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TOBACCO REGULATION IN
COLONIAL MARYLAND

TOBACCO REGULATION IN COLONIAL MARYLAND

BY

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CHAPTER I

AMERICAN TOBACCO BEFORE 1634

INDIGENOUS AMERICAN TOBACCOS

For one hundred and fifty years tobacco was the staple of Maryland's economic life. That dominant economic position would seem to justify a more intensive study of the plant for the Maryland colonial period than has been undertaken so far. But the very fact that tobacco entered extensively into all phases of the life of the province and then the state, makes it advisable to restrict this study to one aspect of the whole industry, if possible to the key operation. Concentration on the history of the regulation of tobacco within the colony seems to fulfill this requirement. The evolution of the supervision leading up to the first comprehensive tobacco inspection act of 1747 covered a trifle over one hundred years and that act established the base in Maryland for the continued adaptation of law to economic needs up to the present time.

Furthermore, among the central problems in current marketing of many agricultural products are classification and inspection. The importance of these procedures increases as the processing of such major agricultural crops becomes less and less a haphazard procedure by individuals and passes under the directive influence of private and governmental agencies. Restated, a history of tobacco regulation in Maryland should give a better understanding of the present standardizing of this crop and possibly similar products of the soil.¹

¹ The word "regulation" has been selected to include inspection or grading as well as classification. ". . . the terms 'inspection' and 'grading' are largely synonymous." Letter to writer from C. E. Gage, Senior Marketing Specialist, Tobacco

As tobacco both in its indigenous and cultivated forms was grown in America before the establishment of Maryland in 1634, it is desirable to give a brief introduction covering that earlier period. It is now generally accepted that the word "tobacco" originally applied to a Y-shaped tube through which the natives of the West Indies used to suck *cojoba*, a narcotic powder, into their nostrils.² In contrast to this origin of the word was the popular quotation from Nicholas Monardes, who wrote: "The proper name of it amongst the Indians is *Pecielt*, for the name of *Tabaco* is given to it of our Spaniards by reason of an *Ilande* that is named *Tabaco*."³ That a

Section, U. S. Department of Agriculture, August 5, 1935. Classification is "comparing the commodity in question with a series of actual or imaginary samples having specific qualities or combinations of qualities and defects." Standardization results from the combination of inspection of the commodity and then its classification. W. A. Sherman, "Standardizing Production," *The Annals of the American Academy of Political and Social Sciences*, CXLII, 419-424. See also Gage "American Tobacco Types, Uses and Markets," U. S. Department of Agriculture, *Circular* No. 249.

² G. L. Dale, "The Earliest Known Mention of Tobacco and Its Uses," *Hispania*, VIII, 134-135. Dale then quoted from *La historia general de las Indias* by El Capitan Gonzalo Fernandez de Oviedo y Valdés, and concluded: "the remarks by Gonzalo Fernandez in his history seem to give conclusive proof of the authenticity of this meaning." That Indians in America used the word "tobacco" for the leaf was also refuted by R. B. Dixon: "speaking in general there are approximately as many distinct stems for the word 'tobacco' as there are separate linguistic stocks, and as a rule each stock has its own characteristic stem or stems." "Words for Tobacco in American Indian Languages," *American Anthropologist*, N. S., XXIII, 47.

³ *Joyful Newes out of the newfounde worlde* (1571), quoted by L. Carrier, *Beginnings of Agriculture in America*, p. 53. Monardes was referring to the island of Tobago (properly Tobacco) in the British West Indies that was discovered by Columbus in 1498. This island is in the area of indigenous tobacco.

direct connection between the name of the island and the tobacco tube might exist was expressed by an anonymous writer of the eighteenth century who declared that Columbus gave that name to the island because he noticed it was shaped like the Tobago forked hollow pipe used by the Caribbean tribes.⁴

According to sixteenth-century narratives the birth-places of tobacco were in South America and "the most careful investigations have tended only to confirm the idea of the non-existence of any species of tobacco used for smoking, snuffing, or chewing outside the confines of the American continents."⁵ Of some 70 species of *Nicotiana*, 14 both wild and cultivated are found in North America and of these, 9 were in frequent use by the Indian tribes. The *Nicotiana rustica* was the plant indigenous to eastern United States and Canada and is still used as the shag of the French Canadians. But it was the *Nicotiana tabacum* native to Mexico, the West Indies and the eastern areas of South America that subsequently was introduced as a cultivated plant in Virginia. "It is this species which has predominantly met the demand of tobacco users," for one of the subtypes is the Orinoco, a heavy leaf that grows well in the bottom lands of Maryland, and the other is the smaller leaf sweet-scented tobacco that is congenial to the sandy soils of the Virginia peninsulas.⁶

⁴ *Tobago, or a Geographical Description* (1750). L. G. Hay, Treasurer of Tobago, in a brief history of the island mentioned the same idea, but did not give references, *Colony of Tobago*, p. 5.

⁵ W. A. Setchell, "Aboriginal Tobaccos," *American Anthropologist*, N. S., XXIII, 397. Excerpts from early accounts, Gerarde (1597) and Rochefort (1666), were given by Carrier, p. 125.

⁶ Setchell, p. 398; Ralph Linton, "Use of Tobacco among North American Indians," Chicago Field Museum of Natural History, *Anthropology Leaflet*, no. 15, pp. 2-3; E. C. Kirkland, *History*

There were many accounts of the uses of tobacco in America before colonization was well under way. Columbus while in Cuba told of two of his interpreters on an inland trip "meeting many people, men and women, . . . and always the men with a brand in their hands and certain herbs in order to take their smokes, which are some dry herbs put in a certain leaf, also dry, in the manner of a musket formed of paper. . . . Having lighted one end of it, by the other they suck, absorb or receive that smoke inside with their breath by which they become benumbed and almost drunk, and so it is said they do not feel fatigue." ⁷ A stupor produced by steady inhalations seemed a common desire on the part of many Indian tribes and was a part of certain ceremonies. When the Spaniards landed in Paraguay in 1503 the story was told that the natives to repel the invaders supplemented drum beating and stone throwing with spurts of tobacco juice from their mouths. Jacques Cartier, of St. Malo, in describing New France spoke of the Indians at the Port of the Holy Cross and gave details of their use of the plant.

There groweth also a certain kind of herb whereof in Sommer they make great provision for all the year, . . . and first they cause it to be dried in the sun, then weare it about their necks wrapped in little beasts skin made like a little bag, with a hollow piece of stone or wood like a pipe; then when they please they make a powder of it and then put it in one of the ends of the said . . . pipe, and laying a coal of fire upon it, at the

of American Economic Life, p. 69. In *The American Indian* by Clark Wissler there is a map of the tobacco-using areas in 1492 (p. 29). The leaf was used all over both continents except at the extreme North and South and on the West coast of South America where the natives chewed coca.

⁷ Charles Singer, "The Early History of Tobacco," *Quarterly Review*, CCXIX, 127. He quoted from *Historia de las Indias* by de Las Casas.

other end suck so long, they fill their bodies full of smoke, till it cometh out of their mouth and nostrils, even as out of the Tonnell of a chimney. They say that this doth keep them warm and in health, . . . we ourselves have tried the same smoke, and having put it in our mouths it seemed almost as hot as pepper.⁸

At the other end of the continent John Hawkins a few years later in 1565 reported that the natives of Florida satisfied their hunger with tobacco smoke and "therwith they live foure or five days without meat or drinke."⁹

But the real tobacco region of the American colonies centered in the grant to the Virginia Company, a large area between the thirtieth and the forty-fourth degrees of north latitude. One account of the use of tobacco by the natives of that territory came from Thomas Heriot, a scholar and an adventurer who took part in several of the colonization attempts sponsored by his friend Sir Walter Raleigh. Heriot introduced his description with the sentence: "There is a herbe which is sowed apart by itself, and is called by the inhabitants Uppowoc: . . . the Spanyards generally call it Tabacco." The balance of the paragraph told of the methods used in smoking for pleasure and practically duplicated the quotation from Cartier. Then Heriot took up the functions of the leaf as a ceremonial instrument. Not only did his words create the atmosphere of the sixteenth century but they emphasized a use of tobacco by the Indians that stimulated the cultivation of the plant.

⁸ H. U. Faulkner, *American Economic History*, p. 59. Wissler mentioned that the most prevalent aboriginal use of tobacco was smoking and this was done in three ways, the true pipe (United States, Canada), the cigar (West Indies, Amazon area), the tubular cane pipe (Mexico, Central America). Wissler, p. 30.

⁹ *The Hawkins Voyages*, in "The Hakluyt Society Works," LVII, 57.

This Uppowoc is of so precious estimation amongst them, that they thinke their gods are marvellously delighted therewith: whereupon sometime they make hallowed fires, and cast some of the powder therein for a sacrifice: being in a storme upon the waters to pacifie their gods, they cast some up into the aire and into the water: . . . also after an escape of danger they cast some into the aire likewise: but all done with strange gestures, stamping, sometime dancing, clapping of hands . . . and chattering strange words and noises.

Heriot added, "we our selves, during the time we were there, used to sucke it after their manner, as also since our returne, and have found many rare and wonderfull experiments of the virtues thereof."¹⁰

Available sources of sixteenth-century material contained no description of the cultivation of aboriginal tobaccos.¹¹ There was, however, adequate evidence that some of the tribes had transplanted roots or seeds from natural locations to plots of ground near the Indian vilages. Carrier reproduced a picture of the town of Secota (Secoton in North Carolina) drawn by John White in 1586. White was a member of the Roanoke Island settlement, Raleigh's third attempt to gain a foothold in America. In that picture there were two pieces of ground, integral parts of the village, that were planted with tobacco; other sections had corn and sunflowers. Incidentally the drawing contradicted the popu-

¹⁰ "A briefe and true report of the new found land of Virginia," *Hakluyt's Voyages* (Everyman's Library, 1907), VI, 176-177.

¹¹ There are two excellent current accounts of tobacco cultivation and uses by certain Indian tribes, and it is reasonable to suppose that such methods have changed but little since colonial times. See S. C. Simms, "Cultivation of 'Medicine Tobacco' by the Crows," *American Anthropologist*, N. S. VI, 331-335; J. P. Harrington, "Tobacco among the Karuk Indians of California," *Smithsonian Institution Bureau of American Ethnology, Bulletin* 94.

lar belief that all Indians offered vigorous illustrations of the hunting and fishing stages of economic livelihood. To be sure there were migratory tribes, but as Carrier pointed out we have "tramps and scalawags in our own society. The historical evidence beyond question proves that the great majority of the Indians lived in fixed habitations, tilled the soil, and subsisted fully as much if not more on their agricultural products, than they did on those of the chase."¹² Nor did Captain John Smith in his fulsome accounts tell about the cultivation of tobacco, although he seemed impressed by the pipe of one Indian chief, an instrument "three quarters of a yard long, prettily carued with a Bird, a Deere or some such device at the great end, sufficient to beat out ones brains."

William Strachey in the accounts of his travels about the lands of the Virginia Company listed as one of the many plants subject to cultivation "tobacco-seed from Trinidado." In the chapter describing the Indians' vilages he wrote: "About their houses they have commonly square plotts of cleared grownd, which serve them for gardens, some one hundred, some two hundred foote square, wherein they sowe their tobacco, pumpons, (etc.). . . ." He also gave a good idea of the quality of this particular tobacco and other varieties that by 1610 had become well known in Europe.

There is here great store of tobacco, which the salvages call apooke; howbeit yt is not of the best kynd, yt is but poore and weake, and of a byting tast, yt growes not fully a yard above the ground, bearing a little yellowe flower, like to hennebane, the leaves are short and thick, somewhat round at the upper end; whereas the best tobacco of Trynidado and the Oronoque is large, sharpe, and growing two or three yardes from the

¹² Carrier, p. 41. He found no early descriptions of tobacco cultivation by the Indians. *Ibid.*, p. 56.

ground, bearing a flower of the bredth of our bell-flowers in England: the salvages here dry the leaves of this apooke over the fier, and sometymes in the sun, and crumble yt into poulder, stalks, leaves and all, taking the same in pipes of earth, which very ingeniously they can make.¹³

THE USE OF TOBACCO IN ENGLAND

Before discussing the cultivation of tobacco by the settlers of Jamestown it is desirable to mention briefly the use of tobacco in England at that time and the attitude of the king and persons of influence toward it. Although it is most probable that the early colonists would have smoked the leaves for personal pleasure, the rather mad splurge in tobacco even during the first difficult years must be laid to English inducements.

"It is not unlikely that the first introduction of the [tobacco] plant into Europe was by Hernando Cortes, the conqueror of Mexico, who is said to have presented tobacco-grains to Charles V in 1518." That qualified conclusion by Singer was probably as good as any, for there is no unanimity on the point. He then mentioned that André Thevet, the French geographer, brought back to France in 1556 Brazilian tobacco plants.¹⁴ Francisco Fernandez, a Spanish physician who had been sent by Philip the Second to Mexico to prepare a report on the country, was mentioned in other sources.¹⁵ And, of course, there was general agreement on the part played by Jean Nicot in sending minute tobacco seeds from Portugal to France.¹⁶ As for England it seemed likely

¹³ *Travaile into Virginia*, "Hakluyt Society Works," VI, 31, 72, 121-122.

¹⁴ Singer, p. 130.

¹⁵ D. A. Gracey, "Tobacco," *Encyclopedia Britannica*, 14th ed.

¹⁶ *Ibid.*; Singer, p. 135. An extract from an essay published in London, 1682, said that Thevet brought the first tobacco seed to France, and Nicot the first plant. *Harleian Miscellany*, XII, 29.

that John Hawkins' sailors introduced the "weed" when they returned to the Isles in 1565.¹⁷ Once known to the western European countries tobacco spread via the trading ships of the Portuguese to the Orient and even to Africa where in 1607 William Finch, a merchant located at Sierra Leone, Africa, wrote: "Tobacco is planted about every man's house; which seemeth halfe their food."¹⁸

By "the first half of the seventeenth century the fodder for an Englishman's pipe might have been seen growing in his garden, side by side with his marigolds and hollyhocks. . . . Everyman carried a 'tobacco box, steel and torch.' There are said to have been 7,000 tobacconists' shops in London."¹⁹ A petition in 1625 by grocers, apothecaries and druggists relative to retail tobacco licenses showed the numerous channels through which the leaf found its way into daily use.²⁰ Additional evidence of the interest in this new plant was found in the "List of Books Relating to America in the Register of the London Company of Stationers from 1562 to 1638."²¹ Among the titles with the dates of publication were the following:

25 June 1601	Caveat (A) for tabaccho
4 January 1602	Defense (A) of Tobacco
30 March 1602	Matamorphosis (The) of Tobacco
19 April 1602	Defence (A) of Tabaccho and the true use thereof
14 December 1609	Gardiners (The) garden or a tryall of Tobacco

¹⁷ Carrier, p. 55.

¹⁸ *Ibid.*, pp. 54-55.

¹⁹ J. H. R. Yardley, *Before the Mayflower*, pp. 189-190; he drew upon Sir Walter Besant's *London in the Time of the Tudors*.

²⁰ *Acts of the Privy Council*, edd. W. L. Grant and J. Munro, I, doc. no. 139. (Hereafter cited as *Acts P. C.*)

²¹ P. L. Phillips, *American Historical Association Report*, 1896, I, 1255-1256.

- 26 November 1614 Advise (An) howe to plant tobacco in England
 17 June 1616 Tobacco tortured or the filthe fume of Tobacco refined

As these titles show, the cultivation and use of tobacco did not meet with universal approval. The "Counter Blast to Tobacco" put out anonymously by James I in 1604 has become well known. And although he was a very practical ruler, when it came to the regulation of the brown leaf he was undoubtedly sincere in castigating its use as "a custom loathsome to the eye, hateful to the nose, harmful to the brain, dangerous to the lungs, and in the black stinking fumes thereof, nearest resembling the horrible Stygian smoke of the pit that is bottomless." The practical side of James the First was shown by his order the same year that the royal treasurer impose a duty of 6s. 8d. per pound on all tobacco brought into the kingdom; this was in addition to the 2d. custom charge then prevailing. The reasons were mainly social, not fiscal. He had found that whereas tobacco used to be bought by only "the better sort then and nowe onelie as Phisicke to preserve Healthe," by 1604 "ryotous and disordered Persons of meane and base condition" were using it to excess, impoverishing themselves and their families. Furthermore, a great part of the treasure of the country was being exhausted by such foreign (Spanish) purchases,—a good mercantilist touch. His new tax on tobacco would lessen the quantity used within England yet leave enough for those "who are of the better sort."²² Class legislation, and arguments reminiscent

²² Ebenezer Hazard, *Historical Collections*, I, 49-50. That tobacco was distinctly a luxury even before the new duty of 1604 was evident from at least two price quotations: in May, 1604, best tobacco in London had one quotation of 10s. an ounce; in November, 1608, there was one price given of 3s. an ounce. *Calendar of Wynn Papers*, doc. nos. 277, 487.

of the antisaloon leaflets! But King James was not alone in his attacks. Urban VIII and Clement XI thundered from the Church against the weed; Grand Duke Michael Federovitch forbade its use in Russia, on fire prevention grounds.²³

It was inevitable that as soon as tobacco became an article of widespread domestic use in England it would fall under the eye of the mercantilists, especially so as it rapidly assumed a position of importance in the trade with Spain which country at the beginning of the seventeenth century had control of the commercial tobacco of Europe. Thus "the moralists who argued against tobacco were joined by the mercantilists who were against the resulting export of bullion. By 1615 England was losing £200,000 in payment for these exports [of tobacco]."²⁴ Until Virginia was able to make substantial contributions to the retail tobacco markets of England, the dilemma of immoral domestic cultivation versus uneconomic Spanish imports was solved by a continuation of both under official displeasure. In the previously mentioned list of books owned by the London Stationers was "An Advice" about planting tobacco which in a succinct form stated the various phases of the tobacco problem in England about 1614.²⁵ The writer understood that "neere the value of two hundred thousand"

²³ Singer, p. 140 and footnotes.

²⁴ Kirkland, p. 67. See also C. M. MacInnes, *Early English Tobacco Trade*, pp. 156-163. In 1610 the Spanish ambassador at London reported to Philip the dire distress of the Virginian settlement and urged a few ships to wipe it out; a possible recognition of the tobacco potentialities of that area. Irene A. Wright, "Spanish Policy toward Virginia, 1606-1612," *American Historical Review*, XXV, 452.

