as the following list will indicate:—

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<sup>92</sup> J. R. Brackett, *The Negro in Maryland*, in *Johns Hopkins University Studies*, extra volume vi, p. 38.

<sup>93</sup> Governor Seymour wrote at one time to the Board of Trade that before 1698 the Maryland planters were supplied with negroes from Barbadoes and other of the queen's plantations, such as Jamaica and New England, in small lots of six, seven, eight, nine, ten in a sloop; and that whole shiploads from Africa were seldom received. Since that date trade had improved and, from the context of his letter, was presumably largely conducted by London ships directly with the African coast (C. O. 5: 716, H. 91). In another letter he says that there was in Maryland "a considerably Quantity of Negroes from Gambo and the Gold Coast besides the Country Natives grown up" (C. O. 5: 716, H. 74).

<sup>94</sup> C. O. 5: 714, 47, B. 35.

<sup>95</sup> Archives, vol. xxiii, p. 498. It is recorded elsewhere that in 1698 one man brought into Annapolis 423 negroes (C. O. 5: 749, Account of the Country Duty arising on the Western Shore in Maryland in 1697 and 1698. See also Archives, vol. xxii, p. 160), and that 40 or 50 negroes were imported into Patuxent (Archives, vol. xxii, p. 160). These figures would make Nicholson's account for the year an understatement of the actual numbers.

Date	Name of Ship	Port of Departure	Number
May 2, 1699	Hopewell Jacob	London	86
July 20, 1699	African Galley	"	76
August 9, 1699	Fairfax	"	190
July 20, 1700	John Hopewell <sup>96</sup>	"	320
October 7, 1701	Betty Galley	"	64
July 4, 1702	Endeavour	"	49
July 4, 1702	Hunter Galley	"	152
Sept. 4, 1702	Providence	"	136
July 13, 1703	Pinck Mary	Barbadoes	55
June 11, 1704	Dolphin	London	200
July 2, 1705	Brigantine Dorset	"	131
July 9, 1705	Olive Tree	"	150
August 11, 1705	Brigantine Adventure	"	90
August 11, 1705	Sloop Swallow	Barbadoes	71
July —, 1706	Olive Tree	London	163
August 4, 1707	Young Margaret	"	265
August 11, 1707	Brigantine Adventure	"	92 <sup>97</sup>

In 1708 the number had again increased, amounting to six hundred and forty-eight negroes imported in six invoices, presumably from Africa, in London ships.<sup>98</sup>

These are the only exact figures obtainable of the importation of negroes. The whole number found in Maryland during the period increased considerably, a fact which must be partly due to an increase in the number annually imported. There were in Maryland in 1704, 4475 negroes, in 1708, 4657, in 1710, 7945, in 1712, 8408,<sup>99</sup> and by 1720 as many as 25,000.<sup>100</sup> From these statements it may be ascertained in general that the annual importation was comparatively stationary between 1699 and 1708; that for some reason the number increased between 1708 and 1710; and that a far greater increase took place after 1712, undoubtedly the effect of the Treaty of Utrecht and the Asiento in 1713.

The trade was decidedly profitable. The demand for

<sup>96</sup> The master of the John Hopewell was Captain Munday, of whom Governor Blakiston made mention in a letter, "I having an acc<sup>t</sup> of his bringing in 300 Negroes" (C. O. 5: 715, 8, D. 35).

<sup>97</sup> C. O. 5: 716, H. 92. From a list sent over in Governor Seymour's letter of 1708.

<sup>98</sup> C. O. 5: 716, H. 93. Again from a list given in Seymour's letter.

<sup>99</sup> Archives, vol. xxv, pp. 256-259. The president of the Council in 1710 reported a great increase in the number of negroes in Maryland (C. O. 5: 717, I. 46).

<sup>100</sup> C. O. 5: 717, I. 106.



cheap labor became greater as more land was settled, and slaves always commanded a good price. There is a record in 1695 of two negroes from Barbadoes who were worth respectively 7600 and 10,000 pounds of tobacco, or about £31 and £41 sterling.<sup>101</sup> A male negro in 1708 brought about £30 and a female £25 or £26,<sup>102</sup> which were the prices asked in Virginia at the time.<sup>103</sup> A skipper who imported a cargo of two or three hundred negroes was sure of a good round profit from his venture, even after allowing for the cost of the passage from the African coast.

Maryland imported almost nothing else of appreciable value from foreign countries.<sup>104</sup> A single exception must be made of wines brought from Madeira and the Azores. Although a considerable part of the colonial supply of wines and spirits undoubtedly came from England,<sup>105</sup> there was a direct trade with these islands large enough at least to deserve mention. Hugh Jones in his letter home in 1698 wrote that "we have wine brought us from Madera and Phiol and rum from Barbadoes bear Mault and Wines from England."<sup>106</sup> The author of the *Narrative of a Voyage to Maryland* on his way home from the colony fell in with a sloop in distress: "shee was come from Fiall butt was of New England Called the providence of Boston and Bound for Mariland Loaden with wine, shee had bin out nine weekes from Fyall."<sup>107</sup>

<sup>101</sup> Archives, vol. xx, p. 227.

<sup>102</sup> C. O. 5: 716, H. 91.

<sup>103</sup> Bruce, vol. ii, p. 90.

<sup>104</sup> There are one or two references to a trade with Lisbon. This trade, however, was one from which the colonial vessels brought back no foreign commodities, but received actual coin in exchange for the corn which they exported in small quantities (C. O. 5: 717, I. 106). In 1697 a letter from the Commissioners of the Customs in England to the governor of Maryland warned him that a certain Captain Rodgers had lately sailed from a Scottish port with a cargo of linen and other commodities for Maryland (Archives, vol. xxiii, p. 328). This was only a single case, however, and had no real significance in the economy of the province.

<sup>105</sup> The revenue accounts (C. O. 5: 749) give the duties on large amounts of rum, spirits, wine, and beer, but it is clear from the context that most of these liquors came from England or the English plantations.

<sup>106</sup> Royal Society, Letter Book, I, i, 183.

<sup>107</sup> Sloane MSS. 2291, British Museum.

Governor Seymour informed the Board of Trade in 1708 that wine, rum, sugar, molasses, and salt came from the Azores, the West Indies, Latitudes, and Providence, but that a small quantity sufficed the colony.<sup>108</sup> Governor Hart at the end of his administration wrote that Maryland traded with no foreign "plantation" except with Madeira for wine.<sup>109</sup> These casual references, which are all that can be found on the subject, indicate that there was some direct importation of various kinds of spirits from the islands, but imply that it was small in extent. Importation from other places would for the most part have been contrary to the provisions of the Navigation Acts.

Maryland imported some goods from the other English colonies. The nature of the trade can be ascertained from the records, but it is impossible to give the amount of each separate commodity or even a rough estimate of the total. From the island colonies, and perhaps even directly from the Campeachy coast,<sup>110</sup> the province at this time was certainly receiving some rum, sugar, molasses, dye woods, indigo, and a little ginger and cacao.<sup>111</sup> The last four articles on the list seem often to have been reexported to England.<sup>112</sup> Vessels from New England, too, often imported rum, sugar, and molasses which they had secured through the West Indian trade.<sup>113</sup> In addition to this, New England and New York merchants brought in some food-stuffs,—beef, pork, peas, flour, biscuits, malt, butter, and cheese,<sup>114</sup> also fish and woodenware, although the importation of the last-named article fell off at the end of the century.<sup>115</sup> The fact that

<sup>108</sup> C. O. 5: 716, H. 74.

<sup>109</sup> C. O. 5: 717, I. 106.

<sup>110</sup> The trade was in all probability not directly with this coast, but through Jamaica.

<sup>111</sup> C. O. 5: 1309, 24; C. O. 5: 716, H. 74; C. O. 5: 1316, O. 25; C. O. 5: 717, I. 106.

<sup>112</sup> Custom House Accounts, Ledgers of Imports and Exports, vols. i-xvi, Imports from Virginia and Maryland.

<sup>113</sup> C. O. 5: 1264, p. 90; C. O. 5: 1316, O. 25.

<sup>114</sup> Add. MSS. 28089, f. 16, British Museum; C. O. 5: 1309, 24. See also earlier references.

<sup>115</sup> Archives, vol. xix, pp. 511, 516, 540, 542, 543, 580, 583; C. O. 5: 716, H. 22.

toward the close of the century Pennsylvania was sending to Maryland, usually by land, some rum, beer, and sugar, considerable quantities of flour and bread, and a number of horses, was regarded by the people of the colony as a grievance, because the exchange was often made in money or European goods which they were loath to lose.<sup>116</sup> After 1704 the importation from Pennsylvania of bread, beer, flour, malt, wheat, grain, horses, and tobacco was prohibited by law.<sup>117</sup> On the whole, in spite of the limited importation from Pennsylvania before 1704, Maryland during this period was self-supporting and received little in the way of food-stuffs from any of the other colonies. Such commodities as were imported—and small colonial vessels were somewhat frequently to be found in the ports of the province—consisted very largely of rum, sugar, and molasses, and to a much smaller extent of fish and woodenware.

The results reached in this chapter may be summarized. By far the largest class of imports were the native manufactures sent from England and European goods reexported from the home country to Maryland in English ships. Not only was it natural that a colony exporting raw materials solely to England should thus receive in return British manufactured goods, but the exchange was also consistently

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<sup>116</sup> C. O. 5: 1309, 24; C. O. 5: 1257, 4; C. O. 5: 740, p. 335.

<sup>117</sup> Archives, vol. xxvi, p. 314; vol. xxvii, pp. 172, 574; vol. xxix, pp. 238, 310, 328; vol. xxx, p. 226. In 1709 the law was repealed temporarily in order to relieve a scarcity with Pennsylvania food-stuffs, but this lasted for only one year (Archives, vol. xxvii, p. 482). Governor Seymour commented at some length on the reasons for the law of 1704. "The Designe of this Act was to prevent the mischief our neighbouring provinces use ag<sup>t</sup> us in drawing away all our Moneys which they have a long time Practic'd to the great Detriment of this poore Country who have most industriously pursued the making of tobacco and neglected even necessary Tillage So that while Tobacco bore a price in England wee had money in England worth the reaching Contrivance of our Neighbour to gripe at which they have so effectually done that this province trusting to their Manufacture of tobacco have overdrawne themselves in England and the pensilvanians who have traded upon a Certainty got many of this province into their Debts—The Generall prohibition I Confess is not so regular and it had been better to have laid a large duty but this province stands on the Levell with other her Maj<sup>ty</sup>s Governments in America" (C. O. 5: 715, G. 25, 1705 bundle).

avored by British statesmen as furnishing a market for their own products. Nevertheless, although the amount was large and was widely distributed throughout the province, the colony generally exported more than it received in return, and in some years the imports from England were not large enough to satisfy the real needs of the people. Under these circumstances the officials feared lest the colonists might begin to manufacture for themselves, but this did not prove to be the case, the colony developing no forms of manufacture that could rival those of the mother country. Great Britain also supplied Maryland with white labor, the trade in indentured servants forming a considerable feature of the importations. The chief commodities received from foreign countries were negroes from Africa, who were brought over in annually increasing numbers, and island wines, which were a steady but always a minor feature of colonial trade. From the other British possessions were received practically only West Indian products, rum, sugar, and molasses, and very small quantities of food-stuffs. Taken all in all, the British imports were so varied in kind and so extensive in amount that they well nigh precluded the necessity of drawing upon other sources.



## CHAPTER III

### TRADE ROUTES AND ILLICIT TRADE

The production of tobacco, which was one of the enumerated commodities, and which had therefore to be sent directly to England or to English colonies,<sup>1</sup> was largely responsible for the fact that Maryland trade was almost exclusively with England. A rough estimate of the total number of ships concerned in this trade may be made for the years 1689 to 1701,<sup>2</sup> as follows:—

Year <sup>3</sup>	Number	Year	Number
1689	10-14 <sup>4</sup>	1696	60
1690	49-52	1697	79
1691	15-16	1698	73
1692	81-89	1699	98
1693	56-59	1700	48
1694	44-47	1701	52
1695	71		

<sup>1</sup> As early as October 24, 1621, Virginia was forbidden to send tobacco elsewhere than to England (Acts of the Privy Council, Col. vol. i, p. 48). A royal proclamation of September, 1624, strongly implied that the colonists were to bring their entire product to England (Rymer, vol. xvii, p. 621), though the statement was not expressly made until the substance of the proclamation was repeated in March, 1625 (ibid., vol. xvii, p. 668). Mr. Osgood says with regard to the earlier proclamation that "though this proclamation lapsed with the death of James I, its principles were adhered to, and in later orders express reference was made to its contents as embodying valued ideas and precedents" (vol. iii, p. 197). The Navigation Act of 1660, by placing tobacco on the list of enumerated commodities, made its export to foreign countries definitely illegal. How far this prohibition was effective in Maryland will be seen later.

<sup>2</sup> This estimate is made up from figures obtained from C. O. 5: 749, *passim*, and from a list of ships entering Maryland, to be found in the Archives, vol. viii, p. 236.

<sup>3</sup> From 1689 to 1691 the figures are based on a computation from both C. O. 5: 749, for Pocomoke District and Archives, vol. viii, p. 236, for Patuxent District. In 1692 the Archives list runs only to September, so is manifestly incomplete.

<sup>4</sup> In making up these figures the port from which the ship sails, in every case where it is given, is taken in preference to that for which it is bound. Where two figures are given for a year it indicates that the place of ownership of several ships is not stated,

Evidently the number of vessels participating in this trade varied considerably from year to year. The largest number in any one year was ninety-eight, and the average number, made up from the years when the lists are more nearly complete, 1692 to 1699, was seventy-two.<sup>5</sup>

No pretense at a complete record of Maryland shipping can be made for the later years, but some information on the subject can be compiled from one or two scattered accounts of fleets leaving Virginia and from the more or less vague remarks of different men in the two provinces. Governor Nicholson wrote to the Board of Trade in July, 1702, that a fleet of one hundred and fifty sail was just about to go through the Capes, leaving few or no ships in Virginia and not many in Maryland.<sup>6</sup> Virginia has preserved lists of two fleets leaving the colony in 1703, with a total of one hundred and seventy-eight vessels ready to sail, eleven more being delayed for a few weeks,<sup>7</sup> and a list of 1704 of one hundred and twenty-six vessels.<sup>8</sup> A paper written on the state of the tobacco trade in 1708 makes the statement that the trade employed annually two or three hundred ships.<sup>9</sup> If Maryland's exports were about thirty-six per cent of the total for the two provinces, her share of the combined fleet annually

although the probability is that they were from English ports. If they are counted, the larger figure is correct for each year.

<sup>5</sup> The years 1700 and 1701 are incomplete, as no account can be found for Potomac District. This would explain the discrepancy between these figures and those of earlier years. The record quoted in Chapter I, page 35, also gives the number of English and plantation ships leaving Maryland between 1690 and 1701. This account is no more accurate than that of exported tobacco, but it may be compared with the figures for English vessels given above and for plantation ships on pages 110-113.

Period	English	Plantation
1690-Feb. 1691/92	14	9
1692-one half 1693	14	15
1693-1694	52	30
1694-1696	96	36
1696-1698	91	14
1698-1700	112	7
1700-one half 1701	68	5

C. O. 390: 6, p. 145.

<sup>6</sup> C. O. 5: 1312, 40.

<sup>7</sup> C. O. 5: 1313, 35, 36.

<sup>8</sup> C. O. 5: 1314, 22 (ii), 22 (v), L. 38.

<sup>9</sup> Egerton MSS. 921, f. 10, British Museum.

concerned in the tobacco trade could not have been much over one third, or considerably fewer than one hundred ships, a fact which will bear out the more exact estimate of the Maryland fleets by themselves, made from 1689 to 1701. Nevertheless, the list of ships clearing from English ports for Maryland for the years from 1714 to 1716 inclusive must manifestly be incomplete unless the trade had seriously retrograded, which was not the case. Only thirty ships were so recorded in 1714, thirty-four in 1715, and forty-four in 1716.<sup>10</sup> But as soon after this as 1720 Governor Hart estimated that about one hundred sail of ships came annually from Great Britain into the colony.<sup>11</sup> On the whole, the total number of vessels trading yearly between Great Britain and Maryland during the twenty-five years of royal government could never have exceeded one hundred, and probably averaged, according to the figures presented above, from seventy to seventy-five.<sup>12</sup>

London was evidently the chief center for the tobacco trade in England, as it was from there that the largest number of ships came. It is certain<sup>13</sup> that there were in the plantation between 1689 and 1701 at least the following ships from the chief English seaport:—

Year	Number	Year	Number
1689 <sup>14</sup>	1	1696	23
1690	19	1697	54
1691	7	1698	36
1692	39	1699	57
1693	32	1700	31
1694	14	1701	34
1695	41		

<sup>10</sup> C. O. 390: 8, An Account of Ships cleared from English ports.

<sup>11</sup> C. O. 5: 717, I. 106.

<sup>12</sup> The constant complaint from the colony of lack of adequate shipping to carry away the annual crops would seem to indicate that these figures did not materially increase throughout the whole period of royal government. Governor Hart, even as late as 1720, may still have been expressing himself in round numbers, well outside the actual facts of the case.

<sup>13</sup> In reckoning the ports from which ships sailed the larger figures given in the earlier list cannot be used, as there is no way of telling from what port in England a vessel sailed, although its English ownership in general may be almost certain.

<sup>14</sup> These figures are compiled from the volume already used to ascertain the total number of ships in the colony, C. O. 5: 749.

The average number of vessels sailing from London to Maryland annually, therefore, is found to be thirty-seven.<sup>15</sup> Their tonnage ran from fifty to three hundred and sixty tons, the average being one hundred and seventy tons. These ships were usually described as "square-sterns" or "ships" as distinguished from brigantines, ketches, or sloops.

The outports concerned in the tobacco trade were chiefly the seaport towns in the west or southwest of England,<sup>16</sup>—Liverpool, Chester, Bristol, Barnstaple, Bideford, Plymouth, Dartmouth, Lyme, Weymouth, and Exeter, although Whitehaven also sent several vessels nearly every year to Maryland, and scattering ships came not infrequently from Workington, Newcastle, Stockton, Scarborough, Hull, Colchester, and Deal.<sup>17</sup> Whitehaven, Liverpool, Bristol, Bideford, and Plymouth were the most important towns. The total number of outport ships coming into the colony annually between 1689 and 1701 averaged as high as thirty-three,<sup>18</sup> the number varying, however, considerably from year to year.