²⁵ C. T., *An Advice How to Plant Tobacco in England, etc., with the Danger of the Spanish Tobacco* (London, 1615).

was paid out every year by Englishmen to the Spaniards for tobacco and paid in gold, silver, coin and plate. "This Trade therefore, where the Treasure of this land is ventured for smoke, cannot but greatly prejudice the Common-weale" and although shipping was stimulated and mariners employed, the author had decided "to instruct those of our Nation how to sow, plant and perfect this drugge." Such cultivation was urged not only to keep "within the hand of the Treasure before spoken of" but also to promote the personal welfare of the consumer. Tobacco prices were high and had not begun to yield to the mounting shipments from American colonies. Furthermore "it is hard to find one pound weight in five hundred, that is not sophisticate," that is, artificially colored, sweetened and made glossy. Even common sublimate was used to make the tobacco biting, and this might "easily poyson the one halfe of all the Gentlemen of England and many thousands of others." Then "C. T." gave instructions for the preparing of the soil, planting and handling the grown stalk. He also mentioned the uses of tobacco by the Spaniards and Indians as a balm, an internal purge, in fact a general household remedy.

Thus by the end of the first decade of the seventeenth century there were established in England active markets for tobacco on which the restricted supply of leaf from the Spanish colonies brought scarcity prices. The resulting flow of "treasure" from the kingdom alarmed the mercantilists. But the internal attempt to remedy the situation by domestic planting was agreeable neither to the paternalistic morality of James nor to the commercial interests as they saw the stage being set for the entrance of the planters of America who willingly assumed their prescribed rôle.

TOBACCO CULTIVATION AT JAMESTOWN

Virginia Britannia is a country in America; yt lyeth betweene the degrees of 30 and 44 of the north latitude; the bowndes whereof may well be thus layd: on the east runneth the great ocean, or maybe Atlantique Sea; on the south side, Florida; on the north, Nova Francia; as for the west, the lymitts thereof are unknowne. . . . It is a spatious and ample tract of land.²⁶

In that fashion William Strachey in very simple direct language in the year 1618 described Virginia. With this grant of land in their hands the members of the Virginia Trading Company went ahead with their plans to colonize. "Gain was the ultimate motive, . . . gold was the loadstar" in these early settlements by European commercial interests. For instance the first Virginia charter, 1606, required the Company to pay to the Crown one-fifth of all the gold and silver and one-fifteenth of all the copper mined.²⁷ Perhaps it was after a ship load of yellow dirt had been brought back to London from Virginia, over Captain John Smith's protests, that the king and the shareholders of the trading company began to realize that there was no real gold in the regions being settled. England then began to administer her colonies for the advantage of her mercantile classes.²⁸

The first cultivation of tobacco in British colonial America on a commercial scale occurred at Jamestown in the year 1612 and the person generally credited with

²⁶ Strachey, p. 23.

²⁷ G. L. Beer, *The Commercial Policy of England toward the American Colonies*, p. 14; W. MacDonald, *Select Charters Illustrative of American History*, no. 1, p. 6.

²⁸ Beer, pp. 15-16. See George Chalmers, *Political Annals of the Present United Colonies*, Bk. I, p. 24; E. P. Cheney, "Some English Conditions Surrounding the Settlement of Virginia," *American Historical Review*, XII, 512.

that act was John Rolfe.²⁹ "This year was a marked one," wrote R. A. Brock relative to the inauguration of tobacco culture.

[It was] a staple destined to exert a controlling influence in the future welfare and progress of the colony, and soon, by the paramount profit yielded by its culture, to subordinate all other interests, agricultural as well as manufacturing. This influence permeated the entire social fabric of the colony, directed its laws, was an element in all its political and religious disturbances, and became the direct instigation of its curse of African slavery.³⁰

His comments applied equally well to the colony of Maryland which in 1634 was to be taken from the original area of Virginia. That Brock as a Virginian historian did not overestimate the influence of tobacco was confirmed by other authorities. According to Bruce, "by far the most momentous fact in the history of Virginia in the seventeenth century was the discovery . . . that the soil of the Colony was adapted to the production of a quality of tobacco which was destined to prove valuable in the European markets. Its most vital influence, however, bore directly upon the fate of the people of Virginia themselves. It shaped that fate absolutely."³¹ In the opinion of Wertenbaker "for a century and a half the history of the tide water region from the mouth of the Susquehanna to Albemarle Sound was shaped by the needs of the Indian plant." And he felt that the plantation system necessary for the successful raising of tobacco tended to develop in the owners "a sense of self-reliance, self-respect and the

²⁹ N. F. Cabell, *Early History of Agriculture in Virginia*, p. 16.

³⁰ R. A. Brock, "Virginia, 1606-1689," Winsor's *History of America*, III, 139.

³¹ P. A. Bruce, *Economic History of Virginia in the Seventeenth Century*, II, 566.

power of command."³² Meyer Jacobstein in writing of the South asserted:

No important economic institution remained uninfluenced during the colonial times by the cultivation of tobacco: land tenure, system of production, slavery, wealth accumulation, currency, public revenues—all were directly affected. . . . It was tobacco which at first unassisted and then in conjunction with cotton stamped upon the South its chief economic features: a highly specialized agricultural community dominated by wealthy landlords, who exploited slave labor under the plantation system of cultivation.³³

The rush to get gold from the tobacco leaf was checked for a while even after Rolfe had made a few profitable shipments to England. Sir Thomas Dale coming to the demoralized colony in 1611 brought the men off the bowling greens and during the six years of his martial administration turned the settlement into a resentful but self-sustaining community. Although he allowed tobacco to be grown he thought it wise before leaving for England to order every farmer to have a minimum of two acres in corn. When he sailed in the spring of 1616 this repression was moderated. He appointed his lieutenant, Mr. George Yardley, as deputy governor and the accounts read that that gentleman "applied himself for the most part in planting tobacco, as the most present commodity they could devise for a present gain, so that every man betook himself to the best place he could for that purpose."³⁴ One year later upon

³² T. J. Wertenbaker, *The First Americans*, p. 13.

³³ Meyer Jacobstein, "Conditions of Tobacco Culture in the South," *The South in the Building of the Nation*, V, 158, VI, 66-72.

³⁴ From an account by Capt. Powell in John Smith, *General History of Virginia*, reprinted in Pinkerton's *Voyages and Travels*, XIII, 119. Yardley was mild compared to Dale, but he had ability, for although superseded by Captain Argall in 1617, two years later he was returned by the Company as governor. From

the arrival of Captain Samuel Argall there was reported the greatest disorder at Jamestown. He found "but five or six houses, the church down, the pallisadoes broken, the bridge in pieces, the well of fresh water spoiled; the store-house they used for the church, the market place and streets and all other spare places planted with tobacco: . . . the colony dispersed all about, planting tobacco." The worthy captain not liking those proceedings "altered them agreeable to his own mind," and the planters again experienced an iron rule.³⁵

By no means were riches via the tobacco route achieved with uniform success. To be sure, letters of this early period did contain stories of wealth out of all proportion to returns from similar labor in the home country. "One man by his own labour hath in one year raised himself to the value of £200 sterling; and another by the means of six servants hath cleared at one crop a thousand pounds of English."³⁶ William Bullock in his book *Virginia* published in London in 1649 worked out typical cases from reports of inexperienced freemen in Virginia who starting with a capital of £50 could in two years have an estate worth £600, and he advised the youngest sons of the English gentry to go West (across the Atlantic) to the land of golden opportunities.³⁷ A rather familiar note! Even after the devastating mas-

one contemporary account the colony in that first period of his administration "lived in peace and best plenty that ever it had till that time." See also William Stith, *History of Virginia*, p. 140.

³⁵ Smith, p. 123.

³⁶ Yardley, p. 190, from a letter by John Pory to Sir Dudley Carleton.

³⁷ Bruce, I, 342-344. In another place Bruce wrote that "a man's labor in tobacco was calculated to be worth as much as sixty pounds [sterling] but in grain it was worth only ten." *Ibid.*, p. 255.

sacre of 1622 the remaining settlers returned at once to "planting Tobacco which passes there as current Silver and by oft turning and winding it, some grow rich but many poor."

One found, thus, in Virginia an ideal economic situation for the development of the tobacco trade. There was an established European demand for the leaf at good prices backed by a favorable economic philosophy of a paternalistic government. A virgin country offered most suitable soil for a few years of intensive cultivation and then almost limitless acres for willing pioneers who had become disillusioned over the prospect of picking up gold nuggets on the sea shore or having piles of furs brought to their hands by willing savages. When one recalls that the land had to be laboriously cleared of timber and that danger from Indian raids made it advisable to use to the full the arable acres near the settlements it is understandable that the soil was worked for a period of about five years to the point of diminishing returns with tobacco. Then with the fertility weakened, wheat and corn were planted and new holdings opened for tobacco.

Slaves entered Virginia, for better or worse, in the year 1619. As Captain John Smith reported that event: "About the last of August came in a Dutch man of warre that sold us twenty negars."³⁸ At the beginning of 1625 a census of the colony showed 23 negroes in a total of 1,232 people of which one-half were indentured servants, "and from 1635 onward small lots were imported nearly every year." In 1649 Virginia had some 300 negroes mingled with 15,000 whites; even by 1671,

³⁸ U. B. Phillips, *American Negro Slavery*, p. 74. Phillips took this from Smith's *Works*, edited by Arber; he added: ". . . and thus, after much antiquarian dispute, the matter seems to stand as to the first bringing of negroes to Virginia."

to look ahead a bit, there were only 2,000 slaves out of a total colony of 40,000. Indeed it was not until the end of the seventeenth century that negroes began to "form the bulk of the Virginia plantation gangs."³⁹ That a limited number of slaves quite possibly retarded the still more rapid development of tobacco cultivation might have been true, but Bruce concluded that "the plantation system would have flourished if not a single African had been introduced into Virginia."⁴⁰ From these early population statistics one cannot determine the number of convicts, another source of tobacco labor. Although Governor Dale had suggested as early as 1611 that convicts be sent to the colony, it was not until January, 1615, that the transportation of English convicts was approved by James I. The royal commission read in part: "It is moste requisite some other speedy remedy be added for ease unto our people that in their punishment some of them may live and yeild a profitable service to the Comon Wealth in parts abroad." So the Crown gave the Privy Council power "to reprove & stay from execucon . . . [those] whoe for strength of bodie or other abilities shall be thought fitt to be ymployed in forraine discoveries."⁴¹ As there were some three hundred crimes designated by English law as felonies and punishable by death, the supply of convicts was ample.

To understand the development of tobacco regulation in Maryland it has seemed desirable to offer this back-

³⁹ *Ibid.*, pp. 74-75.

⁴⁰ Bruce, II, 569.

⁴¹ A. E. Smith, "The Transportation of Convicts to the American Colonies in the Seventeenth Century," *American Historical Review*, XXXIX, 234. Smith's quotation was from the *Patent Roll*.

ground of the original uses of the plant in America in both the indigenous and cultivated forms. Nor could the brief sketch of the Virginia experiences be neglected for not only were the boundaries of Maryland well within the degrees of latitude originally assigned to the Trading Company, but also tobacco at once became the staple of Lord Baltimore's province. Under those conditions it was natural that the Maryland planters should draw rather heavily upon the experience of their neighbors to the south. Such was the case. Furthermore, by the time the settlers sent out by Charles Calvert had made ready their first shipment of tobacco there had developed a series of regulations governing that trade between England and Virginia and the handling of the crop within the Crown colony itself. Maryland both profited by and suffered from some of these laws, proclamations and orders. It is, thus, necessary to summarize the development of tobacco regulation in England and Virginia during the first third of the seventeenth century before we can concentrate upon the history of tobacco supervision in Maryland.

CHAPTER II

EARLY TOBACCO REGULATIONS

ENGLISH LAWS AND DECREES

The wide use of tobacco in England at the turn of the sixteenth into the seventeenth century has been mentioned. To supply that demand an increasing number of acres of good domestic soil were dotted with the plant, but the majority of the tobacco entered through the ports of the country. This is a somewhat euphemistic description of the import trade, for it was generally said that as much tobacco was landed on out-of-the-way beaches and then smuggled into the towns as came through the customs.¹ From 1615 through 1621 the custom records for both London and the outports gave an annual average of 142,086 pounds of tobacco, at the same time showing the gradual increase in quantity of the Virginia and Bermuda crops.² As restraints on the

¹ G. L. Beer, *Origins of the British Colonial System, 1578-1660*, p. 79, n. 3.

² "An abstracte of what Spanish Virginia and Bermudos Tobacco hath bin imported into the Porte of London and the Out-Portes from Michaelmas 1614 to Michaelmas 1621, vizt."

	Spanish Virginia & Bermudos (London)		Spanish Virginia & Bermudos (Out Portes)	
	(lbs.)	(lbs.)	(lbs.)	(lbs.)
1615....	100,926	00,000	01,351	0,000
1616....	56,925	02,300	01,406	0,200
1617....	45,279	18,839	01,797	0,000
1618....	57,058	49,518	08,371	0,150
1619....	119,634	45,764	08,493	0,000
1620....	97,149	117,981	12,248	1,040
1621....	159,873	73,777	14,520	0,000
	636,844	308,179	48,186	1,390

tobacco trade between Virginia and other nations did not start until 1621, it seems reasonable to assume that the tobacco brought into England during that period was for use and not for reexportation. Virginia contributed the lion's share of the colonial tobacco; the 1618 crop for export was estimated at 20,000 pounds, by 1621 this had increased to 60,000 pounds and in six more years the 500,000 pounds weight had been slightly passed.³

It is, therefore, rather understandable that the tobacco trade of England soon secured the attention of James I and his councillors. Although the members of the Privy Council might not to a man have shared their king's personal aversion to the weed, they were concerned with the careless methods of shipment,⁴ the quality and the price.⁵ Then there was another con-

The medium per annum for Spanish tobacco, 97,861 lbs., at a 2s. impost gave a revenue of £9,786; the medium of colonial tobacco, 44,223 lbs., at 1s. yielded £2,211; the 6d. subsidy on all tobacco gave £3,552. "Lord Sackville's Papers Respecting Virginia, 1613-1631," no. 6161, *American Historical Review*, XXVII, 526-527.

³ A good tabular report on the production and export of tobacco from this country for the years 1618-1908 was printed in the 1908 *Yearbook* of the U. S. Department of Agriculture, pp. 681-684. Acceptable primary and secondary sources were used.

⁴ Early shipments of tobacco leaf were in bulk, rolls or hands; references in the custom entries to "puddinge Tobacco" probably meant the leaf in rolls that resembled a sausage. See L. C. Gray, *History of Agriculture in Southern United States to 1860*, p. 219.

⁵ Above, p. 10, note 22, for prices from the Wynn Papers. Beer gave some prices from an account book of the Manners family: in 1598 one purchase of an ounce of tobacco cost 4s., in 1603 one pound weight for 32s., in 1613 one pound for 40s., in 1619 three pounds of tobacco for £3; all tobacco must have been Spanish. Beer, p. 86, n. 2. The U. S. Depart. Agri., *Yearbook*,

sideration, at times publicly denied and at other times admitted in an aside, that speedily became a dominant factor in tobacco regulation, namely, the revenues to be gained. James could piously roll his eyes toward heaven over the pollution "of the faire soile of England" and the misdirected efforts of the Jamestown settlers that brought them close to starvation, but he smacked his lips over the possibilities of rich returns from farming out the tobacco customs. And when disorder and deceit made it necessary to lay by their heels some of those to whom monopolies had been granted, the Crown took over the business reinforced in 1633 by a domestic retail licensing system. It is worthwhile to examine the period of regulation from about 1613 to 1634 and Virginia's experiences during that first third of the seventeenth century because the Lords Baltimore, their governors and colonists were affected by those regulations.

As this is not a treatise on the mercantile system in England, it is not desirable to do more than again stress the dominating influence of that economic philosophy and its general application. Just as soon as tobacco became an important factor in England's trade, drawing bullion across the Channel into Spain, the Stuarts gave their attention to the commodity. Then when the plant was found in North America and quickly came under cultivation as a wicked but profitable crop, the set-up for the mercantilists was ideal. Regulation of tobacco was facilitated by the entry of much of the leaf through a few established ports. And by the royal grants of monopolies to court favorites or high bidding commercial adventurers the Crown could be assured of certain income with the minimum of bother. It was recorded

1908, reduced tobacco values in the colonies to gold for 1661-1717; on that basis Virginia tobacco at the farm was 54.75¢ in 1618 and 1619; by 1639 the price had dropped to 6.08¢ (p. 681).

that in 1613 one Shipman offered £5,000 to a court nobleman for the tobacco monopoly, but the results were not indicated.⁶ Two years later James I granted the sole rights for importation to two people for a consideration that although not named was probably about £5,000, as that sum seemed the current price for such concessions. Furthermore, the notes of Sir Lionel Cranfield, surveyor general of the customs, indicated that "the Farmers of the Imposte upon Tobackoe at mydsomer anno 1615 had an estate in it for 3 yeares which was then worth to them cleere (his Majestie's Rente and all charges defrayed) above 4000 l. per annum."⁷ In that same year James added another 6d. to the duties on tobacco, a measure for revenues and morals. Certain parliamentary lawyers "insinuated [the purpose] of this new duty [that] of rendering the Crown independent of the grants of Parliament, . . . the courtiers alleged [the aim was] to protect colonial industries and redress the balance of trade."⁸

The year 1619 was important in a discussion of tobacco regulation. In November James I issued a proclamation "concerning the Viewing and Distinguishing of Tobacco in England and Ireland, the Dominion of Wales and Towne of Barwicke."⁹ As provisions by law had been made previously for the garbling of spices and drugs to prevent "the impaying of [the people's] health, or to buy the bad instead of the good, to the impairing of their substance" the king saw no reason why

⁶ Beer, pp. 117-118, and footnotes.

⁷ "Sackville's Papers," p. 521.

⁸ Hubert Hall, *A History of the Custom-Revenue in England*, I, 176.

⁹ C. S. Brigham, ed., *British Royal Proclamations Relating to America, 1603-1783*, in "Transactions of the American Antiquarian Society," XII, 15-18.