Year	Number	Year	Number
1689	9	1696	38
1690	30	1697	24
1691	8	1698	37
1692	39	1699	42
1693	24	1700	17
1694	30	1701	18 <sup>19</sup>
1695	30		

Almost as many vessels, therefore, came to Maryland from the outports as from London, but they were almost all smaller in size, the largest being not over two hundred and fifty tons, and the average not over eighty. It will be shown that several of these ships were built and owned in the colony.

<sup>15</sup> As in the earlier list, the average is made up from the years 1692-1699, in order to obtain what is probably a more accurate result.

<sup>16</sup> C. O. 5: 716, H. 74.

<sup>17</sup> C. O. 390: 8; C. O. 5: 749. Governor Nicholson remarked in one of his letters home that "North and West Country Vessels" came to Maryland (C. O. 5: 719, Bundle 4, no. 12).

<sup>18</sup> This average is also made for the years from 1692 to 1699 inclusive.

<sup>19</sup> C. O. 5: 749.



Every year, then, while the royal governors were in Maryland, an average of seventy ships arrived from England to receive their lading of 25,000 hogsheads of tobacco. For the most part these ships obtained cargoes from the Western Shore districts, Annapolis, Patuxent, and Potomac, as comparatively little tobacco was sent home from the Eastern Shore.<sup>20</sup> The tobacco exported was not always loaded directly on the larger ships, except when the plantation shipping the staple lay near where the vessels had anchored. Sloops were usually sent to the various private landing places<sup>21</sup> up and down the creeks and rivers to load and bring back each planter's crop. This was convenient for the planters, but hard on the ship-captains, and it gave great opportunities for fraud in evasion of duties or misrepresentation of the grade of tobacco shipped.<sup>22</sup>

In 1683 an attempt was made to improve and systematize the conditions of lading tobacco by the enactment of a colonial statute creating a certain number of towns to which all tobacco must be brought for shipment.<sup>23</sup> The effects of this law were entirely lost, however, by a decision made by Lord Baltimore in 1688 that tobacco did not have to be brought into the towns to be sold.<sup>24</sup> Later the home government and English officials in the colony endeavored to have the

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<sup>20</sup> That the Eastern Shore was not so largely concerned in tobacco trade as the Western the exact lists of the export from each district, given in Chapter I, footnotes 108-112 inclusive, will indicate. The amount of tobacco and the number of ships given in these lists for Pocomoke are much smaller than for either of the Western Shore districts. In addition there is the statement of Sir Thomas Lawrence in 1695 that because few ships went to the Eastern Shore the colonists there had almost stopped growing tobacco, and were turning to manufacturing instead (C. O. 5: 713, 115).

<sup>21</sup> Archives, vol. xxiii, p. 28. In 1705 Seymour wrote to the secretary of state that all the planters opposed the establishment of ports "for the Sake of clandestinely unshipping the Goods brought from England, and Shipping their tobacco at their owne Dores, which makes it impossible for all the Officers in the World to know what is shipt or unshipt" (C. O. 5: 721, no. 3).

<sup>22</sup> C. O. 5: 1314, M. 7, Reasons alleged in a representation of merchants trading to Virginia, who asked for fixed ports in the tobacco colonies.

<sup>23</sup> Archives, vol. vii, p. 609.

<sup>24</sup> *Ibid.*, vol. viii, p. 61.

law reenacted.<sup>25</sup> In 1705 an elaborate scheme to prevent abuses in the tobacco trade was presented to the Board of Trade in England.<sup>26</sup> It recommended the selection by Act of Parliament, or by the governor in virtue of his royal prerogative, of five landing places or ports in Maryland from which tobacco must be shipped by the twentieth of April annually, in order that the lading of the fleet might be hastened and regulated.<sup>27</sup> This scheme was not carried out, but repeated representations from England at last induced the Maryland Assembly to pass another bill (1706) appointing certain towns where tobacco could be loaded on board ships, and public landing places from which it could conveniently be sent to the towns.<sup>28</sup> This law, too, was a dead letter, and it was repealed in England a few years later<sup>29</sup> because it was feared that the creation of towns would encourage manufactures.<sup>30</sup> Apparently no new towns were erected while the law was in operation,<sup>31</sup> and the old desultory method of lading still prevailed. Ship-masters got their cargo how and where they could, for the most part continuing to ship it on sloops from the planters' private wharves along the bay or in the rivers.

<sup>25</sup> Privy Council Register, 74, p. 429, June 30, 1692; C. O. 5: 1262, 48, August 4, 1703; C. O. 5: 726, pp. 341, 343, 369.

<sup>26</sup> C. O. 5: 715, G. 11, G. 12, Bundle 1705.

<sup>27</sup> Governor Seymour and the other advocates of this plan endorsed it not only as a remedy for the difficulty in lading, but because it would tend to prevent illegal trade (C. O. 5: 715, G. 12, Bundle 1705; C. O. 5: 1314, M. 7, M. 10; C. O. 5: 1261, 139; Sloane MSS. 2902, f. 244, British Museum).

<sup>28</sup> Archives, vol. xxvi, p. 636. Supplement in vol. xxvii, p. 159.

<sup>29</sup> Privy Council Register, 82, p. 491, December 15, 1709; C. O. 5: 717, I. 2; C. O. 5: 727, p. 161. Apparently this repeal was not unpleasing to the ship-captains themselves. One of them petitioned the Maryland Council before the law was repealed that he might be allowed to trade in Chester River, where there was no town set up, as his trade suffered by the prohibition (Archives, vol. xxv, p. 234).

<sup>30</sup> C. O. 5: 1316, O. 44, O. 45, O. 50.

<sup>31</sup> In December, 1708, the following comment was made by Governor Seymour: "The ports in this province may perhaps be worthy of the name of Townes but the other Townes will only Serve for Rowling-places to receive tobacco's in order to be water borne" (C. O. 5: 716, H. 100).

With the fleets fully laden and ready for the homeward passage, difficulties had still to be met. During almost the whole period of royal government in Maryland the voyage between England and the colony was fraught not only with the dangers of the deep, but with the almost greater peril of capture by the enemy as well. It was a long, hard voyage at best, and in time of war an unprotected ship was liable to be captured either off the coast of England or when it reached the West Indian or continental colonies. French privateers were especially fond of waiting off the English coast to capture homeward-bound ships laden with colonial commodities. The author of the *Narrative of a Voyage to Maryland* has described the precautions which his vessel, returning with only two other ships, took to avoid capture. When they got near the coast, "the Commanders mett aboard of the great ship to consult what they had best doe whether they should make directly for the Chops of the Channell or whether they should saile North about by Ireland and Scotland and att last itt was Concluded that wee should goe north aboutt by reason they did beleive that a great many French privatteere might be in the Channell picking upp the Scatterrers of the Virginia Fleete."<sup>32</sup> On account of this danger it was the policy of the English government to permit vessels outward bound to the colonies to sail only in fleets or under the protection of an English man-of-war, and governors of the colonies were enjoined to take similar precautions with those bound for home.

In 1689-1690 a general embargo was laid in England on ships bound to Virginia or Maryland, but a fleet of thirty-four already made up was allowed to sail.<sup>33</sup> At the same time orders were sent to Virginia that the colonial government should prevent the sailing of single ships either from there or from Maryland.<sup>34</sup> Governors Copley and Nicholson were both carefully instructed that no ships should leave

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<sup>32</sup> Sloane MSS. 2291, British Museum.

<sup>33</sup> Privy Council Register, 73, pp. 356, 357.

<sup>34</sup> Cal. St. P. Col. 1689-1692, 787.

Maryland except in fleets or with convoys,<sup>35</sup> and due precautions continued to be taken in England<sup>36</sup> to the same effect. A suspension of the orders for convoys naturally took place during the short interval of peace from 1697 to 1702,<sup>37</sup> but they were renewed again when the war of the Spanish succession broke out and were in force until 1713.<sup>38</sup>

This system of fleets and convoys for the colonies had been established even before the period of the French wars, and it made the trade so much safer that London merchants frequently petitioned the Privy Council for a convoy.<sup>39</sup> On the other hand, the delay incurred in waiting for the fleet often injured the ship's cargo and so lowered the profits on its sale. Traders who owned fairly large or well-armed ships were, therefore, sometimes willing to incur the risk of having them sail alone, and would petition that their vessels might not be held up by any embargo.<sup>40</sup> This practice evidently started a regular system of permits, and a large number of vessels were annually allowed to sail from England alone and to return from the colonies whenever they were ready, regardless of the fleet.

<sup>35</sup> Archives, vol. viii, p. 380; vol. xxiii, p. 547.

<sup>36</sup> Privy Council Register, 75, p. 18.

<sup>37</sup> Archives, vol. xxiii, p. 350.

<sup>38</sup> C. O. 5: 726, p. 146; C. O. 5: 1313, 30.

<sup>39</sup> C. O. 5: 1309, 6; C. O. 5: 1313, 34, 4 (ii), 6 (i); Privy Council Register, 78, p. 319. Examples could be multiplied.

<sup>40</sup> The Privy Council Register between 1689 and 1713 is full of petitions for ships to sail without convoy, requests which in almost every case were granted. See also Privy Council Papers, Unbound packets of petitions, etc., 1702, Bundle 2. Other specific requests may be found in C. O. 5: 1315, N. 4; C. O. 5: 716, H. 1. The instruction to Thomas Tench, 1702/3, that no ships except those with licenses be permitted to come alone from Maryland seems to imply a regular license system (C. O. 5: 726, p. 46). Four years later Governor Seymour was directed to allow all ships that could not get ready for a certain convoy to load and sail when they could (C. O. 5: 716, H. 37). In one of the volumes in the Colonial Office Papers there are entries between December, 1706, and April, 1710, of one hundred and forty-two ships bound to Virginia or Maryland which are directed by the secretary of state not to be held in the colonies (C. O. 5: 210). The Petition Entry Book contains, between 1710 and 1712, twenty-nine petitions from ships which wanted to go to the tobacco colonies without a convoy. The tonnage, numbers of men, and guns are carefully stated in each petition. These last requests are all referred to the Admiralty for settlement (State Papers Domestic, Petition Entry Book, vol. xi).



In Maryland the colonial government felt free to regulate independently the sailing of ships from the colony, the Council or Assembly not infrequently deciding to allow a ship left behind by the fleet to sail alone or with other vessels in a similar predicament.<sup>41</sup> Ships were not allowed, however, to go alone when a fleet was in the colonies.<sup>42</sup> Under ordinary circumstances the colonial government made careful arrangements to have the Maryland ships sail under convoy with the Virginia fleet.<sup>43</sup> It was customary for the commodore of the fleet to send word up the bay that he was ready to sail for home. His letter would then be published in the counties or personal warning would be sent to the captains of ships in Maryland. Usually this was sufficient notice,<sup>44</sup> and ships would thereupon be ordered by the government to collect at the mouths of the Patuxent and the Potomac preparatory to joining the Virginia fleet. The collectors or naval officers were supposed to take bond from each vessel before it sailed that it would first stop at Point Comfort, where the fleet with its convoy gathered.<sup>45</sup> Sometimes Maryland had difficulty in learning when the fleet was to sail,<sup>46</sup> but usually the system worked smoothly. With few exceptions it may be said that the colonial government cooperated with the Privy Council in attempting to carry out its regulations, and the danger from pirates, if not from the French, made the ordinary ship-captain only too glad to accept a convoy even in time of peace.<sup>47</sup>

It was some time, however, before the arrival of these

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<sup>41</sup> Archives, vol. xiii, p. 255; vol. xix, pp. 94, 382, 548; vol. xx, pp. 139, 306, 582; vol. xxv, pp. 118, 189, 190, 225.

<sup>42</sup> *Ibid.*, vol. xx, p. 396.

<sup>43</sup> *Ibid.*, vol. xx, pp. 19, 79, 146, 147, 429, 513, 570; vol. xxiv, p. 141; vol. xxv, pp. 149, 202.

<sup>44</sup> In one case the sailing of the whole fleet from Virginia was delayed a month because the Maryland vessels had been hindered in loading their tobacco by a very severe winter (*ibid.*, vol. xxiii, pp. 9-11).

<sup>45</sup> There is a reference in the Archives to one instance where the ships in Maryland were ordered to join convoys in New York instead of in Virginia (vol. xxvi, p. 61).

<sup>46</sup> C. O. 5: 716, H. 14, H. 76.

<sup>47</sup> Archives, vol. xxv, p. 118.

fleets could be so regulated as to please both merchant and planter. It has already been explained in what way the time of arrival in the colonies and the number of fleets which came each year were thought to affect the price of tobacco. These two considerations were of importance to the English government as well, both on account of the necessary convoy, and because of its desire for the success of the fleet and its cargo. If there were but one fleet a year, it would of course be unnecessary to send more than one convoy.<sup>48</sup> If the ships arrived in the autumn, the importations from England, consisting so largely of woollens, could be sold before the winter set in.<sup>49</sup> If the ships left the colonies in the spring, they would avoid the rotting of the ships' hulls by the worm and sickness among the sailors on account of the heat.<sup>50</sup> Various opinions were expressed on these questions,<sup>51</sup> but Quarry's arguments<sup>52</sup> settled the matter in the minds of the Board of Trade and the Privy Council.<sup>53</sup> "With regard to the Generall Security and Advantage of that Trade, and to the present occasions which your Majesty might otherwise have for your Shipping, One Convoy a Year, may Suffice to Carry on this Trade dureing the Warr, which Convoy as is Generally Agreed by all the Traders, may be appointed to Sail about the Midle of August or not later than the beginning of September, So as to Arrive in the Rivers of Virginia in December, that they may have time to unload and Distribute the Manufactures and other Goods from England to the Planters, As also to Load the Tobacco within the severall Rivers of Virginia and Maryland, and to Return from thence in the Month of May following by

<sup>48</sup> C. O. 5: 1315, N. 64; C. O. 5: 726, p. 428; Privy Council Register, 81, pp. 304, 305, Copy of a Representation of the Board of Trade and an Order in Council thereupon; Acts of the Privy Council, Col. vol. ii, p. 514.

<sup>49</sup> C. O. 5: 1308, 6; C. O. 5: 1313, 18 (i).

<sup>50</sup> C. O. 5: 1313, 4, 4 (i), 4 (iii), 5 (i), 7 (i), 10, 16 (i); C. O. 5: 3, February 2, 1705/6.

<sup>51</sup> Compare C. O. 5: 1315, N. 20, N. 21, N. 23, N. 26; C. O. 5: 3, 121.

<sup>52</sup> C. O. 5: 3, February 2, 1705/6; C. O. 5: 1315, N. 33.

<sup>53</sup> C. O. 5: 3, 121; C. O. 5: 1315, N. 64; C. O. 5: 726, p. 428; Acts of the Privy Council, Col. vol. ii, p. 514.

which means the Convoy and Fleet will avoid the Badd Seasons in the Country and the Worm, which in the Hott Months is so prejudicial to them, and may arrive in England Soon enough to goe out again with the next Convoy at the same Season, which method We humbly conceive may best furnish the Planters with those European Commoditys which they stand in need of, and hinder them from applying their Labour to any other Product or Manufacture then that of Tobacco."<sup>54</sup> Whether the fleet came to Maryland precisely once a year after 1706 is not certain, but at least the English government did what it could to regulate and to protect Maryland's great trade route and the vessels engaged in it. The probability is that after 1706, and indeed even before that date, large fleets did come annually to Maryland, and that the trade was carried on, with comparatively few carefully licensed exceptions, only through a regular system of fleets and convoys which minimized the dangers of the voyage.

The tobacco of Maryland, on reaching England, came into the hands of wholesale merchants in the various coast towns. Of these the London merchants were by far the most influential. They owned most of the ships engaged in the trade,<sup>55</sup> and they bought the greater part of the annual crop. The fixing of freight rates and the price of tobacco was therefore largely under their control. They also exerted what influence they possessed over the governmental policy toward the trade, and they negotiated for foreign tobacco markets. All outport merchants were forced to submit to their arrangements with regard to fleets, prices, and markets.

The most conspicuous among these London merchants were men whose names appear again and again in the records of the period. Micajah Perry, perhaps the most influential of all, was a large shipowner and tobacco importer and was at one time agent for Virginia. Peter Pagen, another

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<sup>54</sup> Acts of the Privy Council, Col. vol. ii, p. 514.

<sup>55</sup> C. O. 5: 749.

prominent merchant, was also for a short time agent for Maryland. Through him the arms that the colony needed for its militia were purchased. In some cases several members of one family were concerned in the trade with Virginia and Maryland. The captain of a ship was often the brother or perhaps the cousin of her owner. The Brownes, of whom Peregrine was especially prominent, the Braines, the Yoakleys, and the Mundayes were examples of such families. Henry Munday at one time had to enter into a heavy bond in Maryland because he was suspected of having had some connection with pirates, and when he returned to England, some members of this prominent group of merchants offered security for him.<sup>56</sup> These men were all closely connected in the tobacco trade, and conducted their business with a conspicuous solidarity of interest. In the absence of effective competition from the outports the planters were entirely at their mercy. The exorbitant freight charges which they fixed were partly responsible for the frequency with which the planters fell into debt to the merchants in England and for the general state of poverty in the two provinces.<sup>57</sup> The planters must also have been often cheated by unscrupulous ship-captains, for the Maryland Assembly in 1705 passed a law obliging all masters of ships to publish their rates before loading any tobacco, and imposing on them a severe penalty for making any subsequent change.<sup>58</sup>

The influence of the London merchants was no less decisive in determining the method by which all tobacco destined for the foreign market should be packed and shipped to England. By far the greater part of the commodity was

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<sup>56</sup> These merchants asked that Munday's bond in Maryland be discharged, and they offered to produce security for him in England if it should be demanded (C. O. 5: 719, Bundle 7, 1699-1702, 15, 16).

<sup>57</sup> Add. MSS. 22265, f. 102, British Museum. There are a number of records testifying that the freight charges were exorbitant (Archives, vol. xix, p. 516; vol. xxvii, p. 465; C. O. 5: 715, 1705 bundle, G. 12). Only once is the statement made that freight was low in the colonies, and this was because the annual crop was small, whereas an unusually large number of ships had entered the bay (C. O. 5: 1309, 74).

<sup>58</sup> Archives, vol. xxvi, p. 345.



packed and shipped in casks, more or less carefully marked and graded, but a certain amount was frequently sent over in bulk, especially through the outports.<sup>60</sup> The London merchants protested vigorously against the practice of shipping in bulk, because it facilitated smuggling and depreciated the price.<sup>60</sup> Governor Copley was ordered by the king to have a law passed in Maryland prohibiting the exportation of tobacco in bulk,<sup>61</sup> but the Assembly refused to follow his bidding.<sup>62</sup> The merchants then asked for legislation in England.<sup>63</sup> Nicholson, the second royal governor in Maryland, heard of this proposal and represented to the secretary of state the colonial side of the case. He said that "a total prohibition of it may very much lessen the quantity by discouraging the North and West Country vessels from coming for it, and bringing their Country Commoditys. . . . And if the Officers and seamen be not allowed to bulk tobacco, I suppose that it will be difficult to have them come to these parts, for it is a very slavish voyage."<sup>64</sup> As the Assembly, moved by this or other considerations, still refused to act, Parliament finally settled the question in 1699 by prohibiting the importation of tobacco in bulk into England.<sup>65</sup> Legally, then, the all-powerful merchant class had secured what it wanted, although Robert Quay complained as late as 1703 that tobacco was still shipped in bulk.<sup>66</sup>

Moreover, the packed tobacco did not escape being made the subject of controversy between the merchants in London and the planters in Maryland. In 1692 a local statute fixed the size of tobacco hogsheads at forty-four inches in length by thirty-one in the head,<sup>67</sup> but in 1694<sup>68</sup> and again in 1699,

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<sup>60</sup> C. O. 5: 719, 18, Bundle 3.

<sup>60</sup> Treasury Papers, xvii, 71.

<sup>61</sup> Cal. St. P. Col. 1689-1692, 2300; Archives, vol. viii, p. 335.

<sup>62</sup> Archives, vol. xix, p. 90.

<sup>63</sup> Privy Council Register, 75, p. 84.

<sup>64</sup> C. O. 5: 719, 18, Bundle 3.

<sup>65</sup> 10 William III, c. 10.

<sup>66</sup> C. O. 5: 1262, 48.

<sup>67</sup> Archives, vol. xiii, p. 552.

<sup>68</sup> *Ibid.*, vol. xix, p. 104.

1700, and 1704<sup>69</sup> their gauge was declared to be forty-eight by thirty-two inches, a size slightly larger than that of the Virginia hogshead.<sup>70</sup> The ship-captains objected to the large size of these casks and systematically cut and, in the language of the colonial records, squeezed them to make them fit into the holds of their ships. This was a great grievance to the planters, for the quality of the tobacco was often injured in the squeezing process. In self-defense they passed a law in 1707 to accompany the latest measure regulating the size of casks. By this bill masters were prohibited under a very severe penalty from "Cropping, Cutting or Defacing Tobacco" taken on board ship.<sup>71</sup> The London merchants strongly urged the home government to repeal these two laws, mainly on the ground that the increase in the size of the hogshead, taken in connection with the prohibition of squeezing, reduced the capacity of the ships.<sup>72</sup> They also insisted that the penalty on the planters for exceeding the size of a hogshead, which was comparatively light,<sup>73</sup> and that on the ship-master for squeezing his lading, which was far heavier, should be made the same. The obnoxious laws were immediately repealed by the Privy Council,<sup>74</sup> and Governor Seymour was enjoined to have the Assembly pass a new measure making the size of Maryland casks conformable with those of Virginia and equalizing the penalties imposed upon ship-captains and planters.<sup>75</sup> The governor, however, was unable "to Winn their compliance to any the least of her Maj<sup>ty</sup>s Just and reasonable commands."<sup>76</sup> Instead of passing a law, the members of the legislature petitioned the queen that they be allowed to retain the larger sized hogshead on

<sup>69</sup> Archives, vol. xxii, p. 560; vol. xxiv, p. 106; vol. xxvi, p. 331.

<sup>70</sup> The Virginia hogshead was 48 x 30 inches (Hening, vol. iii, pp. 435-437). The size which the English merchants wished to see adopted in Maryland was 46 x 28 inches (C. O. 5: 716, H. 67).

<sup>71</sup> Archives, vol. xxvii, p. 157.

<sup>72</sup> C. O. 5: 716, H. 49, H. 67.

<sup>73</sup> The penalty on the planter was six shillings, whereas that on the ship-captain was three pounds.

<sup>74</sup> Acts of the Privy Council, Col. vol. ii, p. 547.

<sup>75</sup> Archives, vol. xxv, p. 246; C. O. 5: 727, pp. 39-45.

<sup>76</sup> C. O. 5: 716, H. 97.

the plea that their tobacco could not be packed as tightly as that of Virginia without suffering deterioration.<sup>77</sup> The Board of Trade considered the petition but remained firm in its support of the London merchants,<sup>78</sup> and the provincial legislature was finally compelled to yield.<sup>79</sup> Edward Lloyd said that this compliance was "Gained with great difficulty, many of the Delegates, persisting in their oppinion, that our Bright oranoca Tobacco required larger Casque, than the Tobacco usually made in Virginia."<sup>80</sup>

The London merchants also attempted to interfere in the control and development of the tobacco trade on the English side of the water. Again and again they brought before Parliament and the Board of Trade long representations on the condition of the tobacco trade in England and on the Continent.<sup>81</sup> While it is impossible to determine exactly the extent of their influence in shaping governmental policy, there was certainly in some important instances a striking similarity between their petitions and the course subsequently followed. For example, they complained of defects in the administration of the customs acts which increased the burden already imposed upon the trade by the high rate of duties in England.<sup>82</sup> In 1713, after numerous efforts on

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<sup>77</sup> Archives, vol. xxvii, pp. 279-281, 465; C. O. 5: 716, H. 97.

<sup>78</sup> C. O. 5: 727, pp. 245-250.

<sup>79</sup> Archives, vol. xxix, pp. 5, 39, 40, 74.

<sup>80</sup> C. O. 5: 717, I. 59. In 1715 the Maryland Assembly made another attempt to increase the size of the casks. The small gauge having been found to "tend to the ruin of" honest traders, it was increased by law to 48 x 32 inches. A discussion of the results of this attempt would take us outside of our period, but it is safe to say that the will of the moneyed classes was what finally decided the controversy (Archives, vol. xxx, p. 348).

<sup>81</sup> The references for these representations of the merchants may be found below in the detailed discussion of their influence on English and continental trade in tobacco.

<sup>82</sup> A copy of a proposed draught of an act regulating the tobacco trade. (No date.) This draught embodies all kinds of regulations for the importation of tobacco; administration of the customs; regulations for manufacturing tobacco; suggestions that it be sold only in London, etc. (Harleian MSS. 1238, f. 37, British Museum). A presentment from the Commissioners of the Customs to the Lords of the Treasury. A statement that part of the duties on tobacco and sugar was being lost to the king on account of the lax admin-

their part, new regulations were adopted.<sup>83</sup> The time allowed for payment of duties was extended, greater allowances for waste and shrinkage were made, the temporary hardships of certain vessels laden with tobacco then in the Thames were relieved, and the drawbacks on reexport were regulated.

Of the tobacco imported into England less than one third was consumed there, the remainder being reexported.<sup>84</sup> By the end of the seventeenth century large markets for plantation tobacco had been opened in Holland, France, the Baltic countries, Spain, Ireland, and other parts of Europe.<sup>85</sup> England exported to Spain, for example, in 1699, 2,122,657 pounds of tobacco; the following year, 2,558,298 pounds; and from 1712 to 1714, 1,839,483 pounds.<sup>86</sup> The exports to Holland and the Baltic were even larger than this, in both leaf and manufactured tobacco. In all this trade to the Continent the London merchants, naturally, were most prominently concerned. They followed every fluctuation in the sale of colonial tobacco in foreign countries. In 1697 and 1698 they petitioned for advantages in the tobacco trade with Russia,<sup>87</sup> and a year or two later the Board of Trade reported to the House of Commons that the English minister at the Hague had treated with the czar for this purpose.<sup>88</sup>

Shortly after this, certain English merchants, evidently not in the powerful London group, attempted to get a monopoly on manufacturing plantation and Russian tobacco in Russia.<sup>89</sup> The Board of Trade, reporting on a petition pre-

istration of the custom house and that no due care was being taken of the bonds. It recommends in detail various ways in which this state of affairs may be remedied (Treasury Papers, xxix, 25). Proposals concerning building of Towns in Virginia. Proposals concerning the Custome of Tobacco (Egerton MSS. 2395, ff. 666, 667, British Museum. No date).

<sup>83</sup> C. O. 5: 1316, O. 159; 13 Anne, c. 8.

<sup>84</sup> C. O. 5: 1315, N. 19.

<sup>85</sup> House of Lords MSS., June 5, 1714; Egerton MSS. 921, f. 9 ff., British Museum; C. O. 5: 1315, N. 19.

<sup>86</sup> C. O. 390: 8.

<sup>87</sup> C. O. 5: 1309, 25, 43.

<sup>88</sup> Sloane MSS. 2902, f. 5, British Museum.

<sup>89</sup> C. O. 5: 1314, M. 18, M. 19, M. 20. A petition of the Virginia merchants against the "contractors with the Czar of Muscovy," as they called the other group.



sented to the Privy Council by the London merchants, recommended that this attempted monopoly be stopped as injurious to English trade and "against the interest and usage of the kingdom." The Privy Council thereupon ordered the proper steps to be taken to prevent its continuance.<sup>90</sup> Further efforts were also made by the merchants to keep open to all the trade with Russia in plantation tobacco.<sup>91</sup>

The trade with Russia was but one example of the way in which the men most interested kept track of continental conditions. From the beginning of the eighteenth century the merchants realized that the exportation of tobacco to the Continent was seriously decreasing, principally because of the war which cut off many markets from English merchants. The trade with France was almost entirely monopolized by the Dutch, who had begun to grow and to manufacture large quantities to supply the French market.<sup>92</sup> The growing of tobacco in different parts of Germany and also in Hungary was largely increased during these years, and the demand for plantation tobacco was thereby lessened.<sup>93</sup> The exportations to Spain were seriously diminished,<sup>94</sup> and the troubles in the northern countries injured the trade to the Baltic.<sup>95</sup> Many remedies were suggested to improve this condition of affairs, both by the London merchants and by others interested in the tobacco trade. Robert Quarry, the surveyor of the customs for the middle colonies, suggested that a careful inspection be made of the conditions under which tobacco was grown and manufactured in Holland, in order to counteract the Dutch schemes to monopolize the trade.<sup>96</sup> The London merchants and tobacco manufacturers,

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<sup>90</sup> Acts of the Privy Council, Col. vol. ii, p. 487; C. O. 5: 1314, M. 47.

<sup>91</sup> C. O. 5: 1315, N. 7.

<sup>92</sup> C. O. 5: 1315, N. 19, N. 29, 82 (ii-v inc.), 87; C. O. 5: 716, H. 75; C. O. 5: 3, February 2, 1705/6; Treasury Papers, cx, 33.

<sup>93</sup> C. O. 5: 1315, N. 19; House of Lords MSS., June 5, 1714.

<sup>94</sup> C. O. 5: 1315, N. 29; C. O. 5: 716, H. 75; C. O. 5: 3, February 2, 1705/6.

<sup>95</sup> C. O. 5: 716, H. 75; C. O. 5: 1315, N. 29, 82 (vii), 87; C. O. 5: 3, February 2, 1705/6; Egerton MSS. 921, f. 9, British Museum.

<sup>96</sup> C. O. 5: 3, 112.

in elaborate papers presented to the government, asked among other things that definite encouragement be given to the manufacturers of tobacco in England, that the royal navy be allowed to use only tobacco manufactured there, and that the English envoys at the courts of Spain, Russia, Sweden, and other places be instructed to gain favorable conditions for the importation of the plantation product.<sup>97</sup> As the loss of the French market was perhaps the greatest blow of all, the suggestion was made several times from about 1706 that, notwithstanding the war, tobacco be carried to France in neutral ships.<sup>98</sup> The Privy Council, on the advice of the Board of Trade, adopted this remedy.<sup>99</sup> In fact, the policy of the government in these matters generally followed the wishes of the London merchants.<sup>100</sup>

We know, furthermore, that this same group of men attempted to give advice on political affairs in Maryland. In at least two cases they recommended to the Board of Trade and the Privy Council a proper person for the office of governor. They actually stated that they had chosen one man because he would serve their trade interests, or, as they expressed it, because he was a man "of integrity, ability, and well-versed in the trade and constitution of that province."<sup>101</sup> Doubtless there were other cases in which they recommended officials for both Maryland and Virginia, but there is no evidence that their recommendations were accepted. Their advice with regard to the government of the colonies was probably considered less valuable than that on the economic situation.

Many of the richer planters shipped their tobacco directly to certain firms in England and received in exchange their

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<sup>97</sup> C. O. 5: 1315, N. 32, 82 (i), 87; C. O. 5: 3, 121; Egerton MSS. 921, f. 10, British Museum.

<sup>98</sup> C. O. 5: 1315, N. 32; C. O. 5: 3, 112, 153; Add. MSS. 10453, ff. 347, 348, British Museum.

<sup>99</sup> C. O. 5: 3, 121; Acts of the Privy Council, Col. vol. ii, p. 536.

<sup>100</sup> Another case in point is a law of 1707 decreeing that only plantation tobacco be sold in the royal navy (6 Anne, c. 50).

<sup>101</sup> C. O. 5: 727, p. 312; C. O. 5: 717, l. 56; Privy Council Register, 79, p. 264; Privy Council Papers, Unbound packets, Bundle 1702, 2. Neither one of the two men recommended in these references was made governor of Maryland.

own consignments of European goods.<sup>102</sup> When a full order of goods was not wanted, they often drew bills of exchange payable by their merchants in England. They were apt to overdraw their accounts and to fall into debt to the firms with which they traded.<sup>103</sup>

The poorer planters did not raise enough tobacco to pay for the expense of shipping it to England. The English merchants had to buy it while it was still in the colony, and to pay for it with goods sent to Maryland at their own risk. Under these circumstances they did not try to sell their imported cargoes at once, because they might have to sell at a loss. The profit of the Virginia voyage, after making allowance for the wages and victualling of the sailors and for the dangers of loss at sea or capture by the enemy, was not large enough to risk any additional losses. Instead, therefore, of attempting to sell immediately the English traders usually employed factors or merchants in the colony to whom their cargoes were consigned, to be disposed of gradually at profitable prices. These factors represented the interests of their employers in disposing of their ventures of European goods, in receiving and shipping tobacco paid in return, and in looking after the payment of all money or bills due the merchants.<sup>104</sup> The depots for the sale of European goods kept by the factors or by other merchants representing English interests took the form of regular stores, which must have been a feature of Maryland as well as of Virginia life at the close of the century.<sup>105</sup> Their significance was shown when, with the object of further exploiting the towns, it was made the law during Seymour's administration that stores kept by merchants and factors trading in the province had

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<sup>102</sup> Add. MSS. 22265, f. 102, British Museum. For a detailed discussion of conditions of exchange in Virginia see Bruce, vol. ii, ch. xvi. The situation in Maryland was similar to that in Virginia, but material bearing directly on the system of exchange in the former colony is hard to find.

<sup>103</sup> C. O. 5: 717, l. 46; C. O. 5: 716, H. 45.

<sup>104</sup> Archives, vol. xxiii, p. 72; vol. xxv, p. 74; vol. xx, p. 550.

<sup>105</sup> For a discussion of the stores in Virginia see Bruce, vol. ii, pp. 381-385. The material available for the history of the local store in Maryland is very scanty.

to be in the towns marked out by the Assembly.<sup>106</sup> That inhabitants of the country also kept stores is indicated by a complaint made about the same time that merchants residing in the country were not subject to this law.<sup>107</sup> The poor planters probably fell in debt to these storekeepers in the colony as frequently as their richer neighbors to the English merchants. "These Gentlemen," said Quarry to the Board of Trade, "take care to Supply the poorer Sort with Provisions—goods and necessaries, and are Sure to keep them allways in Debt, and consequently dependant on them."<sup>108</sup>

When goods were brought over in this latter way to be sold in stores, it was part of the colonial idea of fair trade that such goods should not be bought up wholesale by the "Covetous & active presort of people," who would sell them again to the inhabitants at a higher price.<sup>109</sup> It was the old fear that Englishmen had had from the time of Edward III that the "middlemen gained at the expense of the public; and it seemed to follow that if middlemen did not gain, the public would be put to less expense."<sup>110</sup> Edward III prevented English merchants from buying or forestalling wine in Gascony before it was imported into England.<sup>111</sup> In the reign of Edward VI a general law was passed against buying up corn, wine, fish, and so forth.<sup>112</sup> The colonists in Maryland, as in the other colonies, were but following their inherited ideas of fair trade when they tried to prevent the forestalling and regrating of European goods imported into the province. The practice was forbidden by law as essentially unfair to the ordinary planter who expected to pur-

<sup>106</sup> Archives, vol. xxvii, pp. 247, 248.

<sup>107</sup> C. O. 5: 716, H. 94.

<sup>108</sup> C. O. 5: 1314, M. 62. In 1710 Edward Lloyd complained that the country merchants had advanced 200 per cent on the price of their commodities and were refusing to take tobacco in payment (C. O. 5: 717, I. 46).

<sup>109</sup> Archives, vol. vii, p. 253.

<sup>110</sup> W. Cunningham, *The Growth of English Industry and Commerce during the Early and Middle Ages*, 4th ed., p. 319.

<sup>111</sup> 27 Edward III, Stat. I, c. 5-7.

<sup>112</sup> 5 and 6 Edward VI, c. 14.



chase directly from the factor.<sup>113</sup> On the other hand, a too rigid enforcement of this law would have been very hard on the merchants who wished to dispose of their cargo quickly, so forestalling and regrating were often practised in the colony.<sup>114</sup>

The general prevalence of the system of direct exchange of the Maryland staple for the goods wanted from England almost obviated the necessity for money as a medium of exchange. It was only in the local trade that the need of a money exchange was actually felt, and it has been shown that for this purpose there was some coin in Maryland brought in through the West Indian trade. Laws were enacted from time to time to fix the value of foreign coins and so regulate local trading.<sup>115</sup> These tentative efforts ended in 1708 with the law passed to conform to the English proclamation making the value of foreign coins uniform in all the colonies.<sup>116</sup> Such coin was used solely for what Hugh Jones in his letter called "pocket expenses,"<sup>117</sup> and all trading on a large scale was done in terms of tobacco or by bills of exchange.