"the Drugge called Tobacco . . . daily sold ungarbled" should not receive the same protection. So he ordered that no tobacco should be sold until the custom and import duties had been paid and "the same Tobacco were viewed, distinguished and sealed by the Officers" to be appointed.¹⁰ Patents were given to three men to have the entire control of garbling tobacco imports "whereby the Goodness or Badness of the said Tobacco may be discerned, and the Decepte and Abuse of our Subjects may be prevented," yet merchants not be injured in their offering of good leaf.¹¹ For those not acquainted with the term "garbling" the explanation by Stith is helpful. "This Garbling was an ancient Custom of the City of London; and an officer was appointed, who had Power to enter into any Shop or Warehouse, to view and search Drugs and Spices, and to Garble the same; that is, to make them clean from all Garbles or Trash."¹² On the basis of available material it may be stated that this was the first tobacco inspection measure in England. There was, however, another side to this humane guardianship of the public's health. The receivers of the patent had to pay the king a moderate sum for this privilege, and in turn the shippers of tobacco found that garbling put an additional impost of 6d. a pound on their freight.¹³

In December of the same year there was recorded an offer by Abraham Jacob for the farm of the tobacco

¹⁰ *Ibid.*, p. 18.

¹¹ Hazard, *Collections*, I, 89-91.

¹² Stith, *History of Virginia*, p. 199.

¹³ H. L. Osgood, *The American Colonies in the Seventeenth Century*, III, 29. Beer in a footnote gave the garbling rent as £100 a year and the date of the proclamation May 25, 1619 (p. 119). In Brigham the proclamation was dated November 10, 1619 (pp. 15-18). There were instances of local resistance to the garbling of tobacco. "Sackville's Papers," pp. 531-538.

"for seaven yeeres from Michaelmas nexte 1620 for the yeerely Rente of eight thousand pounds per annum." There were several conditions attached to that offer, but the most important one for the colonial planters was that the king should prohibit the planting of tobacco "within the Realme of England and Wales."¹⁴ James issued on December 30, 1619, a proclamation "to Restraine the Planting of Tobacco," apparently to fulfill the above condition.¹⁵ Certain reasons for such domestic legislation were given for public consumption. The king wished to restrain the use of tobacco in "the Inland" as a needless waste of land and substance. Also, English tobacco was "more crude, poysonous and dangerous for the bodies and healths of Our Subjects then that that comes from hotter Climates" and as the medicinal qualities of the leaf were stressed in those days the foreign plants were, thus, much better. Furthermore, the cessation of domestic planting would help both the Somers Islands and Virginia where tobacco plants grew more naturally, allowing Englishmen to use their soil for "divers Roots and Herbs, fit for victuall and sustenance." And finally, domestic tobacco "doeth . . . diminish Our Customes." Although James went on to assure the people of the realm that he would not mind the loss of revenues if the commodity in question were a necessity, one suspects that he had his tongue in his cheek when he commanded his secretary to write that.¹⁶

¹⁴ *Ibid.*, p. 523.

¹⁵ Brigham, pp. 18-21. In September, 1619, the Privy Council had ordered the justices of peace in London and Westminster to prevent tobacco planting in or near those cities. *Acts P. C.*, I, nos. 40, 70, 71.

¹⁶ From 1619 on difficulties attended the efforts of local officers in England to stamp out domestic tobacco cultivation; for instance, "Sackville's Papers," pp. 531-538.

Not only in England was the year 1619 conspicuous for students of tobacco history, but also in Virginia, because it was within the same twelve months that the House of Burgesses passed the first colonial tobacco inspection law. In fact priority lay with the Jamestown settlers as their meeting took place in midsummer. The *Journal of the House* read: ". . . and to the ende we may not onely persuade & incite men, but inforce them also thoroughly & loyally to cure their Tobacco before they bring it to the Magazine, [if four men judge that any tobacco] shall not proove vendible at the second price that it shall there be burnt before the owners face."¹⁷ The coincidence in time of the English garbling act and the Virginia law to improve the quality of their major product must be regarded as without direct causal relationship. To be sure a ship might have reached England with the news of the burgesses' action before the proclamation by James in November, but the dissimilarity of the major reasons behind those two measures was sharp enough to let the matter stand.¹⁸

Beginning the third decade the tobacco trade in England was subjected to increasing regulation. During June, 1620, another royal proclamation was issued "for Restraint of the Disordered Trading for Tobacco."¹⁹ Apparently "certain meane persons" were buying tobacco with bullion in other countries at favorable prices and then underselling in England the holders of the

¹⁷ *Journals of the House of Burgesses* (ed. McIlwaine), *Laws*, 1619, p. 11. If the tobacco leaf could not be classed as "best" at the price of 3s. a pound, it was then offered at the second price of 18d.; refusal by a purchaser to pay that second price brought in the viewers to pass judgment.

¹⁸ Beer mentioned that in 1620 the Bermuda Assembly "provided for the inspection of all tobacco and the burning of all rotten trash" (p. 97).

¹⁹ Brigham, pp. 27-31.

king's patent. That was profitable to no one except those directly engaged in the business. Moreover, it set a bad precedent, especially as about the same time James was receiving a very lucrative offer for a monopoly from another group of traders. Sir Thomas Roe and a few associates, who were active in the handling of Spanish tobacco, requested from the Crown an import monopoly of all tobacco for seven years. For the first year the rental was to be £16,000 and for the next six years £20,000 annually, provided the Virginia and Bermuda tobaccos were limited to 50,000 pounds weight a year because those shipments tended constantly to break the market for the more favored Spanish leaves. The same group "alsoe humbly desire that the Patent for the Garbling of Tobacco . . . bee passed over to us, for haveing that Patent wee will soe marke all our owne Tobacco as we will not easily bee deceived, and soe those officers may serve for both uses."²⁰ James quickly accepted that handsome offer, an offer probably too generous, for it seemed that a year later the patent was taken over by Abraham Jacobs for £8,000; he in turn sub-leased it to William Burton and Peter Sanderson for an annual fee of £150.²¹

That monopoly at the time it was made stirred up a lot of trouble. As might have been expected, the American tobacco colonies vigorously protested the limitation on their exports because 55,000 pounds of leaf was the normal trade of the Somers Islands alone. The Virginia Company after a conference with the officials of the Islands decided to appoint a factor in Middleburg in the Netherlands and to ship their entire 1621 crop to

²⁰ "Sackville's Papers," pp. 525-526.

²¹ *Ibid.*, p. 528. See also Edward Channing, *History of the United States*, I, 220-226.

him.²² Although a howl at once went up from the mercantilists at home, the Company, represented by Sir Edwin Sandys, claimed that their patents gave them freedom of trade with other countries. The next move was made by the Privy Council in an order that all colonial tobacco come first to England—the first time that that commodity was enumerated. It was plainly stated that open trading would be “a loss unto his Majesty in his customs, if not the hazarding of the trade which in future times is well hoped may be of much profit, use and importance to the Commonalty.”²³ A tentative compromise was reached in October, 1621; the colonial trading companies conceded the requirement of sending all tobacco first to England in exchange for unlimited shipments.²⁴ But the compromise really satisfied neither side. Negotiations broke out anew and the problem of Spanish tobacco was further complicated by the King's desire to marry his son to the Spanish Infanta. Nor was Parliament quiescent. Sir Edward Coke strenuously objected to a freeholder in England being told by the king that he “shall not plant what he list in his own grounds”; such basic infringements on personal freedom were properly the concern of the legislative body.²⁵ In the House of Commons during a debate on tobacco “there was a general and spontaneous out-

²² Osgood, p. 32. That jockeying between mother country and colonies continued for many years. The Crown's whip was Spanish tobacco and the threat of domestic planting; the American planters countered with diversions of tobacco to outports and other nations.

²³ *Acts P. C.*, I, nos. 77, 96. See also C. M. Andrews, *British Committees, Commissions and Councils of Trade and Plantations, 1622-1675*, in “Johns Hopkins University Studies in Historical and Political Science,” XXVI, 11.

²⁴ Beer, pp. 120-132.

²⁵ J. L. Bozman, *History of Maryland*, II, 81, footnote.

burst of feeling against the weed. Member after member inveighed against its use as ‘vile’ . . . but tobacco was already a source of revenue which could not be easily spared.”²⁶ In the spring a temporary settlement was reached. The Virginia and Bermuda trading companies were to ship all their tobacco only to England; in return they received a monopoly on all imports of that article except for some 40,000 pounds of Spanish leaf. Domestic planting continued to be banned.²⁷

During that period of three years, 1621-23, various problems relative to tobacco had arisen in Virginia, in particular the devotion of the colony to that get-rich-quick plant. In one of the communications by the home officers of the Virginia Company to their governor at Jamestown complaint was voiced about the “ouerweening esteeme of their darlinge Tobacco, to the ouerthrow of all other Staple commodities.” And in the same year, 1621, the Virginia Governor and Council with the consent of the Assembly “for the drawinge of the People from the excessiue plantinge of Tobacco” restricted the settlers in their cultivation to 100 plants a person and 9 leaves to a stalk. Also they ruled that every artisan had to practice his trade, by which order they doubted not “butt very much to preuent the Imoderate plantinge

²⁶ Osgood, p. 28.

²⁷ Beer, p. 132. A good summary of the English merchants' point of view was contained in proposals by Sir Nathaniel Rich about 1623. Disturbed by the increase in tobacco grown in West Indies, Guiana and Brazil, he saw the course of prices downward to ruin. Moreover, the foreign tobaccos excelled the English colonial leaf “in strength, tast and estimacion . . . though not in wholesomeness.” He urged the king to “take the sole preemption of all the Tobacco of the English plantations” for delivery at London at fixed prices for three grades, the lowest at 2s. a pound weight clear of all charges, the middle at 2s. 6d., and the best at 3s. Then certain merchants would be licensed to sell the tobacco at retail. “Sackville's Papers,” pp. 752-754.

of Tobacco." ²⁸ The restriction on the number of plants per person somewhat reflected interest in the quality of the leaves, an aspect of cultivation and marketing that soon claimed much attention. The London officers had also discussed quality with their Jamestown representatives claiming that the settlers "thinke it lawfull to use all mann-er of deceit and falsehood in their Tobacco that they put of [in] the Magazine." Even the tobacco agent in Holland had written "except the tobacco that shall next come thence [Virginia] proue to be of more pfection and goodnesse than that was sent home last there is no hope that it will vent at all." ²⁹

²⁸ E. D. Neill, *The Virginia Company of London*, p. 282.

²⁹ A. B. Hart, *American History Told by Contemporaries*, I, 172. The cross currents of administrative policies, English and colonial, were well stated by Cabell. Relative to excessive tobacco crops he wrote: "it would not be difficult to show that the planters themselves were less culpable herein than certain other parties. The wretched colonial policy of the mother country and the measures of the Company in England, and of the colonial authorities afterwards, which sought to force industry into particular channels, and to obstruct its natural flow in others, and to regulate the price of its fruits instead of leaving them to the natural laws of supply and demand [sic] drove the planters against their inclination to this [tobacco] as the principal and almost exclusive source of revenue." *Early History of Agriculture in Virginia*, pp. 16-17. Paternalistic solicitude one day and squeezing commercialism the next were evidenced by those early records of both the Company and the Privy Council. "By 1624, when the Virginia Company was dissolved, . . . the colony that had been for seventeen years a fairyland to dreamers in England and a perdition to its inhabitants, became a sober money-making enterprise, uninteresting to enthusiasts and philanthropists." E. Eggleston, *Beginners of a Nation*, pp. 85-86. See also W. F. Craven, "The Dissolution of the London Company for Virginia," *American Historical Review*, XXXVII, 14-24; "Abstract of the Proceedings of the Virginia Company of London," Hart, I, 230-231.

In 1624 with the compulsory forfeiting of the Virginia Company's charter, the London and colonial tobacco interests placed added emphasis upon direct lobbying for favorable regulations. For the next ten years in England there was a steady stream of controversy over the subject of tobacco that gave forth a trial and error system of regulation by royal proclamations, orders of the Privy Council, administrative rulings by patentees. Upon the death of James, Charles I came to the throne on March 27, 1625, and expressed about the same commercial views as his father. He also disliked the widespread use of tobacco by his subjects, but was perfectly aware of the dependence of the West Indies and Virginia upon that agricultural product. Nor was the pressure of Spanish tobacco easy to resist because of politics, revenues and the domestic demand for the leaf. And there was the ever-present fact that tobacco from any external source afforded a substantial revenue to the Crown, income to the English merchants and freight for domestic ships. Tobacco was monopolized by the Crown, then farmed out; foreign tobaccos were allowed in small quantities, then excluded; colonial leaf was restricted in volume and selling price, then the ports and docks were thrown open to any quantity; licensing for the retailing of tobacco in England was tried and there was unceasing opposition to domestic planting with local authorities often closing their eyes to violations. "In its entirety, this many-sided and intricate regulation of the tobacco industry was a characteristic product of the mercantile system. . . . In all of its phases this elaborate system implied an adjustment of the economic life both of the metropolis and of the colony to the gradually developing ideal of a self-sufficient empire." ³⁰

³⁰ Beer, pp. 172, 174. The following summary of tobacco regulation from 1624 through 1634 was derived from these sources:

Beer, *Origins of the British Colonial System, 1578-1660*; "Lord Sackville's Papers," *American Historical Review*, XXVII; Brigham, *British Proclamations Relating to America*; photostats of a number of the original proclamations, Library of Congress; Hazard, *Collections*; Thomas Rymer, *Fœdera*, in T. D. Hardy, *Syllabus of Documents Relating to England and Other Kingdoms*, II; *Acts of the Privy Council*.

1624, September 29. A proclamation to "utterly prohibite the use of all forreigne Tobacco, which is not of the growth of Our own Dominions," and to continue the ban on domestic planting. Photostat of original.

1624, November 9. Appointment by the king of six London merchants to market colonial tobacco. Rymer, p. 854.

1625, March 2. Reaffirmed the September, 1624, proclamation and the monopoly of November, 1624; the marketing plan was never carried out. Photostat of original; Beer, pp. 137-138, 142.

1625, April 9. (Charles I had come to the throne.) Proclamation renewing previous regulations of domestic tobacco planting and foreign imports, but not the monopoly for marketing. Brigham, p. 53.

1625, May 24. Order by Privy Council to prohibit importation of tobacco except from British plantations and to prohibit cultivation in England. *Acts P. C.*, I, no. 148.

1626, April 19. Privy Council instructed Governor Yardley of Virginia to prevent a fixed exchange value for tobacco in the colony and to encourage cultivation of other staples. *Ibid.*, no. 162.

1626, July 7. Privy Council instructed Governor Yardley to prevent planters shipping their tobacco directly to foreign countries. *Ibid.*, no. 165.

1626, August 17. Privy Council instructed local justices to seize tobacco not imported from the American colonies. *Ibid.*, no. 172.

1626, September 3. Similar instructions for justices. *Ibid.*, no. 176.

1627, January. A commission to Wolstenholme and ten others to confiscate tobacco imported contrary to proclamations. Rymer, p. 868.

1627, February 9. Instructions for justices, as above, in certain counties. *Acts P. C.*, I, no. 183.

1627, February 17. Proclamation recognizing domestic demand for Spanish tobacco and allowing 50,000 lbs. of it a year

for importation. Continued royal monopoly of colonial tobacco, restricting such cargoes to the port of London. Photostat of original.

1627, March 30. Proclamation to seal all tobacco already in England at the time of the February 17th decree. Photostat of original.

1627, July 10. Instructions for seizing tobacco, additional counties. *Acts P. C.*, I, no. 188.

1627, August 9. A final general resolution restating previous orders; licensed colonial imports; continued the import monopoly. Photostat of original.

1627, December 21. Council again prohibits domestic planting and imports of Spanish tobacco except by the king for his own use. *Acts P. C.*, I, no. 197.

1628, January 20. Council ordered all American tobacco to be brought to London; no tobacco to be exported except by his Majesty's special license. *Ibid.*, no. 198.

1628, March 14. Petition to allow tobacco ships from America to unload in English ports other than London. *Ibid.*, no. 202.

1628, September 28. His Majesty understood that domestic tobacco was "unholosome for mens bodies," (and ruined the Virginia trade); he asked the opinion on the first point of "the President and the rest of the Colledge of Phisitions." *Ibid.*, no. 218.

1630, January 6. Proclamation forbidding cultivation of tobacco in England and restricting imports of American tobacco to the port of London. Rymer, p. 880.

(1630, March. There was created a fairly permanent committee of trade of the Privy Council. "To this committee were referred all matters of trade which came to the attention of the Council during the ten years from 1630 to 1640." Andrews, *British Committees, etc.*, p. 13; and by same author, "List of Reports and Representations of the Plantation Councils, etc.," *American Historical Association Report, 1913*, I, appendix C, 321-406. See also Mary P. Clarke, "The Board of Trade at Work," *American Historical Review*, XVII, 17-44; W. T. Root, "The Lords of Trade and Plantations, 1675-1696," *American Historical Review*, XXIII, 20-41.)

1631, January 6. Proclamation renewing the 1627 proclamations. Photostat of the original.

1631, July 15. Privy Council ordered that ships lying at anchor in certain reported places be forced to unload and pay duties.

EARLY VIRGINIA TOBACCO REGULATION

Before this historical run results in a jump into the tobacco regulation experiences of Maryland, it is desirable to briefly bring the laws passed by Virginia up to 1634. Limitations placed in 1621 on the number of plants and leaves cultivated per person have been men-

Acts P. C., I, no. 276. (Note: this reflected difficulty of forcing all tobacco shipments into London; also check on smuggling.)

1631, July 24. Firm instructions by Council to justices in Gloucester and Worcester Counties to suppress tobacco cultivation, seize supplies and report names. Expressed astonishment at continued violations. *Ibid.*, no. 278.

1632, February 24. Council allowed tobacco from colonies to enter any port where there was a custom house. Reduced customs from 3d. to 2d. per pound and impost from 6d. to 2d. per pound on American colonial tobacco when imported by natural born subjects. A drawback of the entire impost on reexported colonial tobacco. Spanish tobacco admitted with heavy duties, and leaf brought in by foreigners had an additional 25 per cent charge. *Ibid.*, no. 291. (This order was apparently in force for only a short time.)

(1633, August 14. Licensing of domestic retailers, having in mind revenues, morals and a supplementary control over tobacco imports. *Ibid.*, no. 320. Additional act October 13th. Brigham, pp. 71-73. And another March 13, 1634, because the people were not taking kindly to the regulation. Brigham, p. 74.)

1634, May 19. Proclamation denouncing the sales of adulterated tobacco, reaffirming the prohibitions on domestic planting, concentrating all tobacco imports at the Customhouse Key in London. Brigham, pp. 75-78.

1634, June 19. A commission issued to a number of men to establish the king's "sole preemption" of all colonial tobacco at prices he saw fit. Hazard, I, 373-377.

1634, July 2. Shipmasters bound for tobacco plantations to give bond for direct return to the port of London, to prevent diversion of tobacco to Netherlands. *Acts P. C.*, I, no. 332.