Bills of exchange were drawn in Maryland by planters or by ship-captains on tobacco merchants. "This instrument was only used when the party who gave it had a balance to his credit in the hands of some merchant, the drawee being generally a person of this calling who resided in England, New England, Barbadoes, or in one of the other English colonies."<sup>118</sup> For instance, the English government more

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<sup>113</sup> Laws against forestalling and regrating were often passed in the colony (Archives, vol. i, pp. 161, 294, 351; vol. ii, p. 131; vol. vii, p. 253; vol. xiii, pp. 526, 544; vol. xxii, p. 558; vol. xxiv, p. 104; vol. xxvi, p. 323). The act of 1704 was disapproved by the attorney-general in England as defective in construction and as unreasonable because no exceptions were allowed (C. O. 5: 716, H. 48).

<sup>114</sup> At one time, for instance, Edward Randolph reported a ship-master to the Council for having broken his cargo to trade contrary to this law, but because of the damage which would result to the colony if he were protested he was allowed to continue trading (Archives, vol. xxv, p. 129).

<sup>115</sup> *Ibid.*, vol. ii, p. 286; vol. xiii, pp. 142, 493.

<sup>116</sup> *Ibid.*, vol. xxvii, p. 350.

<sup>117</sup> Royal Society, Letter Books, I, i, 183.

<sup>118</sup> Bruce, vol. ii, p. 516.

than once requested Maryland to share the expenses incurred in defending New York in the Indian wars. At least once this sum was paid to New York in bills of exchange drawn on English merchants by masters of ships who had given them to the colony in payment for duties. The province sent these bills to New York, and from there they finally went to England to be cashed.<sup>110</sup> In the circuitous travels of these bills and the long time that elapsed before they were presented for redemption the balance to the credit of the drawer was often overdrawn and the bills were protested.<sup>120</sup> In Virginia as well as in Maryland it was found necessary to impose a heavy penalty on the drawer of a bill which came back protested. In the latter colony from 1682 damages of twenty per cent of the value of the bill were exacted besides its payment and the cost of the suit.<sup>121</sup> In 1708 the damages were lessened on the representation of the Assembly that they were so high that merchants were tempted to protest bills even when they had the money with which to discharge them.<sup>122</sup> The merchants, as in so many other cases, objected to this change in the law, and the Privy Council repealed it.<sup>123</sup> In 1715, therefore, the damage on protested

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<sup>110</sup> Archives, vol. xx, pp. 16, 48, 49, 71. In another case Peter Paggen, the agent for Maryland, told the Privy Council that he had received bills by order of the Convention of Maryland drawn in the same way by masters of ships on their correspondents in England in discharge of the duty of two shillings per hogshead on tobacco (*ibid.*, vol. viii, p. 281).

<sup>120</sup> For example, bills of exchange for over £300 sent to New York by Governor Copley early in the period of royal government were returned to Maryland as protested in England (Archives, vol. xx, pp. 220, 221). The Maryland Council repudiated this whole transaction (*ibid.*, p. 235).

<sup>121</sup> *Ibid.*, vol. vii, p. 323; vol. xiii, p. 449; vol. xxii, p. 464; vol. xxvi, p. 356.

<sup>122</sup> *Ibid.*, vol. xxvii, p. 364.

<sup>123</sup> C. O. 5: 717, I. 3. This action of the Privy Council was due to the representations of the Board of Trade. "By this Law, the Persons who take Bills of Exchange will not get common Interest, for their Money, in case the Bills be protested, for it often happens that it is 18 Months or Two Years from the time of drawing such Bills before they can be returned, and the payment Demanded, These are Hardships which the Merchants here complain of" (C. O. 5: 727, p. 141). It would appear, therefore, in this particular case at least, that the recommendation of the Board of Trade was based directly on the complaint of the London merchant.

bills of exchange was again raised to twenty per cent.<sup>124</sup> In spite of all difficulties, however, most large payments in both public and private transactions were made by bills of exchange.

Regarding the trade routes of the colony elsewhere than to England but little need be said. When negroes began to be imported into Maryland and Virginia in large numbers, the English ships primarily concerned in the tobacco trade sometimes varied their voyages to increase the profits. They sailed first to the Guinea coast, where they bought negroes to exchange in Virginia or Maryland for cargoes of tobacco.<sup>125</sup> Governor Seymour wrote in 1708 that before 1698 few negroes had been brought directly from Africa, most of them being imported in small lots from the island colonies. Since then, however, the trade had "run high," but it was being carried on exclusively by separate traders, the Royal African Company not having supplied one negro to the province during the decade. It was his opinion that if separate traders were to be excluded the supply would so decrease that the colony would suffer greatly.<sup>126</sup> To show the extent of this trade he enclosed two lists, one for all importations of negroes between 1698 and 1707 and the other for 1708.<sup>127</sup> All but two of the ships named in these lists were from London, showing the general line of trade; the other two imported negroes from Barbadoes. Governor Seymour also stated that there was no Maryland shipping employed in this trade,<sup>128</sup> which was, therefore, practically confined to English vessels not connected with the Royal African Company.

This trade, although in a way bringing into Maryland an

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<sup>124</sup> Archives, vol. xxx, p. 243.

<sup>125</sup> Privy Council Register, 76, May, 1697, to December, 1699. This volume of the Register contains numerous permissions given to English ships to sail to Guinea.

<sup>126</sup> C. O. 5: 716, H. 91.

<sup>127</sup> C. O. 5: 716, H. 92, H. 93; Archives, vol. xxv, p. 257.

<sup>128</sup> In 1693 Richard Hill, master of the *Hope* of Maryland, was forbidden to make the voyage to Guinea on account of the monopoly of the Royal African Company (Archives, vol. xx, p. 117).



import from a foreign country, was entirely in the hands of English shipping. As negroes were almost the only important foreign commodity, there was naturally no reason for the presence of any really foreign shipping in the colonial ports. Edward Randolph wrote in 1698 to the Board of Trade that there were many Scottish merchants in Pennsylvania, Virginia, and Maryland, but his zeal for the observance of the Acts of Trade conveys a somewhat exaggerated impression of the extent of this trade, at least in Maryland.<sup>129</sup> Between 1689 and 1699 there are eleven definite records of vessels bound for or from Scotland directly. About twenty-five ships in addition during those years were supposed to have been concerned in the same trade.<sup>130</sup> In 1707 trade with Scotland was legalized, but there are no records to indicate that this route ever became very popular.

In 1703 the Maryland Council reported that the colony had no trade at all with the French settlements in America,<sup>131</sup> and a little later Governor Seymour stated that there was no one in Maryland who dared take advantage of the queen's permission to open up trade with the Spanish colonies.<sup>132</sup> The small amount of corn sent to Lisbon was probably carried in plantation ships, no Portuguese vessels coming into Maryland.<sup>133</sup> The trade with Madeira and the Azores was also conducted for the most part in ships owned and built in the plantations, although occasionally an English vessel stopped at the islands on the way to Maryland.<sup>134</sup> The trade to foreign countries, on the whole, was extremely small, em-

<sup>129</sup> C. O. 5: 1258, 26 (ii).

<sup>130</sup> See Chapter III, pages 118, 119, for a detailed statement of the ships in this trade.

<sup>131</sup> Archives, vol. xxv, p. 163.

<sup>132</sup> C. O. 5: 209, p. 13, February 23, 1703/4, A copy of the circular letter from the secretary of state giving permission for this trade; C. O. 5: 716, H. 14; C. O. 5: 3, 23, 23 (i).

<sup>133</sup> C. O. 5: 717, I. 63, I. 106.

<sup>134</sup> The Naval Office Lists (C. O. 5: 749) show several instances of plantation-owned ships trading to the islands, and at least two cases where the ships were owned in England. See also C. O. 5: 716, H. 74, and Sloane MSS. 2291, British Museum. In the latter reference mention is made of a New England ship bound from Fyall to Maryland.



ploying practically no foreign shipping and but few plantation vessels.

The colonial authorities often commented in general terms on Maryland's trade with the other English colonies. In 1697 they said that there was little traffic of this sort and that the little done was in small craft belonging either to the province or to New England.<sup>135</sup> Again, in 1708 Governor Seymour wrote that the trade of Maryland-built ships was confined to the West Indies and the Azores.<sup>136</sup> A record of the Virginia Council of October, 1708, shows that Virginia was trading in that year to a small extent with Barbadoes, New England, New York, Pennsylvania, South Carolina, and Bermuda, in ships belonging to the colonies named.<sup>137</sup> The conditions in the two colonies were much the same. It is evident that Barbadoes and New England were the most important trading centers and that the carrying for all inter-colonial traffic was largely done by outsiders. From the Naval Office Records, moreover, a list of vessels concerned in the intercolonial trade may actually be compiled. As printed below, this list will show the number of ships found in Maryland, the colonies where they were owned, and the ports from which they had sailed and to which they were bound. A dash is used where these ports are not known.<sup>138</sup>

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<sup>135</sup> Archives, vol. xix, p. 540.

<sup>136</sup> C. O. 5: 716, H. 74.

<sup>137</sup> C. O. 5: 1316, O. 25. The Council, however, said: "There's very little Trade carryed on by the Inhabitants of this Colony to any of her Majestys plantations."

<sup>138</sup> It has already been explained that the lists are not accurate, but general conclusions may certainly be drawn from calculations based on them. Moreover, there is no indication of any increase in the amount of the plantation trade between 1700 and 1715, so the years to 1700 covered by the Naval Office Lists may fairly be taken as indicative of the amount of plantation shipping for the whole period of royal government.

Ownership	From	To	Number
	In 1690, 26 ships		
New England	New England	New England .....	5
New England	Barbadoes	Barbadoes .....	1
New England	New England	Barbadoes .....	2
New England	New England	Jamaica .....	1
Maryland	Maryland	.....	7
Maryland	Maryland	Virginia .....	2
Maryland	Barbadoes	England .....	1
Barbadoes	Barbadoes	Barbadoes .....	3
New York	New York	New York .....	2
Pennsylvania	Pennsylvania	Pennsylvania .....	1
Virginia	Virginia	Virginia .....	1
	In 1691, 19 ships		
New England	New England	New England .....	3
New England	.....	.....	3
New England	New England	England .....	1
New England	New England	Barbadoes .....	1
New England	Barbadoes	Barbadoes .....	1
Maryland	Maryland	.....	4
Maryland	Barbadoes	Barbadoes .....	2
Barbadoes	Barbadoes	Barbadoes .....	1
Barbadoes	Barbadoes	England .....	2
Virginia	Virginia	Virginia .....	1
	In 1692, 21 ships		
New England	.....	.....	1
New England	New England	New England .....	4
New England	Barbadoes	England .....	1
New England	New England	England .....	2
New England	New England	Barbadoes .....	2
Maryland	.....	.....	1
Barbadoes	Barbadoes	Barbadoes .....	1
New York	.....	.....	1
New York	New York	New York .....	2
New York	New York	Jamaica .....	1
Virginia	Virginia	Virginia .....	5
	In 1693, 44 ships		
New England	.....	.....	2
New England	New England	New England .....	10
New England	New England	Barbadoes .....	1
New England	Barbadoes	England .....	1
New England	New England	England .....	2
New England	Virginia	New England .....	1
Pennsylvania	Pennsylvania	London .....	1
Maryland	.....	.....	7
Maryland	Maryland	Barbadoes .....	1
Maryland	Maryland	New England .....	1
New York	.....	.....	2
New York	New York	New York .....	7
New York	New York	Jamaica .....	1
Virginia	.....	.....	1
Virginia	Virginia	Virginia .....	6

Ownership	From	To	Number
In 1694, 32 ships			
New England	New England	New England .....	9
New England	New England	Barbadoes .....	1
New England	Barbadoes	New England .....	1
New England	New England	.....	1
New England	New England	England .....	1
Maryland	Maryland	Virginia .....	2
Maryland	Maryland	Pennsylvania .....	1
Maryland	Barbadoes	.....	1
Maryland	Maryland	New England .....	1
Maryland	Pennsylvania	Barbadoes .....	1
Maryland	New Providence	Madeira .....	1
New York	.....	.....	1
New York	New York	Barbadoes .....	1
New York	New York	New York .....	2
New York	Barbadoes	England .....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	3
Pennsylvania	Pennsylvania	England .....	1
Virginia	.....	.....	2
Virginia	New York	Virginia .....	1
In 1695, 24 ships			
New England	New England	New England .....	4
Maryland	.....	.....	2
Maryland	Madeira	Madeira .....	1
Maryland	Maryland	Barbadoes .....	3
Maryland	Maryland	.....	1
Maryland	Barbadoes	Pennsylvania .....	1
Maryland	Maryland	Pennsylvania .....	1
New York	.....	.....	1
New York	New York	New York .....	2
Pennsylvania	.....	.....	1
Pennsylvania	Pennsylvania	.....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	2
Pennsylvania	Pennsylvania	New England .....	1
Pennsylvania	New York	New York .....	1
Virginia	.....	.....	2
In 1696, 42 ships			
New England	Barbadoes	Virginia .....	1
New England	New England	New England .....	3
Maryland	.....	.....	6
Maryland	Maryland	Maryland .....	1
Maryland	Barbadoes	Barbadoes .....	2
Maryland	Maryland	Barbadoes .....	3
Maryland	Maryland	Virginia .....	1
New York	New York	New York .....	5
New York	New York	Liverpool .....	1
New York	New York	Maryland .....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	1
Pennsylvania	Maryland	Pennsylvania .....	2
Pennsylvania	Pennsylvania	Virginia .....	1
Pennsylvania	Pennsylvania	.....	1
Pennsylvania	Pennsylvania	.....	1
Pennsylvania	Pennsylvania	Maryland .....	1
Pennsylvania	Maryland	.....	1

Ownership	From	To	Number
Virginia	—	Virginia .....	3
Virginia	Virginia	Pennsylvania .....	1
Virginia	Virginia	Virginia .....	1
Virginia	Virginia	Barbadoes .....	1
Carolinas	Carolinas	Carolinas .....	1
Carolinas	New England	Maryland .....	1
Bermuda	Bermuda	Providence .....	1
Plantation	—	— .....	2
In 1697, 56 ships			
New England	New England	New England .....	5
New England	New England	— .....	7
New England	New England	England .....	1
New England	England	England .....	1
New England	Delaware Bay	S. Carolina .....	1
New England	Virginia	— .....	1
New England	Maryland	— .....	1
Maryland	—	— .....	9
Maryland	Maryland	— .....	2
Maryland	—	Virginia .....	2
Maryland	Fyall	— .....	1
Maryland	Barbadoes	— .....	3
Maryland	Barbadoes	Barbadoes .....	1
Maryland	Virginia	Maryland .....	1
New York	—	— .....	2
New York	New York	New York .....	2
New York	—	New York .....	1
New York	New York	Virginia .....	1
New York	New York	Maryland .....	1
New York	New York	London .....	1
Pennsylvania	Pennsylvania	— .....	2
Pennsylvania	Pennsylvania	Pennsylvania .....	2
Pennsylvania	Pennsylvania	London .....	1
Pennsylvania	Virginia	New England .....	1
Virginia	Virginia	— .....	1
Virginia	Virginia	New England .....	1
Carolinas	Carolinas	— .....	1
Carolinas	Carolinas	London .....	1
Bermuda	Bermuda	Barbadoes .....	1
Barbadoes	Barbadoes	Virginia .....	1
In 1698, 10 ships			
New England	—	— .....	2
New England	Maryland	Maryland .....	1
Maryland	—	— .....	4
New York	—	— .....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	1
Virginia	—	— .....	1
In 1699, 24 ships			
New England	New England	New England .....	3
Maryland	New Providence	New Providence .....	1
Maryland	Barbadoes	Carolinas .....	1
Maryland	Maidea	Maryland .....	1



Ownership	From	To	Number
Maryland	Carolinas	Maryland .....	1
Maryland	New Providence	Madeira .....	1
Maryland	Maryland	Madeira .....	1
New York	New York	New York .....	2
New York	New York	Maryland .....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	3
Pennsylvania	Pennsylvania	— .....	2
Pennsylvania	Virginia	— .....	1
Pennsylvania	Barbadoes	Carolinas .....	1
West Jersey	West Jersey	West Jersey .....	1
Virginia	Carolinas	Virginia .....	1
Carolinas	Carolinas	Bermuda .....	1
Bermuda	Bermuda	Bermuda .....	1
Jamaica	Maryland	England .....	1
In 1700, 15 ships			
New England	New England	New England .....	1
New England	Port Lewis	Port Lewis .....	1
Maryland	Maryland	Barbadoes .....	1
Maryland	Barbadoes	Maryland .....	1
Maryland	—	Port Lewis .....	1
Maryland	Barbadoes	Madeira .....	1
Maryland	Barbadoes	Barbadoes .....	1
Maryland	Carolinas	Pennsylvania .....	1
New York	New York	New York .....	3
New York	New York	England .....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	2
Plantation	Carolinas	— .....	1
In 1701, 15 ships			
New England	New England	New England .....	2
New England	New England	England .....	2
Maryland	Barbadoes	Barbadoes .....	1
Maryland	Barbadoes	Maryland .....	1
Maryland	Nevis	Barbadoes .....	1
Maryland	—	New Providence .....	1
New York	New York	New York .....	3
Carolinas	Carolinas	Carolinas .....	1
Pennsylvania	Pennsylvania	Pennsylvania .....	2
Bermuda	Barbadoes	Barbadoes <sup>139</sup> .....	1

The general estimates of the colonial authorities were evidently nearly correct. More boats came into Maryland from New England than from any other place. Next to these the largest part of the trade was actually done by Maryland vessels, as the Council stated. The chief line of trade in either New England or Maryland vessels was that to Barbadoes. Nearly all other voyages were made along the coast.

<sup>139</sup> C. O. 5: 749, passim.

The size of the boats concerned in the plantation trade was small, most of them being sloops of from ten to twenty tons, with a few brigantines of larger tonnage. The trade routes were neither varied nor important and were not to be compared with the great route to England.

It is usually thought that Marylanders owned few or no vessels of their own, but this impression is inaccurate. Between 1689 and 1701, for instance, there were definitely named in the Naval Office Lists at least eighty boats from Maryland, three of them registering over one hundred tons and the largest two hundred.<sup>140</sup> In 1697 the sheriffs of the colony were directed to return lists of all shipping built, building, or owned in their respective counties, and of all seafaring men living there. The investigation gave the following results: In Anne Arundel County there were 4 brigantines, 2 built in England and 2 in the colony; 4 ships, 3 built apparently in England and 1 in the colony; 8 sloops, apparently all built in the county; 11 shallops, belonging in the county; 3 commanders; and 7 apprentices. In Calvert County there were 8 sloops, 4 shallops, and no seafaring men; in Prince George's County, 1 brigantine, 3 sloops, and 3 seafaring men. In Baltimore County there were 3 shallops, but no vessel was built in the county. In Charles County there were 3 sloops, 5 shallops, and 5 seafaring men, but no seafaring boats were built there. In St. Mary's County were found 4 ships, 1 owned in England; 6 sloops; 4 shallops; and 10 seafaring men. In Somerset County the lists show 4 ships, 12 sloops, 12 shallops, and 2 seafaring men; in Cecil County, 1 brigantine, 1 sloop, 6 shallops, and no seafaring men; in Dorchester County, 3 brigantines, 6 sloops, 3 shallops, and no seafaring men. In Kent County there were 4 ships, 1 owned in England; 1 brigantine; 5 sloops; 1 shallop; and 35 seafaring men. In Talbot County there were 6 pinks, 2 brigantines, 5 ships, 19 sloops, 7 shallops, and

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<sup>140</sup> C. O. 5: 749. In making up this estimate a vessel which made more than one trip is counted only once.

6 seafaring men.<sup>141</sup> There was, therefore, a total number of 161 ships, sloops, and shallops, built or building in Maryland at the end of the century. In Talbot County the tonnage was given. Two ships, the sheriff of that county said, registered four hundred tons and three were rated at three hundred. These figures are in a measure borne out by Governor Seymour's statement that good ships were built in Maryland. He even named one of four hundred tons, and said that several were large enough to be concerned in the English trade.<sup>142</sup> Most of them, undoubtedly, were small. Governor Hart estimated in 1720 that there were only four small brigantines and twenty seagoing sloops owned in the province.<sup>143</sup> The sheriffs' figures, however, make it evident that a good many small vessels were owned and, in most cases, built in Maryland. The Eastern Shore counties were more concerned in ship-building and in the coast trade than those of the Western Shore because they exported comparatively little tobacco to England. The representatives of the colony were more than eager that this infant industry should be supported and encouraged by the province. Throughout the whole period of royal government there were enacted various laws remitting, for the encouragement of inhabitants building ships in the province, the duties on imports brought in on native ships.<sup>144</sup> No elabo-

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<sup>141</sup> Archives, vol. xxv, pp. 595-601; C. O. 5: 714, 47 (xi), B. 40. The shallops included in this list were probably not counted in the Naval Office figures, as they never went out of the colony. If that is true, the sheriff's figures do not vary greatly from those made from the Naval Office Records. Omitting the shallops, the county reports made up a total of 110 ships and sloops built or owned in Maryland.

<sup>142</sup> C. O. 5: 716, H. 74. Governor Seymour said, however, that not so many ships were being built at the time when he was writing (1708). "The Country are naturally inclined to building Vessells and the Natives take it upon them Very readily but the loss of their Small Craft by the french in trading to the West Indies together with their Low circumstances not having wherewithall to procure Sailes Rigging and Ironworke has not only discouragd but Totally Disabled them from the Attempt."

<sup>143</sup> C. O. 5: 717, I. 106.

<sup>144</sup> Archives, vol. xiii, p. 387; vol. xix, pp. 229, 248, 257; vol. xx, p. 411; vol. xxvi, p. 349. Remission of tonnage duty for same reason (ibid., vol. xix, p. 114).

rate merchant marine was developed in the colony even as a result of this legislation, but the art of ship-building was never entirely neglected.

The subject of trade routes and exchange cannot be considered complete without an investigation of the somewhat difficult question of illicit trading. It is of interest to find out whether enough illegal trade was carried on in Maryland to increase appreciably the total amount of her commerce, and whether the colony was in league with any of the pirates who are known to have traded in some of the other colonies in defiance of the law. Exact records of smuggling operations were naturally never made public by the smugglers, but the men who came into contact with the colony often recorded their impressions of the amount of illegal trading done there. It is on the authority of these opinions that answers to the foregoing queries must be based.

As the trade with England was the most important, the most serious form of illegal trade would naturally be that carried on in defiance of the English Navigation Acts. Vessels trading in the colony must be of English or colonial build, must import foreign articles only through England, and above all must carry tobacco, an enumerated commodity, directly home or to another English plantation. To enforce these regulations all vessels had to be registered in England, their registry had to be examined in the colony, and heavy bond had to be given there for the proper delivery of the tobacco. After 1672, if the bond was not given for delivery in England, all tobacco paid a duty of one penny on the pound, and even then it had to be shipped only to an English plantation. These were the laws which the English governors in Maryland, and especially the zealous English customs officials, complained were frequently broken. Edward Randolph told the Commissioners of the Customs, for instance, that it was the fraudulent practice of collectors to allow tobacco to be loaded on forged certificates, for



offering which there was no penalty in the colony,<sup>145</sup> to accept short entries for the payment of the penny a pound provided masters purchased the collectors' own crops for export,<sup>146</sup> and to permit goods to be imported directly from foreign countries.<sup>147</sup> He asserted, too, that bonds were given as security by men of insufficient estates in the colony, that they were often falsely discharged, as it was hard to get a colonial jury to prosecute a forfeited bond,<sup>148</sup> and that tobacco was often shipped aboard New England or other plantation vessels without paying duty or giving any bond at all.<sup>149</sup> Randolph's *bête noir* was the direct trade to Scotland. He accused Maryland of allowing Scottish-owned vessels to trade freely in the colony and to ship large cargoes of tobacco directly to their native country.<sup>150</sup> Others confirmed Randolph's testimony that tobacco was secretly shipped from the colony,<sup>151</sup> and the Commissioners of the Customs formally reported that foreign goods came into Maryland often by way of Newfoundland.<sup>152</sup>

While the Associators (1689-1691) were in control of Maryland, the general impression was that these varied forms of smuggling were frequently practiced. Clandestine trading in Maryland was easy, reported one ship-captain in 1691.<sup>153</sup> Before Governor Copley arrived in the following year, Governor Nicholson of Virginia complained that Maryland, being under a loose government, crippled the neighboring colony where trade was more strictly controlled.<sup>154</sup> Edward Randolph as usual discovered a most serious state of

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<sup>145</sup> C. O. 323: 2, 6.

<sup>146</sup> C. O. 323: 3, 79.

<sup>147</sup> C. O. 323: 2, 6.

<sup>148</sup> C. O. 323: 2, 6.

<sup>149</sup> C. O. 323: 2, 6. See also C. O. 5: 1257, 26 (viii).

<sup>150</sup> C. O. 323: 2, 6; C. O. 5: 1308, 56; C. O. 5: 1258, 26 (iii).

<sup>151</sup> C. O. 323: 6, I. 93. Robert Quary claimed in 1699/1700 that a great deal of tobacco was shipped openly from the continental colonies to Barbadoes, where it was repacked and was then smuggled into England without paying the duty. This would be another way of avoiding full payment of the tobacco duties in the colonies and in England (C. O. 5: 1260, 90 (vi)).

<sup>152</sup> Treasury Papers, lvi, 82; C. O. 323: 2, 144 (i).

<sup>153</sup> Cal. St. P. Col. 1689-1692, 1951.

<sup>154</sup> Cal. St. P. Col. 1689-1692, 2075.

affairs when he arrived in the colony in 1692. He wrote to Governor Copley immediately: "I know there is a great deal to doe in your parts, especially in the Eastern Country adjoining to Newcastle;"<sup>155</sup> and, again, to the Commissioners of the Customs: "In my last letter I told you of the number of vessels trading illegally."<sup>156</sup> He constantly reported ships which in one way or another were violating the Acts of Trade. A single list contains nine vessels, seven of them bound for Scotland.<sup>157</sup> Robert Quarry claimed that Maryland was infected by Pennsylvania's bad example.<sup>158</sup> Both of these men are known to have been over-officious in their zeal, and their reports are perhaps somewhat exaggerated. It is certain, however, that between 1691 and 1702 at least thirty-one vessels were definitely recorded as engaged in illegal trade, twenty-one before 1696.<sup>159</sup> Almost all of them were seized, and eleven can be positively identified as Scottish or as concerned in the direct trade with Scotland. There

<sup>155</sup> Archives, vol. viii, p. 317.

<sup>156</sup> Cal. St. P. Col. 1689-1692, 2446.

<sup>157</sup> C. O. 5: 1308, 56.

<sup>158</sup> C. O. 5: 1257, 29.

<sup>159</sup> The detailed list for each year is as follows:—

Year	Number	Reference
1691	1	Cal. St. P. Col. 1689-1692, 1951.
1692	6	Cal. St. P. Col. 1689-1692, 2295; Archives, vol. xiii, pp. 320, 327; C. O. 323: 2, 7. In 1692 Randolph asserted that there were in Somerset County thirty sail of Scottish, Irish, and New England ownership trading illegally. He said that about twenty vessels had sailed in the past eight months, but he made no specific charges except against the six already recorded (Cal. St. P. Col. 1689-1692, 2295).
1694	12	C. O. 5: 1308, 56; C. O. 323: 2, 7; Archives, vol. xx, pp. 64, 65. Eleven of these ships were almost certainly seized by Randolph.
1695	2	Archives, vol. xx, pp. 309, 322.
1696	4	Archives, vol. xx, pp. 366, 403, 463, 487.
1698	2	Archives, vol. xxii, p. 25; vol. xxiii, p. 389.
1699	3	C. O. 5: 714, 71 A, C. 36.
1702	1	C. O. 5: 745, p. 13. Randolph was the prosecutor against this ship.

are, besides, a number of other more or less specific reports that the illegal trade with Scotland was considerable,<sup>160</sup> but the province apparently made no attempt to communicate with the Scottish colony at Darien whose effect on colonial trade was feared in England.<sup>161</sup>

When the royal government was once firmly established after Governor Nicholson's arrival, smuggling evidently became less and less easy. The inhabitants complained of the strictness with which trade was regulated.<sup>162</sup> Governor Blakiston announced that "This Place has formerly been a Nest of foul and illegal Traders."<sup>163</sup> Governor Seymour asserted in 1708 that very little illegal trade had been carried on since his arrival and that the few cases which had occurred had been severely punished.<sup>164</sup> In 1708 the Acts of Trade were extended to Scotland, and the question of trade

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<sup>160</sup> In 1690 two ships from Virginia or Maryland were seized in Glasgow for unloading tobacco not entered in England (Privy Council Register, 74, p. 4). George Plater in 1694 stated to the Council that several vessels from Maryland had sailed directly to Scotland, whereupon he was ordered to put their bonds in suit (Archives, vol. xx, p. 65). Randolph accused Nehemiah Blakiston, collector of Potomac, of allowing eight vessels to clear for Scottish ports about the same time (C. O. 323: 2, 7). In 1695 the colony was notified of four vessels to arrive from Scotland (Archives, vol. xx, p. 340). Governor Nicholson informed the Board of Trade, March, 1696, that Gustavus Hambleton, a ship-master, was supposed to have taken three or four hundred hogsheads of tobacco to Aberdeen (C. O. 5: 714, 1). In 1696 four vessels came from Scotland with Scottish goods and two sailed thither from Maryland with tobacco (Archives, vol. xx, p. 546; vol. xxiii, pp. 11, 12). One such vessel was reported in 1698, and the Commissioners of the Customs notified the governor of the colony that ships were supposed to be building in Maryland for the Scottish trade (*ibid.*, vol. xxiii, pp. 328, 329). And finally, in 1699, three Scottish merchants were to be apprehended for trading in the colony (*ibid.*, vol. xxv, p. 73). None of these vessels apparently was seized or prosecuted in Maryland. Some of these cases are mentioned in the study by T. Keith, *Commercial Relations of England and Scotland, 1603-1707*, p. 125.

<sup>161</sup> The Commissioners of the Customs sent a number of letters to Maryland officials forbidding any trade with the Scots at Darien, letters which were officially proclaimed in the colony. There is, however, no notice of any Maryland vessel having sailed for Darien, though Blakiston wrote that Pennsylvania was supposed to have fitted out some vessels for this trade (Archives, vol. xx, pp. 345-355; C. O. 5: 719, 3, Bundle 7).

<sup>162</sup> Treasury Papers, 1, 27, nos. 6, 8.

<sup>163</sup> C. O. 5: 719, 3, Bundle 7.

<sup>164</sup> C. O. 5: 716, H. 74.



contrary to their provisions apparently ceased to be of any great importance in Maryland under the royal governors.<sup>165</sup>

All through this period smuggling, whether extensive or not, was a matter of great concern to the English authorities. At this time the colonial policy of the Board of Trade was well defined and energetically carried out. Every effort was made to ensure strict supervision of the commerce of Maryland. Proposals to prevent smuggling were frequently sent to the authorities in England by persons familiar with the tobacco trade, and were gratefully received and considered.<sup>166</sup> Every royal governor, along with his ordinary instructions from the Board of Trade, received on his entry into office a long and elaborate set of directions for the observance of the Acts of Trade.<sup>167</sup> Further information

<sup>165</sup> The Commissioners of the Customs presented a report to the House of Lords in 1695 on illegal trade in the proprietary colonies. The query was whether Carolina, Maryland, Pennsylvania, etc., were keeping the Acts of Trade. In the answer given, that "we are doubtful whether the Said plantacon Lawes are so well Executed . . . in Carolina, Pennsylvania, the Jerseyes and Road Islands as in the other Plantations," the name of Maryland is, significantly enough, omitted (Treasury Papers, xxxvi, 3).

The records are full of complaints that Pennsylvania was a hot-bed of smuggling (C. O. 5: 1257, 27, 28, 29; C. O. 5: 1260, 90 (vi); C. O. 5: 719, 4, Bundle 5; C. O. 5: 719, 18, Bundle 3; C. O. 5: 714, 1, 17, 17 (iii), 52, 52 (v), 52 (vi)). Maryland occasionally sent tobacco to Pennsylvania for direct shipment elsewhere than to England (C. O. 5: 713, 115; C. O. 5: 1314, M. 62; Archives, vol. xxiii, p. 87). In 1697 a certain Pennsylvanian, however, denied that this practice was ever allowed. "And as to running Tobaccoe to Pensilvania at the head of the Bay from Maryland is a Gen<sup>l</sup> mistake the Inhabitants of Pensilvania forbidding it by a Perticular law of their making And to my knowledge instead of that there was the Last year about 100 hhds Tobaccoe Transported over Land from Pensilvania to Maryland Partly by a Permit of Col<sup>l</sup> Ninkolson's being tobaccoe to be transported that way for England" (C. O. 5: 1257, 4). On the whole Maryland must have had little share in the illegal trade of the northern colony.

<sup>166</sup> Proposals Humbly offered to the Hon<sup>or</sup><sup>ble</sup> House of Commons, not dated (Harleian MSS. 1238, f. 1, British Museum). Mr. Randolph's account of the way illegal trade is encouraged in Virginia, Maryland, and Pennsylvania, with ways of prevention (C. O. 323: 2, 6). Colonel Quarry to the Board of Trade. Among other things he considered proposals for the security of trade primarily in the plantations (C. O. 323: 5, 19).

<sup>167</sup> Instructions to Governor Nicholson (Archives, vol. xxiii, p. 311). Instructions to Governor Seymour (C. O. 5: 726, p. 222). Instructions to Governor Hart (C. O. 5: 727, p. 398).



concerning the Acts was also given him from time to time.<sup>168</sup> The Lords of the Council, the House of Lords, and especially the Board of Trade and the Commissioners of the Customs, as most concerned in colonial affairs, corresponded often with all the colonial governments on every phase of the question of illegal trade. They wanted to know in detail the extent of the smuggling in each province, and they urged the governors in circular letters to observe the Acts of Trade in their provinces, to force their customs officials to perform their duties, to support them while so doing, and to prevent illegal trade with Europe by way of Newfoundland.<sup>169</sup>

The governors of Maryland supported the royal efforts to crush illegal trade. Governor Nicholson received from the lord high admiral of England a commission as vice-admiral with authority to erect an admiralty court in Maryland,<sup>170</sup> and he executed his office by naming and establishing during his administration full admiralty courts for the trial of offenses against the Acts of Trade.<sup>171</sup> Although the

<sup>168</sup> Archives, vol. xx, p. 418; C. O. 5: 726, p. 284; C. O. 5: 727, p. 47.

<sup>169</sup> Queries of Board of Trade about the methods of preventing illegal trade in Maryland (Archives, vol. xx, p. 499; C. O. 5: 726, p. 436). Commissioners of the Customs to the governors of plantations, a paper enclosed in their report to the House of Lords (Treasury Papers, xxxvi, 3). Lords of the Council to Maryland, enclosing late act of Parliament regulating frauds (Archives, vol. xx, p. 418). Address of House of Lords to the king about the state of trade in the kingdoms with reference to the plantations (C. O. 323: 2, 46). Order in Council approving order for naval officers to give security and directing such order to be sent to the governors of plantations (C. O. 323: 2, 145). Copy of instructions to Governor Blakiston (C. O. 5: 725, pp. 253-289). Report of the Commissioners of the Customs to the Lords of the Treasury about trade in the plantations (Treasury Papers, lvi, 82).

<sup>170</sup> Archives, vol. xx, pp. 91, 100.