1634, July 14. Instructions by Council to governor of Virginia that no strangers (foreigners) trade with that colony, and all ships be bonded to return with freight directly to England. *Ibid.*, no. 334.

tioned.³¹ Among the laws passed by the Assembly of March 5, 1624, was one that forbade the disposal of tobacco by any man "before the minister be satisfied . . . out of the first and best tobacco." A forerunner of the long drawn out controversy between planters and the clergy that became an important issue in Maryland. Another section provided that "there be some men in every plantation to censure the tobacco."³² The exact meaning of that word "censure" was not established; however, in reference to the regulations that had been passed it probably covered the duties of an inspection of tobacco of questionable quality and a check on the number of plants tended by the farmers. Although the next definite act of a duly constituted General Assembly was not recorded until 1629, the Governor and Council on March 26, 1628, in a communication to Charles I urged a contract for all of their tobacco, 500,000 pounds a year, at a favorable, definite rate plus an exclusion of the Spanish leaf. To assure good quality: "wee have taken such effectual courses in every respecte that wee dare ingage ourselves that our Tobacco shall be very good and merchantable. . . . And wee have also ordered that there shall be sworne men appoynted to be Tryors to that purpose, after the curing of the same and before it bee laden aboard the Shipps."³³ Furthermore, to make sure that the market prices would be maintained by a sufficiently small crop they said that that year but one-half as many leaves had been gathered as before.

³¹ Above, p. 29.

³² William W. Hening, *Statutes of Virginia*, I, 123-124, 126.

³³ *Journals of the House of Burgesses*, Laws, 1628, pp. 45-47. For several years after the Virginia Company lost its charter the colony was administered by the Governor and Council who wisely consulted certain of the representative men of Jamestown.

The colony of Virginia was making progress upon a program of tobacco regulation through legislation and administrative orders. Such solicitude was necessary because with negligible exceptions tobacco was in a very literal sense the brown lifeblood of the colony. By successive supplementary acts, by periodic consolidations of outstanding statutes the planting, tending, cutting, curing and marketing of that green plant were regulated. And in the Virginia legislation up to 1634 the tobacco planters of Maryland had access to a wealth of dearly bought experience, a resource Lord Baltimore's settlers too often ignored.³⁴

³⁴ The following summary of the Virginia legislation from 1629 through 1633 is from the acts of the Assemblies, unless otherwise indicated.

1629, October 16, act 5. To stint tobacco placing a maximum of 3,000 "plants upon a head." Hening, I, 141-142.

1629/30, March 24, act 7. The "base price and small esteem" of Virginia tobacco in the English markets prompted the planters to again restrict the number of stalks per head, this time to 2,000 and to debar from any cultivation those making bad tobacco and attempting to market it; such culprits could be reinstated only by an act of the Assembly. Also, all tobacco was to be forfeited by those who disobeyed the 1623/4 law that required every man to plant a certain minimum of corn. *Ibid.*, p. 152.

1631/2, February 21, acts 19-26 incl. A minimum value for tobacco in exchange for goods or in contract was set at 6d. per pound; shipments were to be made only from the port of James City; the limitations on planting were continued with further provisions that not more than 14 leaves per plant could be cultivated and a maximum of 9 leaves gathered. (Such a provision resulted in the opening of new fields where the virgin soil grew larger leaves. Bruce, *Economic History of Virginia*, II, 567. The present day experience of crop reduction under the AAA comes to mind.) Tobacco to be marketed had to "be taken down before the end of November"; there was to be no tending of slips or second growths; viewers continued to pass upon questionable tobacco with the right to burn rejected leaves; and finally the

As Virginia and Maryland were for a full century the dominant sources of cultivated American tobacco, one is inclined to forget that the settlers of other colonies also had an interest in that soothing herb. Quantitatively, however, other areas were of negligible importance until after the Revolution. "Little tobacco was planted in New England and even then only as a garden crop for private consumption. . . . it was forbidden in Massachusetts Bay Colony in 1629, but in New Netherlands and New Sweden it seems to have been successfully

Governor was authorized to call a special assembly in case of emergency. Hening, I, 162-165.

1632, September 4, acts 20, 21. Similar to the 1631/2 legislation. *Ibid.*, pp. 188-190.

1632/3, February 1, act 1. Repealed the 1632 acts. Then for the first time there were established five stores, located in the Jamestown region, to which the planters of tobacco had to bring their crops before the last day of December. In those stores the leaves were "to be repacked, viewed and tried by sworn men" appointed for that purpose. Acceptable tobacco was credited to the planters account and had to remain in the store until shipped. Debts payable in tobacco—and about all private and public obligations were so stated—were also handled at those stores or warehouses. As a check on smuggling, shipmasters had to deliver invoices before clearing. And finally, cultivation was further limited to 1,500 plants per person. *Ibid.*, pp. 205-207. The same Assembly ordered mechanics to follow their trades and not to plant tobacco. Act 5, *Ibid.*, p. 208.

1633, August 21, act 1. Repealed the previous act (act 1), then passed a similar one with a few minor changes. The minimum exchange value for tobacco was raised from 6d. to 9d. per pound, and the number of stores increased to seven. *Ibid.*, pp. 209-213. Act 4 provided for contracts, bargains, pleas and judgments to be made in money, not in tobacco; but public officials were still to be paid in the leaf or in corn at set rates. *Ibid.*, p. 216. Act 14 made provision for proper weighing equipment at the seven stores. *Ibid.*, p. 220.

1634-1638. For this period there were no records of the Assembly in Hening.

undertaken as a cash crop."³⁵ Weeden mentioned that in 1628 the Dutch had been trading linens and stuffs for tobacco at Plymouth until they found that they could do better by going directly to Virginia.³⁶ The edict against trading in tobacco in Massachusetts apparently was not strictly observed, for in 1631 after the price of Virginia tobacco had tobogganed down the scale from about three shillings a pound to almost one pence, a boat of eighteen tons loaded with corn and the forbidden leaf from the South sold its cargo at Salem. "This inaugurated a brisk trade."³⁷ And in the Connecticut Valley, which today is the most important cigar-tobacco district of New England and one of the best in our country, the farmers were but slightly interested in the plant, growing just enough for their own use.³⁸

³⁵ P. W. Bidwell and J. I. Falconer, *History of Agriculture in Northern United States, 1620-1860*, p. 15. The instructions to Governor Endicott, of Massachusetts, were "to take care that noe Tobacco bee planted by any of the New Planters . . . unless it bee some small quantitie for meere necessitie . . . and not to permit any Tobacco bee laden there upon our shippes." Carrier, *Beginnings of Agriculture*, p. 142.

³⁶ W. B. Weeden, *Economic and Social History of New England, 1620-1789*, I, 124.

³⁷ Carrier, p. 128.

³⁸ Elizabeth Ramsey, *The History of Tobacco Production in the Connecticut Valley*, in "Smith College Studies," XV, 101. See also Gage, U. S. Dept. Agri., *Circular No. 249*, p. 38.

CHAPTER III

MARYLAND SETTLERS GROW TOBACCO

About the time that Sir Walter Raleigh was planning his unfruitful settlements in the new world there was born in Yorkshire, England, a boy christened George; his surname was Calvert. At the age of eleven he entered All Saints College, Oxford, from which by 1605 he received a master's degree. His marriage in the same year strengthened his political connections which with his personal ability soon brought him a clerkship under Sir Robert Cecil and then the position of clerk to the Privy Council. In 1617 Calvert was appointed to knighthood. Two years later a position as Secretary of State was followed by a grant of the customs of silk for twenty-one years and a £1,000 pension for life. In the meantime Calvert had become an active member of the Virginia Company of Planters. Familiarity with the affairs of the American colony through that and other connections placed him on the provisional council to temporarily govern Virginia when the charter of the trading company was revoked in 1624. Calvert was raised to the peerage in 1625.¹

A few years before that date George Lord Baltimore, had bought the southeastern peninsula of Newfoundland from Sir William Vaughan. In 1621 he sent over Captain Edward Wynne with some settlers and after subsequent favorable reports applied for and received a patent from the king to "Avalon" on April 7, 1623.

¹ J. T. Scharf, *History of Maryland*, I, 29-52; Bozman, *The History of Maryland*, I, sec. 9, and II, ch. i; M. P. Andrews, *The History of Maryland*, ch. i.

Upon the death of James I in 1625, Baltimore having left the Established Church and joined the Roman Catholic retired from active political life in spite of the protests of Charles I. He had, thus, ample time to devote his thoughts to his Newfoundland colony and as might be expected that vicarious adventuring soon became tiresome. In July, 1627, Baltimore sailed for Avalon, remained a short time, then went again in 1628 with his wife and several of their children. Apparently the previous winters had been unusually mild or the winter of 1628-29 more severe than expected, for during those months the colony and the patron suffered. Nor did conditions improve much with the return of spring, at which time Lord Baltimore wrote a rather pitiful letter to his sovereign.² It read in part:

soe have I mett wth greater difficulties & incumbrances heere, wch in this place are no longer to be resisted but inforce me presently to quitt my residence and to shift to some other warmer climate. . . . my house hath beene an hospitall all this winter, of a hundred persons so³ sicke at a time my selfe being one and nine or tenn of them died. . . . by my inclination carrying me naturally to these kind of workes & not knowing how better to employ the poore remainder of my dayes than . . . the enlarging yr mat^{ies} empire in this part of the world, I am determined to comitt this place to fishermen . . . and to remove my self with some 40 persons to yor mat^{ies} dominion of Virginia where if yr mat^{ies} will please grant me a precinct of land wth such priviledges as the K: yr father . . . was pleased to grant me heere, I shall endeavor to the utmost of my power to deserve it and pray for yr mat^{ies} long & happy raigne.

Baltimore with his family left Avalon on which he had spent about £30,000 in October, 1629, sailed to Jamestown, Virginia, where he was not particularly

² A signed draft or duplicate of the original letter, dated from Ferryland (Avalon), 19 August 1629. Dr. Hugh Young's Original Maryland Documents, MS (Baltimore).

³ In some transcripts this "so" is given as "50."

welcome because of his religious views, and then after an examination of the coastal lands to the north of the James River returned home to England. There he found a letter from Charles solicitously requesting him to remain in England and that indirect order together with failing health kept him on his estate until the date of his death, April 15, 1632.

His last few years were by no means wasted. One may feel sure that George Calvert had carefully noticed the tobacco fields of Virginia when at Jamestown, the packed hogsheads in the warehouses and the visible prosperity of the more energetic planters. Moreover, he had helped to settle the affairs of the Virginia Company. So he applied for a grant of land to the south of the James River, but after a vigorous protest from representatives of Virginia he changed his boundary lines and asked for territory to the north, an area practically coterminous with the present state of Maryland. At the King's request it was named for Queen Henrietta Maria. But before the charter had received the Great Seal, George Calvert, first Lord Baltimore, died leaving his depleted estate and the plans for its rebuilding to his son, Cecilius, who received the grant, dated June 20, 1632.⁴

"Whereas, our well beloved and right trusty Subject, CAECILIUS CALVERT, . . . being animated with a laudable and pious Zeal for extending the *Christian Religion*, and also the Territories of our Empire. . . ." ⁵ The purpose of the founding of the colony was clearly stated, though one may doubt that the sequence of objec-

⁴ The most convenient source for the English translation of the Maryland charter is the annual *Maryland Manual*, e. g., 1932, pp. 357-368; the original was in Latin and a copy of that is in the *Maryland Archives*, I, 5-12.

⁵ *Maryland Manual*, 1932, p. 357.

tives accurately represented the personal ideas of the first or second Lord Baltimore. Andrews gave three motives for the colonization of America: commercial (Virginia), religious (Massachusetts) and proprietary or feudal.⁶ He attributed the third desire to the founders of Maryland arguing that the Calverts were among those who, finding that feudalism was breaking down in Europe, sought large land grants in the new world as the best means to perpetuate the dignities of land ownership. Nor were the economic advantages ignored, for quit-rents, speculation in rising land values, taxes and shares in exports of raw materials from virgin areas offered possibilities of large returns on the original investments. Another student wrote "It is now generally admitted that economic motives and not religious considerations led the Calverts to found a province in the New World. Religious refugees did not flock very rapidly to his standard."⁷ Accounts contemporary with that period followed the more orthodox ritual of stressing first "the Kingdom of Heaven."⁸

⁶ C. M. Andrews, *Our Earliest Colonial Settlements*, pp. 142-146.

⁷ L. W. Wilhelm, *Maryland Local Institutions*, in "Johns Hopkins University Studies," III, 12.

⁸ The first printed tract relative to Maryland other than an undated copy of the charter assigned to 1632 was published in London, February 10, 1633. Translated from the Latin the title read: "A Declaration of the Lord Baltimore's Plantation in Maryland, nigh vpon Virginia: manifesting the Nature, Quality, Condition, and rich Vtilities it contayneth." Three objectives were stated for the colony: first, to bring the natives to Christ; second, to enlarge the empire; third, "to make his Country-men sharers with him in the honor and benefit thereof." Tobacco was mentioned "though not to be esteemed" with other products. The same sequence of motives again appeared in Lord Baltimore's instructions, November 13, 1633, to the first governor and commissioners of the colony. Reference for both items: C. C. Hall, *Narratives of Early Maryland, 1633-1684*, pp. 5-10, 16-23.

Cecil Lord Baltimore, after the usual political and economic delays attending the dispatching of settlers to a new country, placed his little band of about two hundred people in charge of his brother Leonard and got them off in the "Ark" (350 tons) and the "Dove" (a pinnacle of 50 tons) on November 22, 1633. By the latter part of February after a good voyage they landed off Point Comfort in Virginia.⁹ The king had already instructed the Governor and Council of Virginia to help Baltimore's colonists in settling Maryland, so at that time and later the palatinate received some direct assistance.¹⁰ Fortunately Leonard Calvert did not have to rely upon his southern neighbors except for minor supplies. The first Lord Baltimore, George Calvert, had certainly transmitted to his sons the essence of his experiences with American settlements, and Cecil Calvert made sure that in Maryland there would be no duplication of the wasteful efforts of the Jamestown adventurers to get gold dust from the mica of the Virginia sands. There was going to be no decimation of his colony by malaria because of inexcusable carelessness in the choice of a site. Furthermore, in spite of the lure of

⁹ Father Andrew White, "A Briefe Relation of the Voyage unto Maryland," *ibid.*, pp. 29-45.

¹⁰ Instructions by the King, July 12, 1633, *Calendar State Papers, Colonial Series, 1574-1660*, p. 170 (hereafter cited as *C. S. P.*). The planters of Virginia countered with a petition, November, "that Lord Baltimore may settle in some other place." *Ibid.*, p. 172. But the king remained firm, and in another letter to Governor Harvey, September 29, 1634,—sent at the request of Lord Baltimore—explained that there was enough land for all and that the work to be done in the new country could be "more easily overcome by a multitude of hands." *Ibid.*, p. 190. So opposed were many members of the Virginia Council to giving aid to the Maryland settlers "that they cry and make it their familiar talk that they would rather knock their cattle on the head than sell them to Maryland." *Ibid.*, p. 193.

the heavy green tobacco leaf that dried brown when cut and turned to gold when sold the Governor was to see to it that "all the planters employ their servants in planting of sufficient quantity of corne and other provision of victuall and that they do not suffer them to plant any other commodity whatsoever before that be done."¹¹ After a short stay at Jamestown the two ships moved north into the Chesapeake Bay and in March lowered their anchors onto the bottom of the St. Mary's River, one of the tributaries of the Potomac. A site for the first settlement was chosen on well-raised ground within one-half mile of the river and a suitable palisade erected.¹²

TOBACCO CULTIVATION

Because of the scarcity of early records little is known about the settlement at St. Mary's during the first years. By charter "Maryland . . . enjoyed the unrivalled honour of becoming the first colony which was enacted into a province of the English empire, and governed regularly by laws enacted in a provincial legislature."¹³ By the tolerance of Cecil Calvert the province was able to take advantage of that peculiar legal independence. By the stubborn determination of the free citizens to initiate legislation, and when necessary to oppose the Governor and Council, the people made even more secure the relative independence of the American settlement.

¹¹ Ld. Baltimore's Instructions to Colonists, "Calvert Papers," Maryland Historical Society, *Fund Publications*, no. 28, p. 139.

¹² Almost a century later in a petition by Charles Lord Baltimore the claim was made that the settling of Maryland had cost Cecil Calvert £40,000, a very large sum in those days. "Copy of Tracts Relating to America," *American Historical Association Report, 1892*, pp. 21-22.

¹³ Chalmers, *Political Annals*, Bk. I, p. 200.

One of the very immediate, beneficial results of the palatinate form of government was the freedom of trade enjoyed by Maryland compared to the restrictions imposed on Virginia ruled as a dominion by direct representatives of the king. As Scharf pointed out, when within a year the planters of Maryland were growing tobacco they were quite free to ship it to Holland and elsewhere, and by that choice of markets to have an advantage over their southern neighbor as well as to effectively oppose subsequent tobacco regulations.¹⁴

There was no evidence that tobacco in a cultivated state was found in the Indian village that was turned over to the settlers as soon as the natives had gathered their corn.¹⁵ Nor were there definite records of tobacco on Kent Island farther up the Bay on which a trading post had been established three years before by William Claiborne, a member of the Jamestown colony. Kent Island was included within the boundaries of Baltimore's grant.¹⁶ However, within one year from the

¹⁴ Scharf, I, 61.

¹⁵ In the "Briefe Relation" Father White wrote about the Indians' use of tobacco in their ceremonial pipes then gave no other details although he described the cultivation of other commodities. Hall, pp. 44-45.

¹⁶ There was no reference to tobacco cultivation on Kent Island in the "extract from a Letter of Captain Thomas Yong to Sir Toby Matthew, 1634" (Hall, pp. 53-61); nor in the detailed descriptions of the trading post contained in the testimony given in the subsequent dispute between Claiborne and the London merchant Cloberry. *Archives*, II, 19-20, V, 157-239. Latané's comment was merely that "the trading post was converted into a regular plantation." John H. Latané, *The Early Relations of Maryland and Virginia*, in "Johns Hopkins University Studies," XIII, 11. Steiner, however, mentioned that "in the year 1633 . . . they had a gardener and planted garden seeds and also 2000 plants of tobacco" without giving the reference. B. C. Steiner, *Beginnings of Maryland, 1631-1639*, in *ibid.*, XXI, 47.

date of settlement there were indications that the members of the colony appreciated the personal and market value of tobacco. A prospectus on Maryland published in London in 1635 read in part:

The soile is generally very rich and in very many places you shall have two foote of black rich mould, wherein you shall scarce find a stone, it is like sifted Garden-mould, and is so rich that if it be not first planted with *Indian corne, Tobacco, Hempe* or some such thing that may take off the rankness thereof, it will not be fitt for any *English graine*.

Then several pages later, "one man may in a season well plant so much as will yield a hundred bushells of this *Corne*, 20 bushells of *Beanes* and *Pease*, and yet attend a crop of *Tobacco*: which according to the goodness of the ground may be more or lesse, but is ordinarily between 800 and 1000 pounds weight."¹⁷

There was another description of the palatinate that as far as can be determined has not been heretofore known to historians.¹⁸ This was a letter by Robert Wintour in England to a friend setting forth in detail most of the pertinent features of that new colony. The letter was dated September, 1635, at least two years before Wintour himself came to Maryland,¹⁹ so it must

¹⁷ "A Relation of Maryland" (September 8, 1635), Hall, pp. 81-82. This account reproduced parts of Father White's notes, and Hall remarked that "the remainder is no doubt derived from the reports which the commissioners for the colony were required to send by every ship."

¹⁸ "A Short Treatise concerning the new Plantation now erecting under the Right Honble the Lord Baltimore in Maryland," written by R. W. to his friend C. J. R. and endorsed by Lord Baltimore. Dr. Hugh Young's Original Maryland Documents, MS (Baltimore).

¹⁹ S. F. Streeter wrote that "Capt. Robert Wintour came into the province Jan. 12, 1637 or 8 bringing 5 men servants and a boy of 15 years of age." "Papers Relating to the Early History of Maryland," Maryland Historical Society, *Fund Publications*,

have represented a compilation of information received from first- or secondhand sources. As has been mentioned, a certain amount of material about Maryland had been published in London. In addition, Wintour probably had correspondence with Edward and Frederick Wintour who had come to the settlement with the first expedition; they were relatives though the exact relationship was not established. The play of imagination entered when Wintour wrote: ". . . . for in most of our plantations where they work but upon tobacco and cotton an ordinary servants labour produces to his Me [master] at least 50 l [lbs. sterling] of yearly cleare profit into purse."²⁰ Relative to Wintour's comment about cotton, there is "little evidence that the Indians ever cultivated [it] and we do not find them using it north of where it is perennial."²¹ In the spring of 1607 the colonists at Jamestown had prepared a garden in which cotton was included, but that particular commodity did not figure as a cash crop until the turn of the century in any of the southern colonies, least of all Maryland.²² Wintour was possibly on firmer ground when he observed that "tobacco and the profit to be made off it is a thing so conspicuous I need not speake of it, it being already but too common to all our plantations." In another place he spoke of tobacco together with other products of the soil stored by the planters not only for their own use but in exchange for "what

no. 9, p. 63. T. W. Griffith mentioned that Wintour was made a councillor early in 1638 "having lately arrived." *Sketches of the Early History of Maryland*, p. 7.

²⁰ Unless otherwise indicated the material in brackets when quoting Wintour is mine, necessitated by the abbreviations or the uncertainties of the handwriting.

²¹ Carrier, *Beginnings of Agriculture*, p. 91.

²² Gray, *History of Agriculture in Southern United States*, pp. 15, 26, 46, 77, 183.

commodities soever he may desire from any other part of the world." This previously unknown letter was of interest, but of questionable value in establishing definitely the economic development achieved by Maryland in 1635.

The loss of the records of the first Assembly, February 26, 1635, added to the difficulty of forming a definite picture of the activities of the villagers at St. Mary's for several years. It was probable that under the firm hand of Lord Baltimore and his brother Leonard, the governor, tobacco as a non-essential crop was not widely cultivated at first. In December, 1637, there was a reference to a debt of "two hundred thirtie and seven pounds weight of good m[erchan]table tobacco" owed by Thomas Cornwallis, one of the commissioners, to the Proprietor. And in January, 1638, another tobacco debt by one James Baldrige was recorded.²³ From January into March was held the second Assembly of Maryland, legally the first because the one that met in 1635 was not called by the governor. In the proceedings there was evidence that tobacco had become somewhat established as the medium of exchange within the colony, for on the second day it was voted that members late for the meetings "should be amerced 20 1/1 [pounds weight] of tobacco for every such default," and one of the bills passed was for "ordering the paym't of tobaccos."²⁴

Tobacco was not faring very well at that time in the English markets. A royal proclamation in March, 1638,

²³ *Archives*, III, 58, 61. The same Cornwallis shortly complained to Baltimore about having to live on "what I must fetch out of the Grounde by Planting this Stinking weede of America," and he intended to return home unless his patron helped him. Thomas Cornwallis to Lord Baltimore, April 16, 1638, "Calvert Papers," *Fund Publications*, no. 28, p. 176.

²⁴ *Archives*, I, 6, 20.

opened with a recital of the low prices from excessive crops and the low quality. The good leaves were mixed "with rotten fruits, stalks . . . and other corrupt ingredients." With a good mercantile touch it was announced that the plantings in the colonies would be regulated as well as the cutting of the crop; the quantity of the imports would be supervised to prevent market gluts, and the price adjusted to reasonable levels. Also all tobacco from the colonies consigned to other countries would first have to pass through the port and customs of London.²⁵ Furthermore, the king authorized some traders to call a meeting of those living near London who had an interest in tobacco.²⁶ Such a group was to do as much as possible to reduce quantity, advance prices for planters and merchants, and to arrange for the sale of merchandise in America at reasonable charges. Although not so stated the objectives of that authorized trade association in order of importance were state revenues, merchants' profits, planters' welfare.

Maryland's contributions of tobacco to the surplus stocks in the English warehouses at the end of the fourth decade were probably not much over 100,000 pounds weight a year.²⁷ It was from Virginia that the supplies of the leaf kept increasing at a rapid rate, from about 500,000 pounds exported to England in 1628 to an annual average of 1,395,063 pounds for the years 1637-1640.²⁸ During the year 1638 Charles I negotiated an

²⁵ Brigham, *British Proclamations*, pp. 82-87.

²⁶ *Acts P. C.*, I, no. 380.

²⁷ The U. S. Dept. Agri., *Yearbook*, 1908 (p. 681), gave the total U. S. production and exports of tobacco for 1639 as 1,500,000 lbs. and 1,300,000 lbs. for 1640. A correlation of these amounts with the figures taken by Gray from the British trade statistics indicated that Maryland was supplying about 100,000 lbs. annually at that time.

²⁸ Gray, p. 213.

agreement with George Lord Goring, one of the farmers of the customs, to take 1,600,000 pounds of tobacco at 6*d.* in Virginia or 8*d.* in England. It was hoped that such commercial supervision would improve the quality and sufficiently restrain the quantity in all the British western colonies to encourage the growth of other staples. Although the Governor and Council of Virginia urged cooperation in this plan of their king, the burgesses expressed doubt that other tobacco producing colonies would really (stint their planting.) Furthermore, there was little use in trying to control the number of tobacco plants in the fields as long as the stream of immigration continued, for the newcomers always turned at once to the cultivation of the fragrant leaf.²⁹

The proceedings of the Maryland Assembly during the spring of 1639 contained more evidence of the increasing part played by tobacco in the affairs of the colony. It was in terms of tobacco that values were set by law on corn in trade with the Indians. Penalties for the violation of court orders and disturbance of the peace, fees for public officers and judges, tax rates, contributions for the erection of a town hall and funds to establish a necessary ferry,—all those sums were payable in tobacco.³⁰ To allow close supervision over shipping no vessels were to be loaded except at designated places;³¹ an order that also aided the collection of customs. There was some uncertainty about those measures becoming laws, though Bozman gave evidence that many of them were regarded by the people as obligatory.³² Among the laws definitely approved were two

²⁹ Beer, *Origins*, p. 157. Also Osgood, *American Colonies in the Seventeenth Century*, III, 203.

³⁰ *Archives*, I, 42-44, 49, 53, 58-59, 76, 78.

³¹ *Ibid.*, p. 76. A bill "for publique ports" was enacted in 1638; just the title was given. *Ibid.*, p. 20.

³² Preceding the recorded laws of 1639 was this note by Sec'y Lewger: "Memorandum that these bills were engrossed to be

giving proof that tobacco had entered into trade with other countries and was occupying the attention of the planters. The first was the imposition of an export duty of five pounds of tobacco on every hundred weight and the second was the "two acre law" providing that "every person planting tobacco shall plant & tend two acres of Corne."³³ Internally the importance of the crop was partly shown by a letter from Lewger to Lord Baltimore in which credits of two to five thousand pounds of tobacco were placed on the accounts of the Proprietor.³⁴ Father White also reported "large cropps this yeare of Corne & Tobacco."

THE FIRST MARYLAND INSPECTION LAW

* Maryland's first law providing for an inspection of tobacco was passed by the Assembly of October, 1640. A bill to stint (curtail) the crop had been offered early in the session but rejected. Then it was decided to draw up a measure providing for the destruction of unsound tobacco and the next day was read "the Act touching Tobacco." An act by that title was passed, supplemented by another one that gave the oath and duties of the tobacco "veiwer."³⁵ The initial sentence of the inspection law was mandatory: "No Tobacco shall be exported or attempted to be exported out of the province

read the third time but were never read nor passed." *Ibid.*, p. 39. But the essence of some of the bills was contained in a final general enactment that did pass. *Ibid.*, pp. 82-84. E. S. Riley listed the measures in question as "Acts of this Session." *A History of the General Assembly of Maryland, 1635-1904*, p. 9.

³³ *Archives*, I, 84. The "two acre law" was continued until 1654.

³⁴ John Lewger to Lord Baltimore, January 5, 1638-9, "Calvert Papers," *Fund Publications*, no. 28, p. 196.

³⁵ *Archives*, I, 90-91, 97-98.

untill it have been Sealed by a Sworne veiwer upon pain of treble forfeiture." But the next sentence detailing the work of the viewer made such an inspection wait upon a demand by "any one that . . . hath or may have interest paying the fee." Exceptions to the decision of the viewers were referred to a third person. "Bad tobacco shall be judged ground leafes Second Crops leafs notably brused or worm eaten or leaves house burnt sun burnt frot bitten whether beaten in the house sooty wett or in too high Case so that the veiwer upon his conscience may reasonably think that it is not likely to last sound untill mid-Summer following." (If one supplies the necessary commas that sentence makes better sense.) In case the majority of the tobacco proved to be bad, all the hogshead was to be burned, but if only a part was unmarketable the owner forfeited "four fold the quantity, so that it exceed not the quantity in the Cask" and the viewer and the Lord Proprietor shared the fine equally. For viewing the charge was two pounds of tobacco per hogshead, for receiving it was four pounds and for burning, ten pounds. The act continued for two years then was allowed to expire.

One may feel sure that the Virginia legislation attempting to restrict output and improve the quality of their tobacco was well known in Maryland.³⁶ Just one year before the Maryland law of 1640 the Assembly at Jamestown, expressing concern over the excessive quantity of tobacco and the resulting low price, had provided that the crop of that year "be viewed by sworn viewers and the rotten and unmerchantable and *half the good* to be burned."³⁷ By that drastic measure they ex-

³⁶ Above, p. 36.

³⁷ Hening, *Statutes of Virginia*, I, Session 1639, act 1, pp. 224-226; and the next seven acts, with one exception, were supplements to protect the debtors and to establish minimum prices for tobacco. Italics mine.

pected to limit the current output to 1,500,000 pounds and to 1,300,000 for the following two years; all creditors were to take forty pounds of tobacco on a hundred, a reduction in quantity that was expected to balance the improvement in price. Although a conjecture, it seems rather improbable that the Virginia planters would have even considered such self-restraints unless they had received some encouragement from responsible administrative authorities in Maryland. The first bill introduced in the Maryland Assembly of 1640 was to stint tobacco and thus seemed to confirm such an understanding. But that the majority of the small planters in the palatinate would lend their support was another matter. The unfriendliness of Virginia was remembered; furthermore, even at that early date economic and social lines had begun to form, separating the Lower House from the Governor and his Council. Thus without Maryland's cooperation in crop reduction, Virginia's attempt proved abortive.³⁸

Relative to tobacco there was little evidence that the beheading of Charles I affected the Maryland planters, although politically Claiborne and the Puritans kept the colonists well occupied from 1652 through 1654. The Dutch continued their active interest in the provincial trade.³⁹ In England after the Civil War there were

³⁸ The Governor, Council and Burgesses of Virginia had received the approval of the Privy Council for the 1639 act and for limiting production to 1,200,000 pounds of good leaf during 1640 and 1641. They requested that Maryland also be ordered to stint cultivation. That request received a conditional approval effective after 1641. *Acts P. C.*, no. 473.

³⁹ B. C. Steiner, *Maryland under the Commonwealth*, in "Johns Hopkins University Studies," XXIX, 54. Maryland was not affected by the Navigation Acts of 1650-1651, and Beer concluded that for the other colonies trade restrictions under the Commonwealth were sufficiently relaxed for commerce with those coun-

renewals of the attempts of the Stuarts to prohibit domestic cultivation of the plant because the growth of tobacco in Great Britain diverted attention from the more necessary staples and the neglect of the colonial product worked "to the prejudice and hindrance" of the plantations abroad as well as the English ship owners. Again in 1652 Parliament tried to curb the raising of the plant in the southwestern counties of Gloucester and Worcester, evidently with only partial success for London and American tobacco interests in 1654 urged the renewal of the legislation and in 1655 complaints were still being presented to the Privy Council.⁴⁰

After the failure of the Maryland Assembly to renew the tobacco inspection act of 1640 when it expired in 1642, the Archives were void of references to direct regulation of tobacco until 1657.⁴¹ Prices for the staple of the colony continued low at the turn of the half century, two to three pence a pound for the best leaf at the farm or dock.⁴² The reason lay in the increasing tobacco exports plus the poor quality of much that was packed in the casks.⁴³ Some measure common to all the planters

tries "in amity with England." *Commercial Policy of England toward the American Colonies*, p. 403. See also Channing, *History of the United States*, II, 31-32; Bozman, II, 363.

⁴⁰ C. S. P., 1574-1660, pp. 403, 405, 415, 417, 422-424, 466-467. See also Beer, *Origins*, pp. 403-407.

⁴¹ A proclamation of the Governor in 1643 sought to assure English ships full cargoes by prohibiting all exports of leaf upon any foreign vessels "vntill the said ship or ships [from England] be fully fraited." For a reason he mentioned the short crop on hand, and undoubtedly had in mind the pressure of Dutch competition for freight. *Archives*, III, 144.

⁴² Gray, p. 263.

⁴³ Gaps in the records for colonial tobacco trade prevent year by year comparisons, but as exports for 1647 from America were 1,500,000 pounds weight and by 1664 were 23,750,000 lbs.,

in the tidewater region of the colony had to be passed. "In the Name of Highness the Lord Protector of England & by the Authority of this Present General Assembly" a bill concerning ground leaves was enacted in 1657.⁴⁴ Ground leaves were the coarse ones nearest the soil. Also second crops from the roots the same season were prohibited both on the score of adding to the quantity of exportable leaf and of lowering the quality of Maryland shipments to the foreign markets. He who packed such tobacco "or by any other wayes or meanes shall beguile or deceive any thereby" was fined 1,000 pounds of tobacco and cask for every hogshead so packed, with the informer and the county sharing equally the penalty. That law was continued until 1676, an imperfect inspection measure depending upon informers or private legal suits for enforcement.⁴⁵

The following year the Governor and Council decided to ask the Assembly "to appoint som fitt persons to treat with the Government of Virginea concerning the future stinting of Tobacco."⁴⁶ Nothing came of that intention, though within three years serious negotiations between the two colonies were undertaken. However, the representatives of the planters did pass the first of a long series of acts to regulate the size of the tobacco hogsheads. So succinctly were the motives stated in the first sentence that it follows: "Whereas severall Complaints have bene made by divers Masters of Ships of the vnreasonable Size of Tobacco Caske

the sixth decade must have witnessed a remarkable expansion of the cultivation of the leaf that was predominantly from Virginia and Maryland. U. S. Dept. Agri., *Yearbook*, 1908, p. 681.

⁴⁴ *Archives*, I, 360.

⁴⁵ *Ibid.*, pp. 372, 446, 537, II, 150, 215, 290, 336, 543. Steiner recorded several court actions. "Kent County and Kent Island, 1656-1662," *Maryland Historical Magazine*, VIII, 6-7.

⁴⁶ *Archives*, III, 340.

made in this Province, whereby they are disabled to answere such freight as they engage for, and thereby discouraged to bring their Shippes here which may tourne to the apparant decay of Trade, if not tymely prevented."⁴⁷ There was more to that complaint than appeared on the surface. Many ships in the tobacco trade were built just for such cargo with small cabins and large holds, the maximum utilization of which depended upon uniformity of the casks. If a vessel could pick up its entire load from one planter then casks of about the same size were usually assured, but few growers could offer a full load, 200 to 600 hogsheads averaging 400 pounds of tobacco apiece. Not only, then, did most of the captains have to pick up freight from various plantation warehouses in Maryland, but also was it necessary at times to load from some of the Virginia docks if the ship was to get back to England within a reasonable time. And as Virginia had already enacted a law to provide uniformity of hogsheads,⁴⁸ Maryland was rather forced into the same path of standardization. There was another phase of that problem which was independent of the vagaries of individual coopers. Transportation charges and custom duties were based on the hogshead as a unit with four casks to a ton.⁴⁹ Naturally that induced the tobacco growers to gradually increase the size of the hogshead and to squeeze as much tobacco into it as their presses could force. About the only redress of the ship officers was either to press odd size casks into the holds with a heavy penalty for any damage done to the tobacco or to boycott those areas known for such irregularities. So Mary-

⁴⁷ *Ibid.*, I, 371-372.

⁴⁸ Act 49, 1685, Hening, I, 456.