<sup>171</sup> *Ibid.*, pp. 115, 161. Lionel Copley's commission also contained a clause authorizing him to exercise powers of vice-admiral and to erect a court of admiralty in Maryland (*ibid.*, vol. viii, p. 268). The legality of this authority was denied by Nicholson on the ground that the commission was not held directly from the lord high admiral (*ibid.*, vol. xx, p. 115). As a matter of fact Copley made no attempt to establish a permanent admiralty court, but continued the practice of appointing four judges to try any case of breach of the Acts of Trade, under a commission of Oyer and Terminer (*ibid.*, vol. xx, pp. 42, 64). Once he appointed a temporary admiralty court to try one ship (*ibid.*, vol. xx, pp. 72, 75). The detailed his-

governor was doubtful for a time whether all breaches of the Acts could be legally tried in a court of admiralty,<sup>172</sup> the larger number of cases that arose during the period of royal government from this time were certainly so tried.<sup>173</sup> Nicholson was highly praised by the royal officials in the colonies for his zeal.<sup>174</sup> Governor Blakiston also showed commendable energy in apprehending at least three vessels through admiralty court process.<sup>175</sup> Seymour's chief activities as vice-admiral were concerned with the condemnation of French prizes,<sup>176</sup> but according to his testimony illegal trade in Maryland had almost entirely ceased, owing to the efforts of the customs officials.<sup>177</sup>

These governors and their councils also exercised their zeal in attempts to make the bond and security system really effectual. All masters of ships had to give oath that their certificates or bonds taken in England were genuine and that their cargoes were correctly declared.<sup>178</sup> Collectors, surveyors, and naval officers had to return to the government lists of ships, bonds, certificates, and ladings from their districts

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tory of the establishment of an admiralty court in Maryland belongs rather to the history of the administration than to a discussion of the amount of illegal trade in the colony.

<sup>172</sup> Nicholson recommended the establishment of a court of exchequer in Maryland because he was not sure that all cases of illegal trading could be tried in the admiralty courts (C. O. 5: 719, 18, Bundle 3; C. O. 5: 714, 25. B. 4; Archives, vol. xxiii, p. 195). His difficulty was, however, set at rest by the attorney-general in England, who said that all such cases could be brought before the admiralty courts (Archives, vol. xxiii, pp. 195, 196).

<sup>173</sup> Several vessels were specifically tried in the admiralty courts either as prizes or for breach of the Acts of Trade (Archives, vol. xx, p. 113; vol. xxv, pp. 16, 165, 178; C. O. 5: 1309, 74 (iii); C. O. 5: 714, 69 (i), C. 31; C. O. 5: 721, 1, 1 (i), 1 (ii), 1 (iii); C. O. 5: 716, H. 14, H. 15). A few vessels, on the other hand, seem to have been tried by a special court or by a regular session of the provincial court (Archives, vol. xx, pp. 134, 155, 243-244, 366, 508; vol. xxiii, p. 3; C. O. 323: 2, 5 (ii)).

<sup>174</sup> C. O. 323: 2, 114; C. O. 5: 1257, 27; C. O. 5: 1258, 16.

<sup>175</sup> C. O. 5: 719, 2, 3, 6, Bundle 7; C. O. 5: 714, 69 (i), C. 31; C. O. 5: 715, 2, D. 16; C. O. 5: 725, p. 403.

<sup>176</sup> C. O. 5: 716, H. 14, H. 15.

<sup>177</sup> C. O. 5: 716, H. 74. The Board of Trade considered Seymour's attitude toward illegal trade commendable (C. O. 5: 727, p. 112).

<sup>178</sup> Archives, vol. xx, p. 502; vol. xxiii, pp. 4, 86.

in order that accurate accounts might be kept.<sup>179</sup> Collector Plater of Patuxent was even ordered to send to the American plantations to which tobacco was shipped from Maryland for their records of imports, in order to balance accounts at both ends.<sup>180</sup> Although the people were poor and it was a difficult task,<sup>181</sup> the governors professed themselves careful, according to royal command,<sup>182</sup> to receive only good security for navigation bonds entered in the colony.<sup>183</sup> In 1694 the attorney-general of Maryland was ordered in the interests of the crown to put in suit, after twelve months' interval, all navigation bonds for which no proper certificates had been returned.<sup>184</sup> Two years later a similar order was issued,<sup>185</sup> and a request for an extension of time for the return of certificates was refused.<sup>186</sup> The conveyancing of his property to another by the bondholder to avoid the payment of the bond was declared illegal.<sup>187</sup> Both Governor Nicholson and Governor Blakiston realized, however, that payment was often almost impossible, and recommended that in some instances executions of judgments against bondholders be remitted.<sup>188</sup> It is impossible to ascertain whether or not this recommendation was accepted.

<sup>179</sup> Archives, vol. xx, p. 585; vol. xxiii, p. 38; C. O. 5: 714, 17 (iv), A. 30.

<sup>180</sup> C. O. 5: 714, 17 (iv), A. 30. See also Archives, vol. xxiii, p. 38.

<sup>181</sup> The Commissioners of the Customs once stated that it was well known that bonds taken in the plantations were from persons of insufficient means (Archives, vol. viii, p. 431).

<sup>182</sup> The trade instructions of the governors insist on this point (Archives, vol. xxiii, pp. 91, 315; C. O. 5: 726, p. 247; C. O. 5: 727, p. 398).

<sup>183</sup> Archives, vol. xxiii, p. 86; C. O. 5: 714, 62, C. 4.

<sup>184</sup> Archives, vol. xx, pp. 40, 65.

<sup>185</sup> *Ibid.*, vol. xx, p. 477. Two years later Edward Randolph wrote to the Board of Trade that Nicholson had put all forfeited navigation bonds in suit (C. O. 323: 2 (iii)).

<sup>186</sup> Archives, vol. xx, p. 508.

<sup>187</sup> *Ibid.*, vol. xxiii, pp. 4, 121.

<sup>188</sup> *Ibid.*, p. 88; C. O. 5: 714, 62, C. 14. Governor Nicholson made his recommendation for mercy with reservations. "If his Maty be graciously pleased to grant ye humble peticon of ye Burgesses (and what they suggest therein, I must needs own to be true) yet I most humbly propose yt some of ym may be made examples especially some of those who have been illegal Traders within these 2 or 3 years" (C. O. 5: 714, 16). In 1697 Collectors Plater and Muschamp



Whether or not execution was always entered on judgments obtained, this energy on the part of the earlier royal governors did definitely result in the prosecution of a number of holders of navigation bonds for which certificates had not been obtained. Extant records dated 1697 show that sixty-four vessels bonded in the colony between 1679 and 1697 had duly returned their certificates.<sup>189</sup> One hundred and forty were reported for not producing the proper papers to discharge their bonds,<sup>190</sup> and elsewhere one hundred and thirty-one ships were said to be impleaded upon suit for the king.<sup>191</sup> One hundred and twenty-five vessels of these two lists are duplicates, but the other names differ, making an unduplicated list of one hundred and forty-three vessels which had not discharged their bonds. A separate account for the same date (1697) of twenty-eight other ships already condemned swells the number of bonds prosecuted before 1698 to one hundred and seventy-one.<sup>192</sup>

There are also available two accounts of cases on forfeited bonds presented before the provincial courts in 1697 and 1698.<sup>193</sup> Wherever these cases could be identified they

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both said that even if executions were entered into for forfeited bonds the revenue of the king would be but little increased, as the people were very poor (C. O. 5: 741, p. 367).

<sup>189</sup> C. O. 5: 714, 17 (v), list of sixty ships on which certificates had been produced. This list with several exceptions may also be found in Treasury Papers, 1, 27, in which account four new names are added.

<sup>190</sup> C. O. 5: 714, 17 (v).

<sup>191</sup> The other list that was apparently sent home to the Treasury at the same time as the first one is on record in Treasury Papers, 1, 27, no. 1.

<sup>192</sup> C. O. 5: 714, 17 (v). It is significant that all these lists include bonds entered into in the colony throughout a period of eighteen years, a fact which must be taken into account when the numbers forfeited are considered. It is unfortunate that no records for the later years of royal government in Maryland are available on this point. General conclusions must be drawn from the material for the first decade, and Governor Seymour's statement that there was little or no illegal trade during his government should probably be accepted for this point as well as for other irregularities in trade.

<sup>193</sup> C. O. 5: 714, 25 (iv), B. 12, Abstract of causes continued from May Court, 1697, at His Majesty's suit on navigation bonds. This list is not complete, as it is simply a record of continued cases. C. O. 5: 714, 47 (x), B. 44, Docket of causes tried in the Provincial Court, April, 1698, upon navigation and other bonds passed to the king.



were found to be almost invariably on bonds reported as impleaded in the earlier accounts. The fact that out of the fifty-nine cases brought before the court in 1698 only four judgments for the king were obtained would serve to indicate that in the majority of cases the certificates were eventually produced, or that the provincial juries were unduly lenient. Governor Nicholson was inclined to the latter opinion,<sup>194</sup> but as far as the cases are analyzed there seem to have been perfectly legitimate reasons for the continuance or discharge of most of the trials.<sup>195</sup> At any rate, from the one cause or the other, judgments were comparatively rare. Only twenty-eight vessels were condemned in 1697, and on some of these the bonds were taken as early as thirteen years before. In the April court of 1698 four more condemnations were made out of fifty-nine prosecuted bonds.<sup>196</sup> Although judgments were rare and the revenue from those executed was evidently very small, the zeal of the royal governors was undoubtedly manifested in constant efforts to hold the customs officers and the ship masters up to the requirements of the Acts of Trade in the taking of oaths and securities.

In another way, moreover, the support which the colonial governors gave to the English authorities was no less noticeable. The Commissioners of the Customs, in response to a suggestion of the Virginia merchants in London, conceived

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<sup>194</sup> C. O. 5: 713, 114.

<sup>195</sup> The following is a good example of what happened in the April Court, 1698. A bond of £2000 against Edloe of Maryland was discharged by the oath of Hammond, who deposed that he sent tobacco to England in the ship for whose captain Edloe had become security, and that he had had account of the sale thereof in London (C. O. 5: 714, 47 (x), B. 44).

<sup>196</sup> Even these judgments were apparently not executed. The securities brought writs of error and reversed the judgment because the bonds were destroyed in the interval between the first judgment and the attempted execution. This writ of error was sustained by Edward Northey, but he thought that judgment might be obtained for His Majesty again in equity in chancery court. It was decided that the case should be so pleaded, but the final decision is not given (Archives, vol. xxvii, p. 392; Acts of the Privy Council, Col. vol. ii, p. 625; Add. MSS. 8832, ff. 261-262, British Museum; Add. MSS. 36110, ff. 75-78, British Museum).

the idea of appointing a small vessel under a competent commander to cruise in Chesapeake Bay for the detection of illegal traders.<sup>197</sup> This plan, after being approved by the proper authorities,<sup>198</sup> resulted in an Order in Council that Governor Nicholson, going to Maryland in 1694, be instructed to hire a boat of forty tons burden to cruise off the coasts to examine ships trading in those parts.<sup>199</sup> A small vessel under the command of Thomas Meech was employed,<sup>200</sup> but unfortunately for the success of the plan Meech was drowned within a year,<sup>201</sup> and another vessel despatched by the Lords of the Admiralty to Maryland was wrecked off the Carolina coast.<sup>202</sup> Still a third royal boat under the command of Captain Peter Coode was lost at sea,<sup>203</sup> but in spite of these misfortunes the governors continued to urge the advantages of the system.<sup>204</sup> It was so easy, said Governor Blakiston, for false traders to unload secretly in the little creeks and rivers of the province that a small boat was almost indispensable to follow them into out-of-the-way places.<sup>205</sup> Blakiston even went so far as to hire at his own expense vessels which were apparently used in this service.<sup>206</sup> It is clear that the royal governors could

<sup>197</sup> Treasury Papers, xxvii, 19.

<sup>198</sup> The report of the Commissioners of the Customs went to the Lords of the Treasury, was sent by them to the Lords of Trade, and finally came before the Privy Council (Treasury Papers, xxvii, 19; C. O. 5: 1308, 46; C. O. 323: 2, 6 (xii)).

<sup>199</sup> C. O. 323: 2, 6 (xii). The order of the Council was sent to Nicholson by the Lords of Trade and was accompanied by an elaborate set of instructions for the captain employed by the governor (C. O. 5: 1308, 59, 60; Treasury Papers, xxx, 16, 45; C. O. 5: 724, p. 180; Archives, vol. xx, pp. 240, 262, 263; vol. xxiii, p. 551).

<sup>200</sup> Archives, vol. xx, p. 240; C. O. 5: 724, p. 199.

<sup>201</sup> Archives, vol. xx, p. 367; C. O. 5: 741, p. 76; C. O. 5: 714, 1, A. 1; C. O. 5: 725, p. 1.

<sup>202</sup> This vessel was sent from England by the Lords of the Admiralty, contrary to Randolph's advice that it be procured in the colony (Acts of the Privy Council, Col. vol. ii, p. 310; Archives, vol. xxiii, p. 208; C. O. 5: 714, 30, 31, 37).

<sup>203</sup> C. O. 5: 726, p. 139; Archives, vol. xxiv, p. 19.

<sup>204</sup> C. O. 5: 714, 1, A. 1, 25; C. O. 5: 715, 64, E. 47; C. O. 5: 716, H. 74; C. O. 5: 719, 18, Bundle 3; C. O. 5: 719, 2, Bundle 7. Robert Quarry also approved this plan (C. O. 323: 5, 19 (ii)).

<sup>205</sup> C. O. 5: 719, 2, Bundle 7.

<sup>206</sup> Treasury Papers, cii, 67.

not have been more zealous or more faithful. They stood side by side with the English customs authorities in their efforts to enforce the Acts of Trade and to prevent smuggling.

It would be interesting to find out whether the governors were supported by the provincial legislature, by the courts, and by the inhabitants. Unfortunately, however, little evidence is available on these points, and that comes from prejudiced sources, that is, from the governors themselves or the English customs authorities. Edward Randolph insisted that even Governor Copley himself in 1692 aided and abetted the acquittal of three ships which Randolph had seized,<sup>207</sup> that local collectors were not always honest in their efforts to suppress illegal trade,<sup>208</sup> and that local courts and juries were prejudiced against His Majesty's cases.<sup>209</sup> In Governor Nicholson's time the Assembly did petition for a relaxation of the severe enforcement of the Navigation Acts in their province, thus showing no great love for the restrictions imposed.<sup>210</sup> The governor complained, too, that the Assembly would not ask for an English cruiser lest its presence in Maryland waters should prevent smuggling,<sup>211</sup> and he accused the whole people of longing in years of peace for Lord Baltimore's loose government and their "Darling, illegal trade."<sup>212</sup> These were, however, practically the only accusations made, even from prejudiced sources, and it is impossible to draw from them the conclusion that the legislature, the courts, or the colonists in general were inclined to connive at breaches of the Acts of Trade.

Evasions of colonial acts imposing customs duties are equally infrequent. The chief duties levied in the province were those upon exported tobacco. These must have been

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<sup>207</sup> Archives, vol. viii, p. 335; C. O. 323: 2, 7.

<sup>208</sup> C. O. 323: 2, 6, 7.

<sup>209</sup> C. O. 323: 2, 5 (ii). There is also on record a letter written to the attorney-general in England by the Board of Trade to find out what might be done in Maryland to attain juries which would not condemn ships for breaches of the Navigation Acts. Nicholson had asked the question of the Board of Trade (C. O. 5: 725, p. 19).

<sup>210</sup> Treasury Papers, 1, 27.

<sup>211</sup> C. O. 5: 714, 25, B. 4.

<sup>212</sup> Archives, vol. xxiii, p. 491.



easily collected, because the strict surveillance exercised by the English customs officials in the enforcement of the Navigation Acts made it difficult for any tobacco to be sent out of the colony without official inspection. Besides the duties on the chief staple, levies were also made on furs, beef, pork, or European goods exported from the province, and on imported wines, liquors, and negroes, and there is strong reason to believe that their payment was usually enforced. In the collection of these duties the chief area of trouble was the Pennsylvania border, over which dutiable articles might easily be smuggled.<sup>213</sup> To avoid this possibility a riding surveyor was appointed in Cecil County at the head of the bay to prevent illicit trade with Pennsylvania.<sup>214</sup> Just after the appointment of this officer in 1697 Governor Nicholson asserted that there were good roads between the two provinces on which boats for illicit trade might easily be carted to and fro,<sup>215</sup> but in spite of his assertion the amount of smuggling was probably small. Enough seizures were made to show that the officers were fairly vigilant, but the insignificant size and value of their confiscations do not argue a flourishing illicit trade with the northern colony.<sup>216</sup>

<sup>213</sup> Archives, vol. xx, p. 279; vol. xxiii, p. 87.

<sup>214</sup> *Ibid.*, vol. xx, pp. 284, 388. For a time there were two riding surveyors, one in Cecil County and one in Williamstadt on the Eastern Shore (*ibid.*, vol. xx, pp. 284, 388, 517). The office in Cecil County was continued at least until 1703 (*ibid.*, vol. xxv, p. 161).

<sup>215</sup> *Ibid.*, vol. xxiii, p. 87.

<sup>216</sup> A proclamation concerning the trade with Pennsylvania in 1695 would make it seem as if there were considerable cause for complaint. "And Forasmuch as (by severall Complaints & other advice received) it is made apparent that the Trade of this Province is much impared & Damnified by Sloops Shallops & Boates off & belonging to the province of Pensilvania Town of New castle & Territoryes thereunto belonging (they being distinct Governm<sup>ts</sup> from this) which keep runing and Trading up and down w<sup>th</sup>in the severall Rivers and Creekes of this his Ma<sup>ty</sup>s Province of Maryland, transporting their loading over land & taking in the same at the heads of Severall Rivers w<sup>th</sup>in this Province especially Bohemia & Elke Rivers, and not only so; but are frequently known to transport in Carts at the said places indifferent large Sloopes, Shallops, & Boates w<sup>th</sup>out making any report or Entrey thereof . . . and Forasmuch as it hath likewise been represented unto me in Councill, how that his Ma<sup>ty</sup>s Duty for Importacon of Liquo<sup>rs</sup> from those parts have been much defrauded by concealing & hiding severall Runlets



The records indicate only a few seizures in other parts of Maryland for breaches of the colonial acts and these were on a very small scale.<sup>217</sup> It is unlikely in view of the general activity of the royal government in cases of illegal trade that much smuggling even in violation of colonial acts went on undiscovered, and there are certainly no references to this kind of trade as frequent in the colony after 1697, the date of Governor Nicholson's statement. Legitimate trade in dutiable commodities other than tobacco was not large, and smuggling could not have increased its volume to any appreciable extent.

It is still possible that Maryland colonists might have traded with the pirates who haunted colonial waters during these years. Their presence would have opened routes for a dangerous but profitable trade. The English government undoubtedly dreaded pirates in the waters of the province. They were a menace because they might capture vessels sailing to or from England, and because they could easily make alliances with the inhabitants for carrying on illegal trade. The authorities at home, therefore, continually warned the Maryland governors to be vigilant for the protection of the province and for the preservation of its trade

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full of Brandy Rum & other Spirits, And wine w<sup>th</sup>in Caske pretended to be filled with Bisket and ffloore" (Archives, vol. xx, p. 279). There are a few specific instances of this trade (*ibid.*, vol. xxiii, pp. 151, 166, and probably 399; vol. xxv, p. 161), but the small number and value of the seizures show that it was not so dangerous as the proclamation makes it appear.

<sup>217</sup> Shallop seized for exporting skins (Archives, vol. xx, p. 284). Sloop which carried sixteen barrels of pork from Somerset (*ibid.*, vol. xx, p. 486). Shallop seized by deputy collector of Williamstadt (*ibid.*, vol. xxiii, p. 101). Twenty-two negroes brought into the province without entry (*ibid.*, vol. xxiv, p. 8). Thirty-five negroes imported without paying duty (*ibid.*, vol. xxvii, pp. 240, 241). Also a schedule of goods from one boat seized by the naval officers for Cecil County. This schedule indicates how petty the trade was. It includes 1 keg of rum, 9 gallons,  $\frac{1}{2}$  barrel of beer,  $\frac{1}{2}$  barrel of beer half out, 2 runlets of beer of 2 gallons each,  $1\frac{1}{2}$  pints of spirits,  $1\frac{1}{2}$  pints of sugared rum, 1 pint bottle of rum and syrup mixed, 13 pairs of gloves, 1 fishing line, 1 knife and fork, 3 small pieces of lead, 1 barrel of biscuit, 1 pot and pothooks, 1 fowling piece and ammunition, 1 small glass bottle, 2 chests and a small box, 1 large cake of gingerbread, 10 dollars, 5 casks containing upwards of eight hundredweight of sugar (*ibid.*, vol. xxiii, p. 71).

against the pirates,<sup>218</sup> and they kept the colony informed of any especially notorious pirate captains who might be approaching the coast.<sup>219</sup> The law for the trial of pirates in the plantations naturally included Maryland,<sup>220</sup> and her governor received a definite commission to try all cases of piracy found in Maryland or Pennsylvania.<sup>221</sup> The royal governors themselves were no less concerned at the possible presence of pirates in their waters. They imparted their fears to the English government,<sup>222</sup> they rehearsed the precautions which they had taken or wanted to take to capture the pirates,<sup>223</sup> and they frequently issued proclamations against well-known captains.<sup>224</sup>

As a matter of fact their precautions were hardly worth while. Only a few alleged pirates ever came to Maryland at all, and some of these were probably innocent. There were, however, many rumors of pirates in Pennsylvania and of an alliance between them and the Pennsylvanians which caused considerable anxiety to the governors of Maryland throughout the whole period of royal control.<sup>225</sup> Finally, Nichol-

<sup>218</sup> Archives, vol. xxiii, p. 25; C. O. 5: 725, pp. 177, 382, 478; Archives, vol. xxv, p. 78.

<sup>219</sup> Archives, vol. xx, p. 496; vol. xxv, p. 73.

<sup>220</sup> Draught of the bill for the trial of pirates (C. O. 323: 2, 105, 113, a duplicate copy). See also C. O. 5: 725, p. 490, and 11 William III, c. 7.

<sup>221</sup> Order in Council for commissions to be issued to the colonial governors for the trial of pirates (C. O. 323: 3, 68). Circular letter (C. O. 5: 726, p. 41). Blakiston's commission (C. O. 5: 726, pp. 22, 27, 37).

<sup>222</sup> C. O. 5: 719, 18, Bundle 3; Archives, vol. xx, p. 486; vol. xxiii, p. 85; C. O. 5: 714, 40 (i).

<sup>223</sup> It was partly for this reason that the governors so anxiously requested a small frigate in Maryland waters (C. O. 5: 719, 18, Bundle 3; Archives, vol. xxiii, p. 85). In one case a Captain Darnell was commissioned to capture privateers in the Delaware (Archives, vol. xx, p. 532). Maryland vessels were ordered even in time of peace to sail together to avoid pirates (C. O. 5: 741, pp. 503, 504). The governors joined in recommending a reward to those persons discovering pirates (C. O. 5: 1260, 76).

<sup>224</sup> C. O. 5: 714, 54 (ii), C. 21; Archives, vol. xxiii, p. 132; vol. xxv, pp. 97, 100.

<sup>225</sup> Archives, vol. xx, p. 566; vol. xxiii, pp. 84, 159-163; vol. xxv, pp. 116, 554-570, 577-580; C. O. 5: 714, 25, 17 (iii), B. 4, B. 8; C. O. 5: 715, 47, E. 21, Bundle 1701; C. O. 5: 741, p. 428. In view of the presence of pirates in Pennsylvania the officers of Cecil County were enjoined by Governor Nicholson to be especially careful to watch for them (Archives, vol. xxiii, p. 153).

son, as the representative of English authority nearest at hand, actually sent an armed expedition into Pennsylvania to bring out a man named Day who was suspected of piracy. But Pennsylvania was justly furious at this invasion of her territory, and Governor Markham proved that Day had received a commission from him as a privateer against the French.<sup>226</sup> Robert Quarry, who was a notorious exaggerator, warned Governor Blakiston during his administration that a sloop with ten pirates, escaped from New York, was about to enter Maryland waters.<sup>227</sup> When the boat was captured, however, the number against whom anything could be proved dwindled to one man. He was tried and sent to England, and the sloop in which he had come to the colony was condemned.<sup>228</sup> A cabin boy of Captain Kidd's was supposed to have taken passage for England in Maryland, but he had sailed before Blakiston could lay hands on him.<sup>229</sup> Captain Munday, arriving in the province from trading off the Guinea coast with a tale of the piratical depredations from which he had suffered, was himself suspected of collusion with the pirates and was laid under a heavy bond.<sup>230</sup> Real pirates must have frequented the mouth of the bay, for a number of ships trading to Maryland were captured by pirates and the London merchants even petitioned for a convoy to protect the fleet from their depredations,<sup>231</sup> but the governors themselves acknowledged that the enclosed character of the seacoast made it inconvenient

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<sup>226</sup> For a complete history of the case of the invasion of Pennsylvania to capture Day see C. O. 5: 1257, 6 (ii)-6 (ix). See also C. O. 5: 714, 17 (iii).

<sup>227</sup> C. O. 5: 719, 5, Bundle 7; C. O. 5: 1258, 31.

<sup>228</sup> C. O. 5: 719, 5, 6, 6 (i), 6 (ii), 8, Bundle 7; C. O. 5: 714, 70, 70 (i)-70 (vii); C. O. 5: 715, 1, D. 10, Bundle 1700; C. O. 5: 725, p. 402; Treasury Papers, cii, 67.

<sup>229</sup> C. O. 5: 719, 7, Bundle 7.

<sup>230</sup> C. O. 5: 715, Bundle 1700, 6, 8, 8 (ii)-8 (viii), 9, 10, 13, 14, 17, 18, 19. It appears that Munday's connection with the group of London merchants extricated him from having to answer this accusation. See page 96.

<sup>231</sup> C. O. 5: 715, 4, Bundle 1700; C. O. 5: 716, H. 41, H. 74; C. O. 323: 3, 28, 35.



for pirates to come actually into the province.<sup>232</sup> On the whole, the protected position of Maryland plus the vigilance of her governors made it impossible for the colony to become a pirate refuge, or for the inhabitants to carry on this form of illegal trade.

A review of the facts contained in this chapter makes apparent the following points: The great trade route of Maryland was that to England, employing at least seventy ships annually, the larger number from the English metropolis. Usually these vessels sailed, probably once a year after 1706, in regular fleets under the protection of a convoy, and in Maryland they separated to obtain their return cargo where and how they could. When the tobacco arrived in England, it came in one way or another into the hands of small groups of merchants. Those in London were so important that much of the conduct of the tobacco trade was under their control; and they certainly attempted, with what direct success it is impossible to say, to influence the government policy toward that trade. The measures undertaken by the government were often singularly in accord with appeals from those merchants. The tobacco was sold by the planter to the merchants, either in England, in which case the planter in Maryland could draw bills of exchange on the merchant for his shipment, or in Maryland, where the factors of the merchants bought the staple in exchange for imported European commodities. Finally, moreover, this route to and from England was occasionally lengthened by a voyage to the Guinea coast for negroes, such trips being made by private traders not under the control of the Royal African Company. Trade routes to foreign countries were insignificant in comparison with the route to England, but those to the other colonies were of some importance, though the vessels concerned and the bulk of traffic were small. The chief line of trade was to Barbadoes. The boats used in coastwise and West Indian commerce were owned for the

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<sup>232</sup> C. O. 5: 715, 1, D. 10; C. O. 5: 717, I. 63; C. O. 5: 719, 9, Bundle 7.



most part in New England or in Maryland; as many as one hundred and fifty-two vessels were actually built or building in the colony at the end of the century.<sup>233</sup> The conclusion has been reached that although there was undoubtedly a certain amount of illegal trading, the precise extent of which it is difficult to ascertain, still on the whole the English authorities were so zealous that breaches of the Navigation Acts, and apparently also of the several colonial acts, were comparatively rare. Absolutely no connection between the people of Maryland and any of the notorious pirates of the seventeenth century can be traced, and certainly, too, no pirates frequented the colony. Neither illegal trade nor piracy had any appreciable effect on the development or the direction of Maryland trade routes.

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<sup>233</sup> Not all these vessels were concerned in the intercolonial trade, a few being large enough to form part of the fleet engaged in the trade to England.

## APPENDIX I

TIMBER EXPORTED FROM VIRGINIA AND MARYLAND  
1697-1717

Period	Masts	Oars	Pipe staves and hhd.
Michaelmas 1696-			
Lady Day 1697			11 c. 1 q.
Lady Day 1697-			
Michaelmas 1697	1 small		986 c. 1 q.
Michaelmas 1697-			
Michaelmas 1698		1 q. 14 no.	352 c. 1 q. 2 no.
Michaelmas 1698-			191 c.
Christmas 1698	10 middle		708 c. 1 q. 16 no.
Christmas 1698-	5 small		
Christmas 1699	2 great	2 c. 1 q. 6 no.	674 c. 1 q. 20 no.
1700	3 middle		
1701			744 c. 0 q. 10 no.
1702			1898 c. 3 q. 19 no.
1703			1040 c. 2 q. 14 no.
1704		12	3288 c. 2 q. 14 no.
1706	2 small		1479 c. 2 q. 10 no.
1707			1976 c.
1708			1710 c. 0 q. 15 no.
1709		40	2472 c. 3 q. 11 no.
1710			1489 c. 0 q. 17 no.
1711	12 small		1559 c. 3 q. 2 no.
1713		0 c. 2 q. 20 no.	1622 c. 1 q. 20 no.
1714			2454 c. 3 q. 14 no.
1715	8 large	12	3610 c. 0 q. 12 no.
	15 middle		
	4 small		
1716	3 large	4 c. 1 q.	4706 c. 3 q. 6 no.
	10 middle		
	1 small		
1717	86 large		5723 c. 2 q. 6 no.
	12 middle		
	17 small		

## APPENDIX I (cont.)

Period	Barrel staves	Hhd. headings	Oak knees
Michaelmas 1696-			
Lady Day 1697			
Lady Day 1697-			
Michaelmas 1697	5 c.	48 ps.	
Michaelmas 1697-			
Michaelmas 1698	5 c.		94
Michaelmas 1698-			
Christmas 1698			
Christmas 1698-	10 c. 0 q. 20 no.		
Christmas 1699			
1700	15 c.		
1701	317 c. 1 q. 20 no.		
1702	120 c. 0 q. 24 no.		
1703	29 c. 3 q. 24 no.	10 c. 2 q.	36
1704	127 c. 0 q. 20 no.		
1706	57 c.	5 c.	
1707	155 c. 2 q. 10 no.		
1708	149 c. 2 q. 10 no.	8 c.	
1709	269 c. 2 q. 20 no.	32 c.	Firkin staves 15 c.
1710	95 c.	22 c. (bbl. heading)	
1711	227 c. 0 q. 5 no.	10 c.	
1713	401 c. 3 q. 15 no.	1 c.	
1714	712 c. 1 q.	2 c.	
1715	1115 c. 1 q.	7 c. 2 q.	
1716	2748 c. 3 q. 14 no.	24 c.	
1717	2615 c. 3 q. 26 no.		

## APPENDIX I (cont.)

Period	Walnut plank or boards	Other plank or boards, oak, cedar, etc.	Deals
Michaelmas 1696-			
Lady Day 1697			
Lady Day 1697-	Value of		
Michaelmas 1697	£33. 0. 0.		
Michaelmas 1697-			
Michaelmas 1698	215 ps.		
Michaelmas 1698-			
Christmas 1698	Value of	41	
Christmas 1698-	£31. 7. 6.	993 ps. and plank	
Christmas 1699		to the value of	
		£12. 5. 0.	
1700		261 ps. and plank	
		to the value of	
		£27. 5. 0.	
		26 ps.	
1701	£ 5. 0. 0.		
1702	£31. 0. 0.		
1703	109 ps.	2 loads	8
1704	10 ps. and at value	13 ps.	o c. 1 q. 4 no.
	£ 7. 10. 0.		
1706	£ 1. 0. 0.	9 ps.	19
1707	48 ps. and 120 ft.	17 ps.	
1708	£ 4. 6. 0.	24 ps.	
1709	£69. 19. 0.		
1710	102 ft.	103 ps.	
1711	24 small ps.	3 boards and 1590 ft.	
1713	21 ps.	£64. 10. 2.	
1714		£11. 6. 8.	
1715			25
1716		230 47/50 loads	
1717		160 11/50 loads	



## APPENDIX I (cont.)

Period	Spars	Timber and wood of several sorts
Michaelmas 1696-		
Lady Day 1697		
Lady Day 1697-		
Michaelmas 1697		
Michaelmas 1697-		
Michaelmas 1698		
Michaelmas 1698-		
Christmas 1698		
Christmas 1698-		30 loads
Christmas 1699		
1700		4 loads 21 ft.
1701		2 loads
1702		
1703		
1704		
1706		
1707		11 c. wood
1708		
1709		
1710		4 loads 16 ft.
1711		
1713		
1714		Value of £14. 17. 4.
1715	0 c. 2 q. 17 no.	33 loads and wood to the value of £548. 4. 2.
1716		Value of £56. 0. 0.
1717	0 c. 1 q. 0 no.	32 $\frac{23}{50}$ loads and wood to the value of £248. 18. 1.

Custom House Accounts, Ledgers of Imports and Exports, vols. i-xvii, Inspector General's Accounts, vol. i; C. O. 390: 8. The Custom House Accounts are followed through 1714.

## APPENDIX I (cont.)

PITCH AND TAR AND TURPENTINE EXPORTED FROM  
MARYLAND AND VIRGINIA, 1697-1715

Period	Pitch and Tar	Turpentine
Michaelmas 1696-		
Lady Day 1697	None	
Lady Day 1697-		
Michaelmas 1697	4 last* 6 barrels	
Michaelmas 1697-		
Michaelmas 1698	3 last 1 barrel	
Michaelmas 1698-		
Christmas 1898	None.	
1699	1 last 8 barrels	
1700	5 last 10 barrels	
1701	None	
1702	4 last 3 barrels	
1703	2 last 2 barrels	
1704	31 last 5 barrels	
1705	9 last 4 barrels	
1706	49 last 5 barrels	
1707	31 last 8 barrels	
1708	8 last 8 barrels	
1709	15 last 7 barrels	
1710	3 last 2 barrels	9c.
1711	61 last 3 barrels	
1712	54 last 6 barrels	
1713	44 last 2 barrels	
1714	14 last 7 barrels	
1715	189 last 10 barrels	

Custom House Accounts, Ledger of Imports and Exports, vols. i-xvii; Inspector General's Account, vol. i; C. O. 390: 6.

\* Twelve barrels were counted to the last.

## APPENDIX II

### CHRISTMAS 1698—CHRISTMAS 1699. ENGLISH MANU- FACTURED GOODS EXPORTED TO VIRGINIA AND MARYLAND

Article	Amount	Value L. s. d.
Allom	7 cwt. 0 q. 14 lbs.	
Apparel	19160 suits	
Apples	300 bushels	
Apothecary ware	72 cwt. 3 q. 0 lbs.	
Aqua vitae	19 T. 2 hhd. 36 gal.	
Bacon	13 fitches	
Baggs money	117¼ doz.	
Beds sea	5	
Bellows	10¾ doz.	
Beef	1 runlet	
Breeches	4 pr.	
Bricks	26000	
Beans	1 bu.	
Beer	73¾ T. 1 hhd. 1 bbl.	
Books printed	110 cwt. 3 q. 13 lbs.	
Bodies	5630	
Brass wrought	310 cwt. 3 q. 23 lbs.	
Bridles.	534 5/12 doz.	
Butter	164 firkins	
Buttons hair	138 groce	
Candles	380 doz. lbs.	
Capps plain monmouth	65¼ doz.	
Cards new wool	52 2/3 doz.	
"    old    "	51 doz.	
"    playing	3 cwt. 3 q. 21 lbs.	
Chariots	2	
Cheese	441 cwt. 3 q. 10 lbs.	
Copper wrought	26 cwt. 1 q. 2 lbs.	
Cordage	306 cwt. 2 q. 0 lbs.	
Coals	20 chaldron	
Collers p. horses	82 2/3 doz.	
Cyder	7 T. 2½ hhd.	
Dimity	617 yds.	
Earthware	75676 ps.	
Flax	2 cwt. 3 q. 0 lbs.	
Fustian	3440 ps.	
Guirts for saddles	20 doz.	
Glass bottles, pint	308	
"    "    quart	25800	
"    pottles	956	
"    drinking	10591	
Glass for windows	147½ chests	
Gloves stitched	3¾ doz.	