⁴⁹ *Ibid.*, p. 225.

land found it to her interest to establish standards for the tobacco hogsheads. The law of 1658 gave a size of 42 to 43 inches for stave length and 26 to 27 inches for the head; at a later date the bulge was also specified. He who did not observe that legal gauge forfeited his casks and was "sensured for his default by each respective County Court." For almost a century all parties concerned continued the controversy on this subject with the Maryland Legislature showing an independence of spirit that was not always financially beneficial.⁵⁰

PLANTATION LIFE IN MARYLAND

Before going farther it might be of interest to give a description of plantation life at that time in so far as tobacco was concerned. The writers of Maryland history draw varying amounts of color from "A Character of the Province of Maryland" written by George Alsop in 1666. The man was a poorly educated indentured servant and his pamphlet was written apparently to induce English people of his class to ship to Maryland as servants; nevertheless, the accuracy of his observations of many customs has been confirmed by careful historians. There follows his account of tobacco cultivation:

Tobacco is the only solid Staple Commodity of this Province: . . . It's generally made by all the Inhabitants of this Province, and between the months of March and April they sow the seed (which is much smaller than Mustard-seed) in small beds and patches digg'd up and made so by art, and about May the Plants

⁵⁰ The following references carry the gauge and cooerage legislation in Maryland up to 1700: *Archives*, I, 446, 536, II, 150, 215, 288, 290, 336, 412, 465, 529, VII, 84, 216, 247, 330, 437, XIII, 141, 212, 552, XIX, 104, XXII, 560, XXIV, 102. See also Gray, pp. 220-221.

commonly appear in those beds: In June they are transplanted from their beds and set in little hillocks in distant rows, dug up for the same purpose; some twice or thrice they are weeded, and succored from their illegitimate Leaves that would be peeping out of the body of the Stalk. They top the several Plants as they find occasion in their predominating rankness: About the middle of September they cut the Tobacco down, and carry it into houses, (made for that purpose) to bring it to its purity: And after it has attained, by a convenient attendance upon time, to its perfection it is then tyed up in bundles, and packt into Hogsheads, and then laid by for the Trade.⁵¹

There is very little that need be added. The tops of the plants were nipped off by experienced hands just before budding to assure better center leaves, but the topping threw some of the plants' vitality into shoots that grew at the juncture of the leaf and the stalk. Such shoots had to be removed by hand as did the worms, though some of the more indolent planters were inclined to let their turkeys do the latter work. At first the cut tobacco leaves were cured by just letting them lie in a pile on the ground out of doors, a very unsatisfactory method that by 1619 gave way to stringing the leaves upon lines, the predecessor of the present day tobacco stick.⁵² Tobacco was shipped in various forms, in bulk, in rolls weighing up to 100 pounds and in bunches placed flat in hogsheads. Some of the colonial planters favored stripping the leaf off the central stem to get better prices though that method was opposed by government officials when custom duties were changed from a levy on casks to actual weight, because stripped leaves were lighter for the same bulk.

A record of over a thousand freehold grants made before 1666 gave the usual size for a plantation from 100 to 400 acres, although there were about sixty

⁵¹ Hall, p. 363.

⁵² Bruce, *Economic History of Virginia*, I, 253.

grants of over 1,000 acres each.⁵³ Fifty acres were given each indentured male servant at the end of his term of service. The system of quit-rents payable to the Lord Proprietor discouraged the holding of much idle land, especially as speculation in real estate had not yet entered the economy of the colony. As has been mentioned, land for agriculture tended to be cultivated intensively with tobacco until the soil was exhausted for that purpose and then abandoned or turned to less draining crops. Such transitory farm development was encouraged by the emphasis on the middle leaves of the tobacco stalk. Those were the best, and if the total number of leaves on each plant could be restricted and the number of plants on each farm limited in number it seemed that the problem of low prices might be solved. Thus was the theory, but when the obstinate planter found himself legally limited to a market for only center leaves, he decided to grow bigger ones by clearing the rich forest lands just as soon as his arable acres showed malnutrition. (A reaction again experienced in 1933-1935 when some farmers used their crop-destruction checks to buy more fertilizer for the remaining acreage.) The influence of that method of cultivation on the opening of new sections of the province was, of course, marked, and in it "the system of large plantations had its origin."⁵⁴ Furthermore, because the desertion of such partially exhausted lands in Maryland proved "to be very inconvenient to the Common wealth and a great Injury to the Lord Prop'ry in the losse of his Rents and otherwise" the Assembly in 1650 provided that land deserted for four years might be regranted by

⁵³ H. D. Richardson, *Sidelights on Maryland History*, I, ch. xliii. See J. T. Adams, *Provincial Society, 1690-1763*, pp. 194-195.

⁵⁴ Bruce, II, 567.

Baltimore, unless owned by minors or redeemed by the full payment of arrears before March 25, 1651.⁵⁵

There is no evidence that the negro slave played an important part in the cultivation of tobacco in Maryland prior to the eighteenth century. Bozman wrote that the initial group of settlers at St. Mary's brought the first slave⁵⁶ but no mention of such was contained in Father White's "Briefe Relation." However, it is reasonable to assume that almost from the first there was a gradual infiltration of negroes from Virginia and by ships directly to Maryland from the Barbadoes and even Africa. In 1642 it was recorded that Governor Leonard Calvert sold three manors to one John Skinner, mariner, payment for which was to be made preferably with fourteen negro men slaves and three women slaves between the ages of sixteen and twenty-six years, "able & sound in body & limbs." If the slaves could not be secured, Skinner agreed to a levy by Calvert of 24,000 pounds weight of tobacco on lands, goods or chattel.⁵⁷ Several early laws showed the attitude of the passengers of the Ark and the Dove toward slaves. The Assembly of February 1639 framed "An Act for the Liberties of the people" that excepted slaves without defining the term;⁵⁸ in 1664 an act was passed "Concerning Negroes & other Slaues" that definitely established their servitude *durante vita*.⁵⁹ Seven years later the colonists

⁵⁵ *Archives*, I, 288-289.

⁵⁶ Bozman, III, 288, note.

⁵⁷ *Archives*, IV, 189.

⁵⁸ *Ibid.*, I, 41. The passage of this act was not definitely established.

⁵⁹ *Ibid.*, pp. 533-534. There were probably some Indians covered by the words "other Slaues," for those captured in war went as property to the captor, and there was even some selling of Indians by victorious tribes. J. R. Brackett, *The Negro in Maryland*, in "Johns Hopkins University Studies," extra vol. VI, 20.

sought to encourage the importation of negroes and then in 1695 imposed an import duty on them,⁶⁰ for by then the legislature had seen the inconsistency in trying to restrict tobacco cultivation and at the same time seek more plantation slaves. The statistical position of white servants, voluntary and convicts, in Maryland was difficult to determine. At first the ratio of servants to free-men was probably 6 to 1; by 1637 it had changed a trifle, 7 to 3, influenced by the expiration of the time for the initial groups and by immigration of freemen from Virginia. The influx from Virginia continued and together with more people from Great Britain turned the ratio by 1660 to approximately 1 to 11.⁶¹ One scholar remarked that his research had "filled him with surprise that our colonial convict element was so large."⁶²

The inimitable George Alsop not only described the cultivation of tobacco but also gave a brief sketch of the trading between the merchants and the planters.

Between November and January there arrives in this Province Shipping to the number of twenty sail and upward, all Merchantmen loaden with Commodities to Trafique and dispose of, trucking with the Planters for Silks, Hollands, Serges, and Broadclothes, with other necessary Goods, priz'd at such and such rates as shall be judg'd on is fair and legal, for Tobacco at so much the pound, and advantage on both sides considered; the Planter for his work, and the Merchant for adventuring himself and his Commodity into so far a Country: Thus is the Trade on both sides drove on with a fair and honest Decorum. . . . Tobacco is the currant Coyn of Mary-land and will sooner purchase Commodities from the Merchant, then money.⁶³

⁶⁰ For the act of 1671, *Archives*, II, 272; the act of 1695, *ibid.*, XIX, 167. Governor Seymour in 1708 reported that before 1689 small lots of slaves, seven to ten at a time, were supplied from the West Indies and New England. *C. S. P.*, 1708-1709, no. 197.

⁶¹ E. I. McCormac, *White Servitude in Maryland, 1634-1820*, in "Johns Hopkins University Studies," XXII, 28-29.

⁶² J. D. Butler, "British Convicts Shipped to American Colonies," *American Historical Review*, II, 15.

⁶³ Hall, p. 363.

Delightful as was that account of the amicable relationship between the planter and merchant for the sake of accuracy it will have to be modified. More details of the London tobacco trade will be given later, but a few comments will be helpful at this time.

The planter who had tobacco to sell either shipped it at his own risk on consignment to a foreign commission merchant or disposed of it outright to the trader's factor in the colony at the farm or local store. In either case payment was almost always taken in whole or in part in merchandise, though the large shippers of leaf created credit accounts abroad (usually London) on which they could then sell bills of exchange.⁶⁴ Of course abuses were found. When sales were consummated in the colony the quantity of available leaf relative to the number of ships on hand and expected threw the bargaining advantage to the planter or the factor. When tobacco was shipped on consignment the foreign commission merchant had the upper hand both on the score of the prices he reported for the sale of the cargo and the charges he made for merchandise to be sent on the next sailing to the colonial shipper. Recognition of the sharp practices of the English trader was found in a Royal commission in 1635 to Sir William Russell and others to handle the

⁶⁴ The following form for a bill of exchange was usual: "Sixty days after sight of this my first exchange, my second, third, and fourth, of the same tenor and date, not paid, pay to Mr. A— B—, or order, at the Exchange coffee house in Glasgow, the sum of one hundred pounds sterling; which place to the account of the cargo of the ship Peggy, as per advice from, Gentlemen, Your most obedient humble servant, (signed) J— M—." The second, third and fourth bills were duplicates sent by different ships to allow for losses at sea. "Description of Virginia Commerce," *William and Mary College Quarterly*, O. S., XIV, 93. See also C. P. Gould, *Money and Transportation in Maryland, 1720-1765*, in "Johns Hopkins University Studies," XXXIII, ch. ii.

king's monopoly. The colonists suffered, the commission stated, "by the secret and indirect trade of particular merchants and shopkeepers, who make a prey of them and their labours, by supplying their necessities with commodities at unreasonable rates; which unconscionable course . . . had been so grievous to the planters, that they had been forced not only to petition for an abatement of the customs and imports, but to send the most part of their tobacco to foreign parts."⁶⁵

Such solicitude was prompted in part by a human interest in the planters' welfare, but it was based more upon the Crown's desire to keep the trade of the American colonies in the hands of English merchants and not let it wander "to foreign parts." In furthering that ambition the mother country was more successful in the tobacco areas than in New England. To be sure some of the most prominent men in Maryland were active merchants keeping stores at convenient shipping points in the province, buying tobacco from the one to five hogsheads neighbor planters and sending it to their London agents from whom in turn they received merchandise shipments of astonishing variety. But for the most part the tobacco trade within the colony was handled during the seventeenth century in a rather unorganized manner by tobacco factors or the officers of the ships that came after freight. At first the factors or agents were mainly concerned with the collection of debts from Maryland planters who had overdrawn their London accounts; often they remained in the colony as agents for a foreign house, or several merchants, with a warehouse store at a convenient place selling goods on commission or on a straight salary.⁶⁶

⁶⁵ Bozman, II, 82.

⁶⁶ See Kirkland, *History of American Economic Life*, pp. 121-129; P. R. Kelbaugh, "Tobacco Trade in Maryland, 1700-1725," *Maryland Historical Magazine*, XXVI, 12; Gray, chs. x, xviii.

CHAPTER IV

THE ECONOMIC CRISIS OF 1663-1666

INTERCOLONIAL TOBACCO REGULATION

It was not until the seventh decade of the seventeenth century that Maryland and Virginia made formal efforts to cooperate in the improvement of the market for their mutual staple, tobacco. There was no one reason for the crystallization of a crisis in those two colonies at that particular time. Rather was it the accumulation of maladjustments that simply became too great a burden on the commodity that dominated the economic life. England's war with Holland was rapidly closing the Dutch ports to colonial tobacco, a blockade that especially hurt Maryland, because both Dutch and British ships became scarce and tobacco hogsheads began to pile up on the wharves of the Chesapeake. Furthermore, in London there was a reoccurrence of the plague that demoralized shipping. (And then no sooner had the farmers planned to surmount those obstacles than tobacco became an enumerated article in the year 1660.) Such a mercantilist policy was not in practice extremely harmful, because drawbacks were allowed on the tobacco reexported from England and such shipments were from two-thirds to three-fourths of the total imports of the leaf.¹ On that point of enumeration Beer wrote: "It does not seem to me that the enumeration in itself was by any means the

¹ Beer, *Commercial Policy of England toward the American Colonies*, pp. 45-46. See also W. H. Browne, *Maryland, the History of a Palatinate*, p. 117; E. R. Johnson and others, *History of Domestic and Foreign Commerce of the United States*, I, 40, 165-167.

main cause of the decline in [tobacco] prices," which he ascribed to the familiar economic principle of supply in excess of demand.²

In America there were also several disturbing factors. Virginia continued to find that most of her immigrants who came pouring in from 1656 to 1670 turned to the conspicuous money making crop of tobacco.³ The production from that plant in the tidewater regions of Maryland and Virginia was approaching the 23,000,000 pounds mark recorded for the year 1664,⁴ and even freely flowing international waters of trade could not carry off such quantities at a profit to the producers. Within Maryland the decline in tobacco prices to 1½ pence or less a pound⁵ seriously hurt all creditors whose payments were in previously fixed amounts of the leaf, namely landlords, officials, the clergy,—the group dominant in the government and economic life of the palatinate.) Various expedients were tried. In three counties a half bushel of corn per person was levied for the support of the governor; powder, shot and guns were used for currency and for port duties.⁶ Tobacco

² Beer, p. 50.

³ Channing, *History of the United States*, II, 65.

⁴ U. S. Dept. Agri., *Yearbook*, 1908, p. 681. The contributions of tobacco from other areas were still negligible. Delaware was growing some mainly for domestic use, but at times shipping a few thousand pounds. G. B. Keen, "New Sweden," Winsor's *History of America*, IV, 454-455, 462. The same situation was found in New England. Ramsey, "Smith College Studies," XV, 114-115. In 1650 Parliament provided that all tobacco from New England pay the same duties that were levied in other plantations. Hazard, *Collections*, I, 636. It was not until between 1670 and 1680 that the Carolinas began to average 2,000 hds. a year, but much of the leaf was shipped to other colonies rather than directly abroad. Beer, *Old Colonial System, 1660-1754*, II, ch. ix.

⁵ Gray, *History of Agriculture in Southern United States*, p. 264.

⁶ Scharf, *Maryland*, II, 273.

as a medium of exchange became so unsatisfactory because of its low and varying value that Lord Baltimore's efforts to supply a coin for the colony were encouraged by an act of the Assembly in May, 1661, that prayed "the Lord Proprietary . . . to take order for the Settling vp of a Mint for the Coyneing of Money [because] the want of itt in this Province is the mayne hinderance to the Advancement of this Collony."⁷ Once they got their coin a forced circulation was found to be necessary and the law was repealed in 1676.⁸

The formal regulation of tobacco in Maryland continued under the acts prohibiting ground leaves, seconds and prescribing the gauge for the hogsheads.⁹ In the session of 1661 the Council attempted to get through a measure penalizing the scratching out of marks on the tobacco casks, but the Lower House dissented both that

⁷ In October, 1659, the English Council of State had issued a warrant for Lord Baltimore who, they heard, with others had made and transported sums of money. *Archives*, III, 365. The month before that Baltimore had sent samples of a coin to his colony and recommended to the Maryland Council that it "promote all you can the dispersing it" making it current for all contracts; his communication was received and read March 3, 1660. *Ibid.*, pp. 383-384. The question of a local coin was debated in the colony during 1660, with the Assembly in the spring of 1661 asking the Proprietor to set up a mint, as "the want of itt in this Province is a main hinderance to the Advancement of this Collony in Trades Manufactors Townes." *Ibid.*, pp. 385, 387, 399, 400, 414-415. Apparently the coin was not a success for in 1671 the Assembly provided for the acceptance of the different foreign currencies circulating within the colony at stated values. *Ibid.*, II, 286-287. Gould wrote: ". . . in the records subsequent to 1700 I have never seen an indisputable reference to a Maryland coin." "Johns Hopkins University Studies," XXXIII, 12.

⁸ For the act, *Archives*, I, 444; the repeal, *ibid.*, II, 544.

⁹ Above, pp. 55-57.

year and again in 1663.¹⁰ Apparently the smaller planters found it profitable to juggle weights, initials of owners and marks of quality! Compared with Virginia, the regulative efforts of Maryland were most casual. The trend of the tobacco laws of that southern neighbor has been mentioned from time to time. Not only did the planters of Jamestown constantly attempt to restrict cultivation of the leaf, but their Assembly of March, 1658, passed an act to prohibit the planting or replanting of any tobacco after July tenth of that year.¹¹ There was no evidence that it was enforced. To divert attention from tobacco, bounties (in tobacco) were offered for raising and exporting silk, flax and other staples.¹² Maryland also tried a lure by passing an "Act for Encouragem^t of soweing English Grayne" that included wheat, barley, English peas, rye, oats. All were given definite values in shillings and could be offered in payments of rents, levies or money debts and on tobacco debts at the rate of two pence per pound.¹³

In 1662 the two colonies got down to business, encouraged, perhaps, by the termination of the Commonwealth and the restoration of the more customary royal personage. Apparently Virginia initiated the cooperative movement. In March the Assembly of that colony renewed its attacks on the problem of excessive planting by several measures, one of which exempted artificers from taxes for three years (minister and church dues excepted) if they would refrain from planting tobacco and would pursue their trades.¹⁴ Then followed an act that again sought to prohibit tobacco planting after

¹⁰ *Archives*, I, 401, 474.

¹¹ Hening, *Statutes*, I, 488.

¹² *Ibid.*, p. 470.

¹³ *Archives*, I, 445; repealed in 1676, *ibid.*, II, 544.

¹⁴ Hening, II, 85.

July tenth.¹⁵ In the preceding discussion the legislators seemed inclined to restrict the number of plants, rather than prohibit all cultivation, but they finally decided that such a move would be unfair to Virginia "while Maryland remains a distinct government," and therefore uncontrollable. Total cessation, one inferred, would sufficiently curtail the American output to strengthen prices even though Maryland did not follow suit. That piece of legislation was supplemented by a petition to the king on May 14, 1662, from the planters and traders of Virginia in which possibly Marylanders had a part.¹⁶ The petition set forth the deplorable condition of the commodity, prayed that the planting of tobacco be inhibited within the Capes of Virginia after the tenth of June, 1663, until such time that the crop surplus be remedied by planting other commodities. Also the request was made that no ship be allowed to clear the Capes before May, 1663. The Privy Council called the grievances "pretended," rejected the petition and said that they would receive no more on that subject.¹⁷ Their attitude met with such protests from ship owners, traders and merchants in London, a powerful group, that in June the Council backed down and reopened hearings.¹⁸ As a result of those hearings, probably supported by lobbying, the Council ordered Governor Berkeley of Virginia to confer with the Governor of Maryland on a plan for tobacco regulation that would be suitable to both colonies.¹⁹ Another petition from

¹⁵ *Ibid.*, p. 119.

¹⁶ In the Saintsbury abstracts of the *C. S. P., Col. Ser.*, 1661-1668, no. 301, the petition was recorded as from the planters of Virginia and Maryland; but in a review of the petition one month later only Virginia was mentioned. *Archives*, III, 459-460.

¹⁷ *C. S. P.*, no. 308.

¹⁸ *Ibid.*, nos. 311, 312. Given in full in the *Archives*, III, 460.

¹⁹ *C. S. P.*, no. 332; the month was probably July.

prominent planters in Virginia was presented to the Privy Council in August of the same year²⁰ and the records showed that the king supported the cooperative idea. He so instructed Berkeley²¹ and recommended that Lord Baltimore should give directions to his governor in the palatinate along the same lines.²²

If one follows the sequence of the dates just given, it will be noticed that there was some overlapping caused by the slow ocean voyage from England to America, at best a matter of two months; a full exchange of question and answer might well take a half year. As a result of the royal instructions, diplomatic machinery in America started to move in the spring of 1663. About April Sir William Berkeley wrote to Governor Calvert of Maryland.²³ The first paragraph is well worth quoting:

Right Honourable.

What necessities the Inhabitants of these parts of his Ma^{ties} Dominions groane under by reason of the contemptible ualue of Tobacco, The only Comodity wee haue yett fownd to subsist by. J thinke yo' owne sufferings as well as ours giue yo' such sensible though sad experience of, that J haue noe need to use any other Arguments to euidence the truth of the Demonstraõn. And as little to proue That the greate quantity made, is the only cause of the inconsiderableness of the price.

Berkeley then gave the king's instructions and the names of the commissioners who would represent Virginia in a conference with a group from Maryland. Calvert acknowledged both the need for a meeting and the invitation testifying that tobacco "is of so meane a

²⁰ *Ibid.*, no. 358.

²¹ *Ibid.*, no. 368.

²² The letter was mentioned in Governor Calvert's communication to his Council at St. John's manor, Maryland, May 9, 1663. *Archives*, III, 479.

²³ *Ibid.*, pp. 476-477.

value, they we can hardly subsist by it, & this chiefly occasioned by the vast quantities yearely planted, both in Virginia & Maryland." "Instructions from Lord Baltimore and the Maryland Council's own desire to improve the market for tobacco made the appointment of commissioners a pleasure.

A conference was held at a Mr. Allerton's in Wiccocomoco, Virginia, on May 12, 1663. It was agreed that lessening the quantity of tobacco was the primary question and of many ways "a Stint to Certaine dayes of planting to bee the most fitt, and of easiest practice." Therefore, the conferees proposed to their respective assemblies that no tobacco be planted in either colony after June 20, 1664, "uppon such forfeiture & punishmt^t as shall bee thought by the s^d Assemblies."²⁵ The restraint was to continue for one year only unless later it was decided to extend the period. To confirm the agreement the Governor of Maryland was to call a special assembly in September and at once notify Virginia of the decision. The governors and councils of both colonies were sworn to give active support to the agreement if it went into effect. Several years later Lord Baltimore in reviewing the question gave more details than were offered at the time of the conference.²⁶ Maryland had apparently proposed a total cessation of planting for one year. To that Virginia objected on two counts. First, all masters in both colonies were required to give every servant upon the termination of his time a year's provision of corn, clothes and planting tools; with a total cessation of tobacco cultivation such expenditures could not be made by most of the planters

²⁵ *Ibid.*, p. 477.

²⁶ *Ibid.*, pp. 480-481. See also *C. S. P.*, no. 454.

²⁷ *Archives*, V, 16.

because they would not have the credit or tobacco with which to buy such equipment. Second, with no tobacco there would be no ships and it might be hard to reentice the ship officers from their "new waies of Trade," when the colonies again planted. The compromise stopped all planting after the middle of June by which time the first crop would have been transplanted, with no chance for a second crop from the same stalks that season. The "seconds" had always burdened the market and forced down the prices on the prime leaves.

But the Lower House in Maryland upset the apple cart by dissenting and their action received the subsequent support of Lord Baltimore himself. At that time the House sent a sealed explanation to the Governor asking him to forward it to the Proprietor and not to break open the envelope until after the Assembly had adjourned.²⁷ From subsequent information it seems reasonable to conclude that the small planters, who were represented by the House, felt that they could not make ends meet without a second crop no matter how it overloaded the market, no matter how poor the quality of the leaves. Moreover, Maryland was farther north than Virginia and it was argued that that disadvantage in climate would not allow the planters of the palatinate as much time as Virginia for cultivating their legal crop. Another reason, "the people of Maryland were incapable of carrying on any other worke to procure a livlyhood." And finally, cessation in Virginia and Maryland would do no good unless his Majesty put restrictions on the tobacco planting areas in the West Indies.²⁸ The dissenting by the House increased the lack of sympathy between it and the Council.

²⁷ *Ibid.*, I, 484.

²⁸ *Ibid.*

Virginia had provided for just such a veto by Maryland in an act of September, 1663, that established tobacco stinting for June of the following year unless their northern neighbor did not follow suit. In that case there were to be no restraints on planting time, the tending of seconds or slips.²⁹ A wide open cultivation! However, Maryland's rebuff did not discourage the Virginia planters between whom there must have been a more solid bond than was found in the palatinate. In August of 1664 Virginia protested the action of Maryland and asked the king's aid.³⁰ Upon an order of the Privy Council a conference was held between representatives of the two colonies, Lord Baltimore for Maryland and a group of several gentlemen headed by Sir Henry Chicheleys for Virginia.³¹ No agreement was reached so the Council then requested written briefs from both sides which were submitted a month later.³² Virginia stressed the great quantities of tobacco on hand and in the fields.³³ In fact prices were so low that the customs could hardly be paid and it was expected that the transportation charges would not be covered by the gross returns. Such reduced purchasing power in the tobacco colonies would necessarily lead to greatly curtailed orders for English manufactured goods, the bills for which annually came to about two hundred thousand pounds sterling. To the contention that the Virginians

²⁹ Hening, II, 200-201.

³⁰ C. S. P., no. 454; *Archives*, III, 510.

³¹ *Ibid.*, p. 504.

³² *Ibid.*, pp. 503-506.

³³ Bruce mentioned that in 1664 there were 50,000 hhd. of tobacco stored in Maryland and Virginia. At an average value of £3 per cask by the time the tobacco was sold the planters were in debt to the merchants to the sum of £59,000. *Economic History of Virginia*, I, 391.

seemed to thrive on poverty the answer was given that for several years they had specialized in the sweet scented tobacco that did bear a good price until everyone began to plant the same variety. The solution of the difficulties? Jamestown proposed "that some way may be thought on" for diverting many people from planting tobacco to other pursuits, that the arrival of ships be regulated to prevent the disorganization of the London market and that the stinting of tobacco be equally imposed upon Maryland and Virginia.

Lord Baltimore filed his answer with the Privy Council three days later, November 19, 1664.³⁴ He concurred with any plan to encourage other staple commodities. The regulation of shipping, however, did not meet with his approval because such restrictions would work harm upon so many masters of vessels especially the "lesser Traders." But it was upon the last proposition, stinting, that he opened fire. As his arguments well covered the controversial points relative to tobacco regulation at that period of the serious depression they are briefly summarized:

First, a slight lessening of the quantity would do no good, and a great curtailment would seriously impair his Majesty's customs and excises, a revenue of about £20,000 yearly.

Second, such restraints upon the colonists' liberty "which they conceive is their Birthright as Englishmen" would cause more unrest than is now experienced from low tobacco prices. Furthermore, an able man could raise four hogsheads of leaf that at current prices would sell in England for £14 or £15, enough to provide the master and a servant their necessities with something left over. The industrious lived in plenty; "if there be any that live in a poore manner it is . . . from their owne sloth, ill husbandry, and profusely spending their cropps in Brandewine, and other liquors."

³⁴ *Archives*, III, 506-510; C. S. P., no. 855.

Third, he suspected the Virginians of trying to take advantage of Maryland's later summer season, especially as they preferred stinting after June twentieth rather than total cessation.

Fourth, the weather might well play both colonies tricks, and a late spring would necessarily extend the cultivation of the first crop over the dead line. Also, to enforce such a regulation would require one neighbor to inform against the other, and if officers were appointed there might well be "negligence, corruption or partiality in it."

Finally, if their lordships should favor the idea Baltimore hoped that they would allow Maryland an extension of twenty days after the Virginia stinting date to equalize the climates. He scoffed at the idea that the Marylanders should use hot-beds.

The Lord's Committee of the Privy Council for Plantations after considering those two pleas, and what else no one knows, on November 25th expressed several opinions to his Majesty. First, that a cessation or stint of planting tobacco was "inconvenient both to the Planters and to his Majesty's Customes." Second, restrictions on shipping were condemned on the same two counts. Third, they did want to encourage the planters in applying themselves to other commodities such as hemp, pitch, tar, so they suggested that those articles be admitted into the kingdom free of customs for five years.³⁵ The king assented. In the meantime Virginia had anticipated the failure to gain a stinting agreement by repealing all restrictive measures on tobacco cultivation.³⁶

THE CESSATION ACT OF 1666

During 1665 conditions in the two tobacco colonies became worse. It was not until spring that a ship could bring word of the final action of the King in Council, and by that time the plague in London had become so

³⁵ *Archives*, III, 510-512; *C. S. P.*, nos. 862, 863.

³⁶ Session of 1664, act 3, *Hening*, II, 209-210.

severe that the tobacco fleet did not even go to America.³⁷ Cecilius Lord Baltimore wrote to his son, Charles, who was then Governor of the province, to busy himself in the discovery and establishment of good ports on the Maryland rivers for "the Benefit of Trade and for the Ease and security of Merchants."³⁸ There was a certain phase of the provincial merchants' activities about which the Marylanders were not so keen, namely, engrossing or in more modern terms, monopolistic extortion. The first act against "Ingrossers & Forestallers" passed in 1642 prohibited a price mark-up within a year on corn, goods or servants unless the merchandise was contracted for seven to twenty-eight days after arrival.³⁹ A similar act directed against foreign masters and merchants of ships was passed in 1666. It prohibited the buying of great quantities of tobacco to be used in exchange for necessities of plantation life on which prices would be sharply raised or the whole lot exported "to the great losse damage and detryment of the Inhabitants of this Province."⁴⁰ Some of the rascals even made purchases of servants and goods not covered by consignments and then quick sales, swinging the deals without any initial capital in the form of cash or tobacco. It was not until 1735 that the last of the engrossing laws was taken off the statute books.⁴¹

³⁷ Gray, p. 264.

³⁸ *Archives*, XV, 15.

³⁹ *Ibid.*, I, 161-162. This was preceded by a proclamation in 1640. *Ibid.*, III, 94.

⁴⁰ *Ibid.*, II, 132.

⁴¹ *Ibid.*, XXXIX, 199. The sequence of engrossing laws from 1642 to 1735 follows: 1642, *Archives*, I, 161-162; 1650, *ibid.*, p. 294; 1654, *ibid.*, p. 351; 1666, *ibid.*, II, 131-132; 1681, *ibid.*, VII, 253-254; 1692, *ibid.*, XIII, 526-528; 1704, *ibid.*, XXVI, 323-324; 1729, *ibid.*, XXXVI, 474-476; repeal in 1735, *ibid.*, XXXIX, 199.

Baltimore not only wanted to set up channels for trade, but also to establish the identification of tobacco from his colony by making a trade-mark of the name "Maryland," which name was to be used in all "bills, papers and writings" (shipping documents). He did not want it known "by the name of Virginia Tobacco, or Bay Tobacco, or by any other name or names whatsoever."⁴² Certainly the Proprietor in a period of depression was exhibiting aggressiveness to get his main source of revenue to market! Weeden mentioned a large coastal trade in tobacco with the Dutch at New Amsterdam during those years that was helpful to Maryland and Virginia but too small in quantity to prove a corrective to basic maladjustments; in the process the English Crown lost revenues estimated from £10,000 to £100,000.⁴³

During the winter of 1665-1666 the Governor of Virginia tired of the futility of polite correspondence with Maryland came in person with a few friends to urge cooperation in their mutually desperate situation. At both Jamestown and St. Mary's the planters were faced with large carry-over crops. With the spring planting of 1666 would come more hogsheads to the tobacco wharves, because the small poor planter with exhausted credit could not afford to stop planting,—a vicious circle that has been experienced in similar periods down to the present. Moreover, it was even questionable if the average planter was sincerely interested in tobacco legislation. The restrictions would be very real and immediate, the profits uncertain and the greatest gains would probably go to those who as owners of thousands of tobacco plants could lessen pro-

⁴² *Ibid.*, XV, 14.

⁴³ Weeden, *Economic and Social History of New England*, I, 262.

duction, pay provincial rents, fees, taxes, pack only prime leaves for the London trade and yet have enough merchantable tobacco left for domestic trading.

On April 10, 1666, the Maryland Assembly met to consider the affairs of the province. Toward the last of the month the House signified its wish to adjourn, but a reminder came from the Council that one of the reasons for that session was to remedy the condition of tobacco which was responsible for "the present deplorable State of the Province reduced to almost extreme Poverty."⁴⁴ There was much sparring between the two Houses with not a little display of ill feelings. Two bills were presented, one "for the Advance of other Commodities more staple than Tobo" and the second, "An Act for Encouragem^t of Trade" that involved tobacco cessation.⁴⁵ Finally the Lower House sent their reasons for opposing the stoppage of tobacco cultivation.⁴⁶ They first maintained that as all the American plantations were suffering from the depression, other areas would quickly turn to tobacco if Maryland stinted; only a total cessation enforced in all tobacco sections, colonial and foreign, would be effective. Then there was the familiar argument that shipping would forget the ports of Maryland and Virginia, for there would not be time to produce other articles of trade; the result,— "our Country ruined, Ourselves Wives & Children Exposed to little better than a Pagan & Salvage manner of living." Connected with the diversion of shipping was the assertion that as seamen had always made such a good thing from smuggling tobacco through the customs

⁴⁴ *Archives*, II, 35.

⁴⁵ *Ibid.* The title of the second act expressed the conviction that low tobacco prices had discouraged foreign merchants. *Ibid.*, pp. 143-144.

⁴⁶ *Ibid.*, pp. 43-44.

when they returned home, they would not come to Maryland for other less valuable commodities. Furthermore, freemen would be induced to leave the palatinate for parts "where they may freely make use of their Labours without Restraint"; such emigration would make the colony vulnerable to the attacks of the savages. Finally the House asserted that it was not the great quantity of tobacco that ruined prices but the want of ships held away by "the Scourges of War & Pestilence" which disability had hurt all other commodities in America.

To all of those objections the Upper House had answers favorable to restrictions on tobacco cultivation.⁴⁷ Other American plantations would not cease their making of sugar, ginger, cotton, indigo because such commodities continued to have value and were not perishable. Furthermore, just the news of a cessation would bolster the tobacco market enough to absorb the present stock on hand as well as the current crop in Maryland and Virginia all of which would be sold before other areas could even plant tobacco. As to the discouragement of shipping,—never fear, replied the Council in effect; if the prices of tobacco rise with fair promise of stability merchants will seek that valuable cargo. A caustic comment was offered on the third point; the senior chamber could not believe that the Lower House "in prudence think it fit to have the Province plant Tobacco merely to have the Seaman's Company even when the Planter gets nothing for it." About emigration,—to be sure some freemen might leave; that might be an advantage to the freeholder who was the "only Strength of the Province." Upon the final argument that shipping was scarce because of war and the plague the

⁴⁷ *Ibid.*, pp. 45-49.

Council set its heel. If such were the causes there was little prospect of immediate relief, therefore all the more need for cessation; if there were not enough ships in the American trade then obviously the one method of control open to Maryland was to reduce the tobacco shipments to the vessels' capacities.

Objectively convincing as that rebuttal seemed to be, the Council pressed two more arguments, both designed especially for the representatives of the pioneers and small planters of the province. It was a period of rather active Indian warfare. To wage war or even send commissioners to negotiate peace with the savages required funds at the disposal of the authorities; but tobacco levies were without value as long as the price of the leaf remained so low. Thus the exposure of the frontier must continue with the slaughter of innocent people. The second argument openly declared the great advantage of the rich in securing freight and credit in such periods of strain. Relieve the strain, then "the poor will [not] be sacrificed to the rapacious Avarice of the Trades."

In the end the economic pressure of a tobacco supply in excess of current and potential demand forced through "An Act for Encouragem^t of Trade."⁴⁸ The two chambers gave their consent to a total cessation of tobacco cultivation for the period from February 1, 1667, to February 1, 1668, provided designated commissioners from Maryland secured the promise of similar action from the representatives of Virginia and the Southward Plantations (North Carolina). The latter colony had been irregularly producing tobacco since the

⁴⁸ *Ibid.*, pp. 143-144. Debtors were to be protected during the cessation (*ibid.*, pp. 142-143) and the Governor's tobacco poll of 25 pounds could be paid in commodities (*ibid.*, pp. 149-150).

fourth decade, but had not taken the definite form of a settled province until 1663; by 1666 the settlers were evidently in a position to throw a disturbing amount of tobacco on the English market.⁴⁹ A tri-party agreement when consummated would become binding upon Maryland without further acts of the Assembly.

Governor Charles Calvert appointed six men to meet the delegates from the other two colonies.⁵⁰ On July 12, 1666, at James City, Virginia, articles of agreement were concluded upon three points:⁵¹ first, total cessation for one year (1667-1668) "from planting, setting, sowing, or any waies tending Tobacco" in any of the three colonies provided that Carolina pass an act similar to the laws of Maryland and Virginia.⁵² Second, the public officers of the respective colonies were to "take a Solemn oath upon the Evangelists" to enforce the law. Third, each colony was permitted to send persons into the other territories to see if the cessation laws were being enforced, and if not to complain to the respective governors. Although Carolina's ratification was delayed by Indian troubles beyond the dead line of September 30, 1666, confirmation came soon after that and in Maryland the Governor issued a proclamation on October 17th placing the tobacco act in operation.⁵³

Again Lord Baltimore nullified the movement for drastic tobacco regulation. In the late fall of 1666 he received a copy of the documents giving the facts and on November 24th wrote his dissent, "having duely

⁴⁹ Gray, ch. iii.