## APPENDIX II (cont.)

Gloves plain leather	1745 2/3 doz.
Grindlestones	713 <sup>3</sup> / <sub>4</sub> chaldron
Gunpowder	284 cwt. 1 q. 18 lbs.
Haberdashery	527 cwt. 0 q. 21 lbs.
Hatts beaver	15 doz.
" castor	582 2/3 doz.
" felt	2059 5/12 doz.
" straw	211 1/2 doz.
Hatbands cruel	3 doz.
Haircloth	24 ps.
Harness p. coaches	5 pr.
Holsters	93 pr.
Hopps	3 cwt. 1 q. 15 lbs.
Horns powder	1 doz.
Iron cast	37 cwt. 3 q. 14 lbs.
" clockwork	3 cwt. 0 q.
" wrought	3806 cwt. 1 q. 10 lbs.
" nayles	3457 cwt. 1 q. 11 lbs.
Lace silver	2 lbs.
Lanthorn leaves	200
Lead and shott	12 F. 821 cwt. 1 q. 9 lbs.
Leather tanned	8 cwt. 2 q.
Leather wrought	110 c. 89 lbs.
Lime	93 <sup>3</sup> / <sub>4</sub> chaldron
Linnen	3360 <sup>1</sup> / <sub>4</sub> ps.
" ticking	131 ps.
Malt	575 q. 7 bu.
Maps	1 q.
Oaker red	1 q. 14 lbs.
Oatmeal	1/2 bu.
Pease	24 bu.
Parchment	2 1/2 rolls
Pictures	1 cwt.
Pewter	853 cwt. 1 q. 8 lbs.
Plate wrought	601 oz.
Saddles great	1144
" small	4293
" side	8
Skins sheep drest	20
" calve	1 cwt. 2 q.
Shovells shodd	53 1/6 doz.
Silk thrown	703 <sup>1</sup> / <sub>4</sub> lbs.
" wrought	2956 <sup>1</sup> / <sub>2</sub> lbs.
Soap hard	104 cwt. 3 q. 21 lbs.
" soft	10 bbls.
Starch	14 lbs.
Stays	18 pr.
Steel gad	2 q. 2 lbs.
Steel	63 cwt.
Tinn	5 cwt. 2 q. 7 lbs.
Thread brown	6 lbs.
Tobacco pipes	3984 gross
Watches	1
Wax sealing	9 lbs.



## APPENDIX II (cont.)

Wool: Bays double	14 ps.		
" barnstaple	80½ ps.		
" minikin	323 2/3 ps.		
" single	37½ ps.		
Cloth long	23½ ps.		
" short	249¼ ps.		
" broad	18 ps.		
" Spanish	30 ps.		
" remnants	33851½ lbs.		
Cotton northern	63351 goads		
" Welsh plains	2646 goads		
Coverletts wool and hair	2273 ps.		
Devon doz. double	96 ps.		
" " single	28 ps.		
Dozen double northern	49½ ps.		
" single	2 ps.		
Flannels	11981 yds.		
Frize	2666 yds.		
Kersies	3172½ ps.		
Linsey woolsey	108 lbs.		
Pennistons frized	130½ ps.		
" unfrized	36 ps.		
Perpetuanas	72 ps.		
Ruggs Irish	2651		
Serges	25527 lbs.		
Stockings men's worsted	1327 doz.		
" " wool	2497 1/6 doz.		
" Irish	547 1/3 doz.		
" women's wors.	2½ doz.		
" " wool.	5 doz.		
" children's "	1220 10/12 doz.		
" " wors.	174 doz.		
" cloth	2 doz.		
Wastcoats wool	7		
Shaloon	20 lbs.		
Stuffs	34003½		
" w. hair	32 lbs.		
" w. silk	3912 lbs.		
Waistcoats worsted	2		
Tavestocks	83 ps.		
Goods at value			
Blankets	—	495.	2. 4.
Bone lace	—	78.	3. 6.
Brandy, English	—	2.	10. 0.
Bisketts	132 cwt. 3 q. 8 lbs.	89.	12. 0.
Cabinets	1	3.	0. 0.
Cartwheels	—	29.	1. 0.
Chairs	—	318.	10. 9.
Escrutore	—	12.	0. 0.
Files	6 doz.	1.	8. 0.
Garden seeds	—	3.	12. 0.
Handkerchiefs silk	1 doz.	1.	4. 0.
Joyner's wares	—	29.	11. 0.
Iron backs	2	2.	10. 0.

## APPENDIX II (cont.)

Goods at value		
Looking glasses	—	17. 10. 1.
Mathematical Instruments	—	9. 14. 0.
Mil stones	—	2. 8. 0.
Muslin	—	1. 14. 4.
Perukes	—	99. 19. 6.
Printing press and letters	2	102. 0. 0.
Pictures etc.	—	3. 0. 0.
Purbeck stone	6 load	15. 10. 0.
Ruggs	17	8. 9. 2.
Red paint	10 lbs.	3. 15. 0.
Tombstone	1	5. 0. 0.
Turnary ware	—	1863. 9. 3.
Thread hose	3 pr.	0. 6. 0.
Walnut plank	49	10. 0. 0.
Whipps	—	9. 10. 0.
Bellows for smiths	—	5. 5. 0.
Chests of drawers	—	59. 18. 8.
Clock cases	3	8. 10. 0.
Corks	—	21. 19. 6.
Household goods	—	72. 13. 8.
Millinary	—	1728. 11. 8.
Salt	72½ wey 15½ bu.	1342. 6. 8.
Spirits	—	153. 4. 0.
Stationary wares	—	253. 5. 0.
Tinware	—	601. 4. 2.
Upholstery	—	10115. 12. 6.
Harness for horses	—	13. 19. 0.
Paper	6 reams	2. 8. 0.
Scives	—	23. 0. 0.
Canes	—	4. 0. 0.
Callicoes	5 ps.	4. 0. 0.
Cotton ware	—	2. 6. 0.
Hoops	—	45. 8. 0.
Latten ware	—	24. 8. 6.
Lasts for shoes	—	3. 6. 0.
Netts and lines	—	5. 10. 0.
Spice	—	37. 12. 9.
Yarn wick	—	20. 14. 3.
Woollen coverletts	133	26. 12. 0.

CHRISTMAS 1668-CHRISTMAS 1699. EXPORT OF FOREIGN  
GOODS FROM ENGLAND TO MARYLAND AND  
VIRGINIA

Article	Amount	Value L. s. d.
Battery	158 cwt. 0 q. 13 lbs.	
Anchovies	20 bbls.	
Allom	10 lbs.	
Brimstone	14 lbs.	
Candles	790 lbs.	
Capers	786 lbs.	

## APPENDIX II (cont.)

Capps Dutch	9½ doz.
Carpets Turkey	1
Cordage	14 cwt.
Drugs	1 cwt. 2 q. 3¾ lbs.
Fanns paper	1 doz.
Frize Irish	9883 yds.
Fustian	6 ps. and 58½ yds.
Groceries: Almonds	6 lbs.
Cinnamon	30¼ lbs.
Cloves	38¾ lbs.
Currants	42 cwt. 2 q. 23 lbs.
Figs	1 cwt. 0 q. 20 lbs.
Ginger	0 cwt. 3 q. 11 lbs.
Licoris	0 cwt. 0 q. 2 lbs.
Mace	12¾ lbs.
Nutmegs	138½ lbs.
Pepper	1689 lbs.
Prunes	15 cwt.
Raisins	198 cwt. 1 q. 5 lbs.
Rice	1 cwt. 0 q. 22 lbs.
Sugar brown	83 cwt. 3 q. 4 lbs.
Hats Irish	3 doz.
Incle wrought	8 7/12 doz.
" unwrought	7 lbs.
Indigo	33 lbs.
Iron frying pans	3 cwt. 3 q. 11 lbs.
" nails	1 cwt.
" stoves	5
" backs	6
" Spanish	40 cwt.
" Swedish	68 cwt.
" wrought	1 cwt.
Iron	1 T.
Linen: Linen barras	12 c. 1 q. 18 ells
Bengarols	2 lbs.
Blew linen	7 ps.
Callicoes	2476 17/20 ps.
Cambricks	41 ps.
Brown rolls	60 ells
Buckram	5 ps.
Canvas Hessens	20 c. 0 q. 6 ells
" Et. country	1 c. 1 q. 10 ells
" Normandy	5 c. 0 q. 11 ells
" packing	1 c. 1 q. 15 ells
" spruce	27 c. 0 q. 17 ells
" vittrey	476 c. 2 q. 20 ells
" working	1 q. 15 ells
Checks	685½ ps.
Cloth British	92 ps.
Siletia Damask napkins	177½ yds.
" diaper	2573 13/20 yds.
" " tabling	276 yds.
Dowlas	748 ps.
East country broad	6 c. 2 q. 0 ells

## APPENDIX II (cont.)

East Country narrow	11 c. 1 q. 15 ells
Flanders linen	1482½ ells
Germany broad	525 c. 2 q. 15 ells
" narrow	3914 c. 3 q. 14 ells
Harfords	45 c. 3 q. 9 ells
Hamborough	490 ells
Hamells	328 ells
Hinterlands	7 c. ells
Holland linen	22663 1/10 ells
" duck	13 c. 2 q. 24 ells
Irish linen	196 c. 3 q. 11 ells
Ghenting	28 ps. 581 ells
Kenting	10 ps.
Sletia lawns	1638 ps. and 34 yds.
Huckabuck	621 yds.
Lochams	9 c. 2 q. 8 ells and 54½ ps.
Ozenbrigs	32874 1/3 ells
Poldavies	5 bolts
Polonia broad	0 c. 3 q. 20 ells
" narrow	4 c. 0 q. 12 ells
Russia	1 c. 2 q. 0 ells
Scotch twill	158 c. 0 q. 23 ells
" linen	163 c. 0 q. 23 ells and 57 ps.
" ticking	83 c. 0 q. 16 ells
Ticking Flanders	65½ ps.
" East country	172 yds.
" Hamborough	4 ps.
Ticks turnall	57 ps.
Lampblack	1 cwt. 3 q. 22 lbs.
Oil olive	7½ gal.
" linseed	85 gal.
" sweet	280 gal.
" trayne	45 gal.
Mittings wadmall	17½ doz.
Paper ordinary	219 reams
" copy	10 reams
" royal	4 reams
" demy	12 reams
Plate wrought	71 oz.
Potts iron	1654
" stone	344 cast
Quilts calico	9
Rozen	14 lbs.
Ruggs Irish	30 ps.
Salt Spanish	23 wey 32½ bu.
" French	33 wey 33 bu.
Silk Italian thrown	214 lbs.
" Turkey raw	½ lb.
" Dutch wrought	141 lbs. 13 oz.
" Bengal plain	16 ps.
" Bengal wrought	1 lb.
" Persian	3 ps.
Shruff	3 q. 10 lbs.
Smelts	40 lbs.



## APPENDIX II (cont.)

Soap	277 cwt. 0 q. 17 lbs.
Stockings worst.	3 doz.
"    wadmall	10 doz.
Stones quern large	3 5/6 last
"    "    small	40 5/6 last 11 pr.
"    dog	2 1/3 last
"    mill	44
Steel long	11 cwt. 2 q.
Stuff Irish	23 yds.
"    Guinea	40 ps.
Thread Irish	72 cwt.
"    Bridges	5 1/2 doz. lbs.
"    Outnall	60 lbs.
"    whited brown	113 doz. lbs.
Tarras	3 bbls.
Tobacco	210 lbs.
Toys	1 parcell
Tallow	8 cwt.
Twine	1 cwt.
Turpentine	8 lbs.
Taffeties	23 ps.
Wrought brass	2 q.
Wine Canary	16 pipes 1 hhd. 60 gals.
"    Florence	1 pipe 15 gal.
"    Port	12 pipes 1 hhd. 41 gal.
"    Rhenish	1 1/2 awm 34 gal.
"    Spanish	2 p. 2 hhd.
"    Sherry	3 p. 1 hhd. 6 gal.
Wood logwood	604 cwt.
"    redwood	4 cwt.
"    pipe staves	134 c. 20 no.
Whale bone	12 cwt. 0 q. 22 lbs.
Wool cotton	3 lbs.
Vinegar	31 1/2 gal.
Yarn cotton	56 lbs.
"    Floretta	16 lbs.
Goods at value	
Bugle great	715 lbs.
Chintz	64 ps.
Derribands large	5 ps.
Grocery	262 cwt. 2 q.
Mullmuls flowered	2 ps.
Muslin	266 1/4 ps. 12 yds.
Neckcloth flowered	36 ps.
"    plain	431 ps.
Nilleas	50 ps.
Nickanees	55 ps.
Romalls	684 5/6 ps.
Sallampores	22 ps.
Shirts	289
Soosays	12 ps.
Shallbafts	5 ps.
Spice	791 lbs.
Stuffs Guinea	120 ps.

## APPENDIX II (cont.)

Goods at value		
Tanjeeds	19½ ps.	
Tepoys	33	
Drugs	1 cwt. 1 q. 11 lbs.	
Glassware	1 parcell	
Bafts	6 ps.	
Borelaps	154 ells	
Doreas	6 ps.	
Handkerchiefs	98 ps.	
Mohabut banees	7 ps.	
Mullmuls plain	24 ps.	
Putkeys	15 ps.	
Striped linen	166 ells 115 yds.	
Tapsells	30 ps.	
Stuffs Fanna	2 ps.	
Stockings Scotch	103¼ doz.	
Cravats Scotch		52. 12. 6.
Earthware		18. 0. 0.
Printed linen	221 yds. 37 ps.	
Spirits	29 gals.	
Thread Scotch	22 lbs.	
Trunks		2. 10. 0.
Linen		45. 17. 0.
Brandy	16 gal.	
Coffee	104 lbs.	
Crocus linen	18 ps.	
Diaper napkins fringed	2 doz.	
Flints	1000	
Garlicks narrow	20 ells	
Ginghams	36 ps.	
Mum	60 gal.	
Chocolate	43 lbs.	
Earth red	3 cwt.	
Fanns silk	85	
Linen aprons	6	
Bettlees	2 ps.	
Birampants	29 ps.	
Chuckleys	5 ps.	
Hunnims	2 ps.	
Nightrails	60 ps.	
Penniascoes	32 ps.	
Savagucees	10 ps.	
Pimento	3 lbs.	
Sauces	2 cases	
Silks Turkey wrought	3 ps.	
Taffeties	23 ps.	
Colored linen	367	
Stuffs India	1 ps.	
Thread		222. 19. 9¾.

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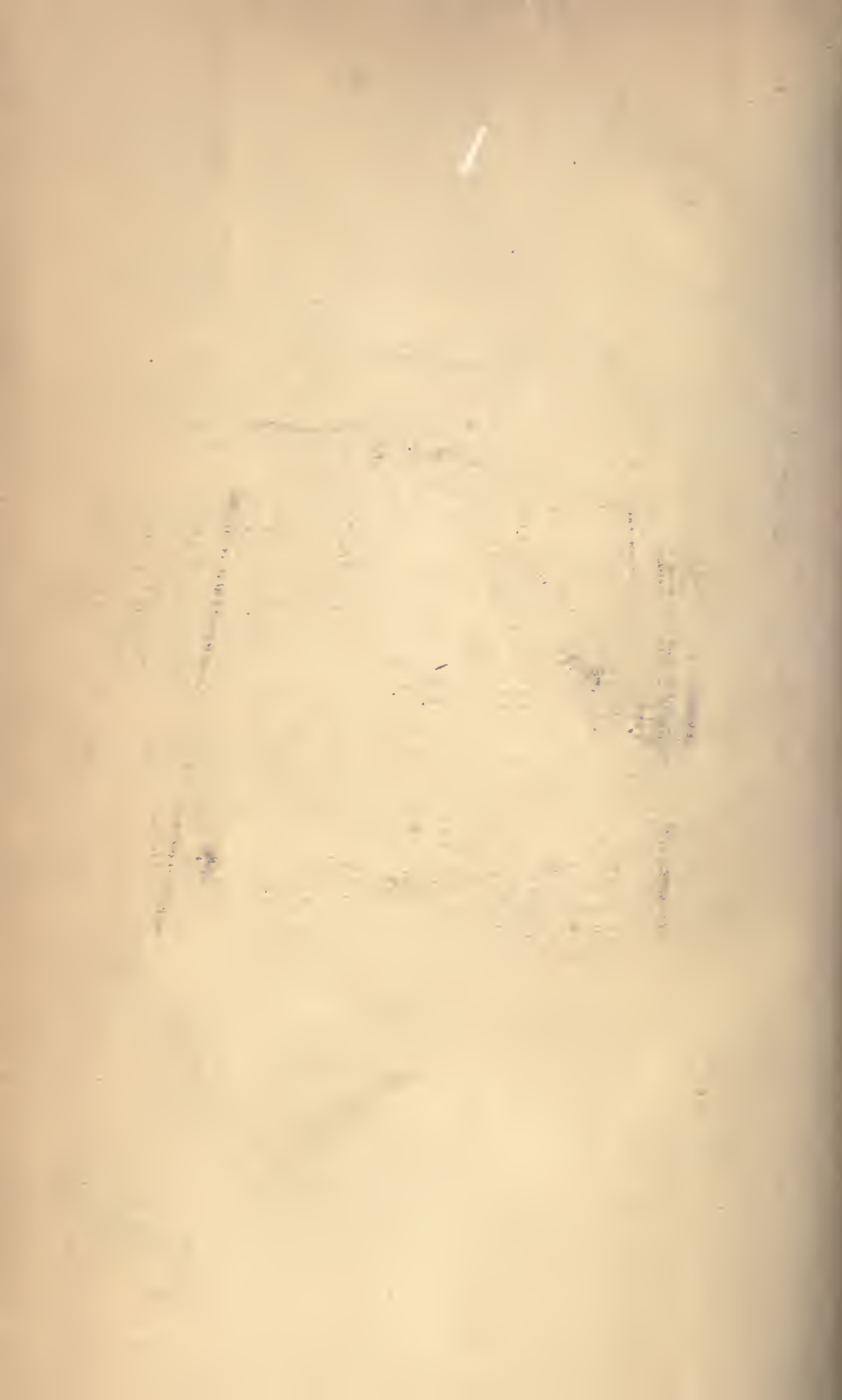
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