⁵⁰ *Archives*, III, 547-548; *C. S. P.*, no. 1222.

⁵¹ *Archives*, III, 550-552; *C. S. P.*, nos. 1237, 1348.

⁵² Virginia had passed its cessation act in June, 1666. Hening, II, 224.

⁵³ *Archives*, III, 558-560. In Virginia confirmation was established by an act of October, 1666. Hening, II, 229-232.

considered the great Inconveniencies w^{ch} may follow from the same Not only to the Poorer Sort of the Planters within our sayd province but also to . . . his Ma^{ties} Customes."⁵⁴ Governor Calvert upon receipt of that dissent early in 1667 gave it for publication to the High Sheriff of St. Mary's County.

As might be expected the Virginians were outraged by the action of Baltimore. In June of 1667 the Governor and Council of Jamestown sent a complaint directly to the king and Privy Council, their petition reciting the history of negotiations with Maryland from 1662 to that date.⁵⁵ It was a clever document, well framed to emphasize the distress of their conditions until the 1666 agreement "filled [them] wth the contemplacōn of future happiness & prosperitys." Then their great hopes were shattered by Lord Baltimore who "in Absolute & Princely Tearmes" forbade the establishment of such regulations. By stressing the "independent power and authority of the Lord Baltimore" they tried to bring the jealousy of kingly prerogatives to their aid; by intimating the possibility of internal riots they appealed to the royal sense of decorum and injured revenues. And they wound up by asking for a thorough review of the whole controversy between Virginia and Baltimore. In the interval they prayed that his Majesty "will be graciously pleased to protect this yo^r Ma^{ties} Loyall & most ancientest Collony from the violent & ruinous attempte of our Neighbours."

Lord Baltimore by no means took that attack lying down. On October 16, 1667, he answered the Virginia complaint in a carefully worded astute letter addressed to the Privy Council.⁵⁶ In that letter many of the argu-

⁵⁴ *Archives*, III, 561; *C. S. P.*, no. 1325.

⁵⁵ *Archives*, V, 5-9; *C. S. P.*, no. 1509.

⁵⁶ *Archives*, V, 15-19; *C. S. P.*, no. 1610.

ments of his 1664 rebuttal were restated;⁵⁷ also he offered a few more reasons "aryseing from late and fresh experience." One was the great number of ships going to America; adequate proof that tobacco was not a drug on the market. Another reason lay in Baltimore's solicitude for the poor of his domains of whom he "must have as tender care as of the rich." In his opinion the destitute planters would get no advantage from a rising market because their debts were contracted in terms of tobacco; thus the merchants and rich planters would reap the major benefits. Then he neatly deflected the king's displeasure, possibly aroused by the implications of the Virginia petition, by expressing sorrowful surprise that the Governor and Council of Virginia should so openly challenge the royal order of 1664 that there should be no cessation of tobacco cultivation in America.⁵⁸ The rebuttal ended with the statement that the Proprietor had even received a personal letter from his governor in Maryland who together with many others opposed the 1666 law and that such a stoppage of cultivation would damage his Majesty's customs by at least "four score thousand pounds" all for the betterment of the rich in the tobacco trade. Baltimore prayed that the Board of the Privy Council and his Majesty dismiss the Virginia petition. Although it must not be supposed that the logic of the arguments submitted by the representatives of Maryland and Virginia alone determined the issue, on October 30, 1667, the king and Privy Council upheld their previous order of 1664 that forbade a cessation of tobacco planting and cultivation.⁵⁹

⁵⁷ Above, pp. 73-74.

⁵⁸ Above, p. 74.

⁵⁹ Maryland Historical Society, Calvert Papers MSS, no. 215. October 30, 1667; C. S. P., no. 1618.

There was no need for the planters of either province to immediately reopen the issue, granting that could have been done. By an Act of God rather than Parliament the problem of surplus tobacco was temporarily solved in August, 1667, by "a mighty wind" that according to Governor Berkeley, of Virginia, destroyed four-fifths of the crop of that summer, ruined the corn and blew down 15,000 houses in the two colonies.⁶⁰ Hail stones as large as eggs were reported with forty days of rain following on the heels of the wind to make sure that the destruction would be complete. Whereas during 1667 about one hundred ships had sailed from the plantations loaded with tobacco of previous years and had left much behind, in 1668 some eighty vessels weighed anchor for England, and of those thirty were able to handle all of the 1667 tobacco leaves that had been rescued from the terrible storm.⁶¹ Marketable tobacco prices somewhat improved, the Maryland Assembly giving expression to that improvement by allowing one pound of tobacco "att the Rate of Three halfe pence sterling" to be offered in payment of money debts.⁶² The same rate for tobacco prevailed in Virginia.⁶³

When an agricultural area is faced with an acute crop problem as has been described, it would be most unusual to be able to ascribe the difficulty to any one cause. Such was the situation in Maryland in the third quarter of the seventeenth century. This chapter has enumerated the influences that closed in around the tobacco plantations to bring about the major depression in the trade. Whereas Beer did not consider the Navigation

⁶⁰ Letter to Sec'y Lord Arlington, *ibid.*, no. 1627.

⁶¹ Letter from Thomas Ludwell to Sec'y Lord Arlington, *ibid.*, no. 1800.

⁶² *Archives*, II, 220

⁶³ Gray, p. 265.

Acts of importance⁶⁴ Brantly felt that that legislation artificially lessened the number of buyers of tobacco (the absolute amount of leaf was not too much for the demand) and in turn forced the colonists to buy in the dearest and sell in the cheapest market—London.⁶⁵

There was, however, one basic consideration that did much to explain the rapid increase in the tobacco cultivation, the presence of disturbing quantities of poor leaf thrown on the market and the opposition to effective regulation. The elemental force was the spirit of individualism that arose from several experiences. Mercantilism was the policy of the mother country. It was to her advantage to have pioneers in Maryland show a determined spirit of initiative in the rapid exploitation of its natural resources. Steady immigration (some forced and some for personal reasons), a climate and land that gave good sustenance, an immunity from constant supervision offered by a three months' sailing voyage from the seat of authority, a tobacco crop that was not too hard to cultivate and that spasmodically brought riches to the few,—was it any wonder that settlers in such a spiritual and physical environment should regard with deep suspicion even self-regulation! Add to those influences the developing schism within the colony of Maryland between the wealthy and official classes on one side and the balance of the settlers on the other, the changing political position of the Proprietor in England, and one has a fairly definite background for understanding the lack of unanimity of action in the palatinate.

⁶⁴ Above, p. 64.

⁶⁵ W. T. Brantly, "The English in Maryland, 1632-1691," Winsor's *History*, III, 544.

Whatever value there might be in an historical account of tobacco cultivation must lie in part in its contribution to a firmer grasp of similar subsequent problems. Perhaps the major significance up to this point was the series of struggles of Maryland settlers to effect a regulated economy suitable to *their own* needs in the face of an external mercantilistic policy and a surge of a nascent domestic laissez faire philosophy.

CHAPTER V

THE BULK TOBACCO CONTROVERSY

TOBACCO LEGISLATION, 1668-1690

For the next eighty years tobacco legislation in Maryland was largely left to the flow and ebb of "natural" development. If there was an attitude behind such a growth it was well expressed by a prominent planter in Virginia, who commented on the problem common to both colonies. "By my observation I cannot persuade myself that either a cessation or a stint in the number of [tobacco] plants will effect what is intended. The work must do itself; the crop must grow to such vast quantities that no one will come to fetch it, and then the law of necessity will force them to new industries."¹

The inclusion within Maryland of the Chesapeake Bay and its many tributaries provided a stimulus to trade that was difficult to measure. In the seventeenth century ships came to the plantation wharves with merchandise from the foreign cities, loaded their freight that was predominantly tobacco and returned home. All of the fragrant brown leaf was not handled as easily as that to be sure, for small farms lay inland or on shallow creeks, but tobacco roads and light draft boats brought the hogsheads or loose leaf to the points of concentration. The very convenience of adequate waterways tended to retard the establishment of towns and with the multitude of shipping places trade and fiscal regulations were most difficult to enforce. Nor were the local officials the only ones to be inconvenienced by that

¹ Nicholas Spencer, quoted by Kirkland, *History of American Economic Life*, p. 71.

decentralized economy. London, Bristol and Glasgow merchants wanted definite trade centers where their factors could establish stores through which could pass the profitable exchange of colonial products for the manufactured goods of the mother country.

The Maryland Assembly of 1639 had passed a bill "for publique ports" that was allowed to expire in the next session.² For several decades the subject lay idle in the legislative discussions, then in 1665 Lord Baltimore reopened the question.³ With the revival in the tobacco market following the storm of 1667 the attention of freeholder and official was again brought to the establishment of ports within the colony. In June, 1668, the Governor and Council issued a proclamation "concerning the appointing of certeyne places for the vnladeing & selling of all goods and m'chandizes brought into this pvince."⁴ Eleven sites were established at which all shipping would have to take place with "one whole yeares Imprisom^t without bayle" as a penalty for violation. Possibly more effective than the threat of jail was the provision that those who bought goods from ship officers at unauthorized ports could refuse payment and the seller could not have access to his Lordship's courts for remedy. For three years the provision for ports was continued by proclamation.⁵ (It was not until 1683 after much bargaining between the two Houses that the Assembly by legislation established a system of port towns.) There was no definite indication that Baltimore urged the centralization of shipping solely for the sake of tobacco, although as the principal staple it dominated commercial and revenue considerations.

² Above, p. 50.

³ Above, p. 75.

⁴ *Archives*, V, 31-32.

⁵ *Ibid.*, pp. 93-94.

Several acts of the General Assembly of March, 1671, indicated that all was not well with the tobacco trade. For instance there was introduced into the House a bill "for the Encouragement of Trade,"⁶ the title under which the 1666 attempt at tobacco cessation had been made, but neither was the content of the measure given nor did it get to the second reading. Of decided pertinence was an act "for the Advancement of fforreigne Coynes."⁷ The price of tobacco had sunk so low that merchants refused to accept it freely, so to prevent an impairment of trade within the province that act provided that foreign coins then in circulation should be accepted at specified values in terms of English currency. And then some trouble with the makers of hogsheads had arisen. The coopers "either through Idleness or willfulness" were greatly inconveniencing planters and shippers by their dilatory attitude in completing orders. A law seemed the best way to take care of that problem so the Assembly imposed a fine on those who neglected to fulfill their contracts.⁸ Also of importance was the direct encouragement given to domestic manufacturers of flax and hemp by a bounty of one hundred pounds of tobacco for every similar quantity of either of the fibers.⁹ Such an anti-mercantilist practice received increasing emphasis in Maryland, resulting somewhat from the peculiarly independent legal position of the province, somewhat from an aggressive individualism and immediately fomented by the low exchange value of the staple, tobacco.¹⁰ Before the ad-

⁶ *Ibid.*, II, 241.

⁷ *Ibid.*, pp. 286-287.

⁸ *Ibid.*, pp. 288-289.

⁹ *Ibid.*, pp. 300-302.

¹⁰ The low market prices for colonial tobacco in England were at that time doing more than proclamations and laws to dis-

journalment of the Assembly the previously enacted and renewed measures of 1658 concerning the gauge of hogsheads, the prohibitions on packing ground leaves and seconds were extended for three more years, the only tobacco regulations then in force.¹¹

Although according to a note from Lord Baltimore tobacco prices in London in the year 1672 were somewhat higher than usual, Governor Calvert in reply expressed the fear "that [such prices] will not hold Longe for we are like to send home great Quantities this Shipping." At the same time he agreed to Baltimore's instructions to disregard a previous order from the Lord Commissioners, in line with the Navigation Acts, that "noe Master shall bee permitted to Transport Tobaccoes for Ireland."¹² Calvert's predictions about low prices for tobacco proved to be correct not only for 1673¹³ but for about the next ten years. The Maryland crop for 1678 was the largest on record and the Virginia output

courage cultivation of the leaf in Gt. Britain. *Acts P. C.*, I, nos. 923, 925, 946, 1161, II, nos. 7, 299.

¹¹ *Archives*, II, 290-292.

¹² Charles Calvert to Cecilius, Lord Baltimore, April 26, 1672, "Calvert Papers," *Fund Publications*, no. 28, pp. 270-271.

¹³ An act prescribing charges to be made by keepers of ordinaries (inns) allowed strangers to settle their accounts at the rate of one to one and a half pence per pound of tobacco. *Archives*, II, 408. The records for colonial tobacco, farm values per pound, showed a price of 6.08¢ in 1647, 3.09¢ in 1664, 4.12¢ in 1684, and then prices about 3.10¢ for the balance of the century. U. S. Dept. Agri., *Yearbook*, 1908, pp. 681-682. Even the retail prices for Spanish tobacco in England had come down from 10-12s. a pound to 6-8s. during the years from 1655 to 1675. In 1674 Rogers recorded a retail price in London for 2 lbs. of Spanish leaf @ 8s. and 1 lb. best Virginia @ 2s. 6d. Colonial tobacco hung around the 2s. a lb. level, retail, until the end of the century. J. E. T. Rogers, *History of Agriculture and Prices in England*, VI, 440-448, 673.

was almost triple average production.¹⁴ By 1681 it was said that the two colonies had a two years' supply on hand and that London warehouses were piled with enough hogsheads to last five years.¹⁵

But it was in Virginia that the economic crisis first found expression in riots. Bruce quoted a Virginian, Scarborough, who wrote at that time: "the whole body is sick and the whole heart is faint, from the sole of the foot even unto the head, there is no soundness in it."¹⁶ There had been no tobacco legislation in that southern colony since the failure of the cessation act of 1666, except for a two pence export duty on bulk tobacco in 1677¹⁷ and the establishment of port towns in 1680, an act subsequently suspended by the king and Council.¹⁸ The April Assembly of 1682 had been especially convened to provide for a suspension of tobacco planting; when it adjourned without such a law riots broke out in three counties. Tobacco was the cause of the misery; tobacco became the object of the attack. It was estimated that in those counties one-half to two-thirds of the tobacco plants were cut down with a total loss of about 10,000 hogsheads by the time peace had been restored.¹⁹ A non-legal precedent for the authorized crop destruction of the nineteen thirties! There were also

¹⁴ Gray, *History of Agriculture in Southern United States*, pp. 265-266.

¹⁵ *Ibid.*, p. 266.

¹⁶ Bruce, *Economic History of Virginia*, I, 406. It was at this time that Virginia urged the king to negotiate a removal of the secular and ecclesiastical bans against tobacco by Russia; no success. Gray, p. 253.

¹⁷ Hening, *Statutes*, II, 413.

¹⁸ *Ibid.*, pp. 471-478, 508. See also *C. S. P., Colonial, American and West Indies*, v. 1677-1680, no. 1434.

¹⁹ Bruce, p. 405; Gray, p. 266; *Archives*, V, 355-356; *Acts P. C.*, II, nos. 79, 80.

social implications in that miniature civil war, for the mobs drew their recruits mainly from the poorer classes.

Lord Baltimore was in Maryland when the disturbances in Virginia occurred and as might be supposed he kept an eye on that colony. On March 26, 1682, he wrote William Blathwait at Whitehall, England, admitting the serious economic conditions of the planters in his province; however, no action would be taken until after the April Assembly at Jamestown from which was expected another move toward tobacco cessation. If such a move were made Baltimore was inclined to favor the stoppage of tobacco cultivation for one year even though prejudicial to himself if two conditions were met: first, his Majesty's revenues must not be diminished (that is, some substitute income must be found), second, all other tobacco areas must also cease planting.²⁰ Marking time until the Virginia burgesses made a decisive step, the short session of the Maryland Assembly, April 25 to May 13, 1682, was presented a detailed bill by the Upper House to prohibit the use of hogsheads both of unseasoned staves and of excessive weight, and to place under heavy penalty "false & Deceitfull packages of hhds."²¹ Such practices had "not only Glutted all Marketts with bad Tobacco but hath wearied the Merchants out of the Trade." Although the measure proposed to improve the quality of the tobacco leaf shipped from the palatinate it had a serious administrative defect. The discovery of violations and the enforcement of the penalties depended upon informers or upon the receivers of the questionable tobacco and not upon a system of inspection by permanent officers. Failure to agree postponed action by the two Houses of the Assembly to the next

²⁰ *Archives*, V, 351-352.

²¹ *Ibid.*, VII, 309-311.

session in the fall when it was again shelved.²² However, the short April meeting of the Legislature did pass certain stop-gap bills. One of the laws encouraged the application of the settlers' efforts to other commodities by listing certain relatively non-perishable foods as currency for payment of domestic "Lawfull & Currant . . . money or Tobb Debt or Debts."²³ His Lordship's rents and the public levies were excepted. To entice ship masters who might shy away from unprofitable cargoes of tobacco the Assembly ruled that corn and meats could be exported without restraint on quantity. The Assembly also limited the damages allowed on protested bills of exchange, a definite protection for the planters against the foreign merchants in a period of ruinous tobacco prices.²⁴ Then there were two laws to stimulate domestic manufacturing of cloth; one was the reenactment of the bounty on hemp and flax and the second a comparable reward in tobacco for making linen and woolen cloth of good quality.²⁵ All of those laws were to run for three years.

Upon the prorogation of the April Assembly of 1682 the Lord Proprietor again turned his attention to the threatening condition in Virginia. In May he wrote Sir Lionel Jenkins, one of the king's secretaries of state, expressing alarm and saying that he had instructed provincial officers to be ready at the Potomac River to prevent "the landing of any of the rabble." By that time he had learned of the failure of the Jamestown

²² *Ibid.*, pp. 367-368.

²³ *Ibid.*, p. 321. The foods were Indian corn, wheat, oats, barley, rye, peas, pork, beef, bacon; and each was given a definite value in sterling and tobacco, the ratio placing a value on tobacco of one pence per pound.

²⁴ *Ibid.*, p. 323.

²⁵ *Ibid.*, pp. 324-325, 325-326.

Assembly to pass a law restraining tobacco cultivation. In spite of such inaction Baltimore informed Sir Lionel that he would not initiate a stinting measure himself until he had learned the attitude of his Majesty for he recalled that the Privy Council's 1664 disapproval of cessation remained in force.²⁶ The reversal of intentions given in his previous letter to Blathwait arose in part, one must infer, from a subsequent expression of displeasure by the king over apparent insults to the Crown's customs officers in Maryland.²⁷ In August Lord Baltimore received from a royal secretary a statement that the king wished the administration of Maryland to cooperate with Virginia in framing and passing "such rules and instructions about the planting of Tobacco, as shall be found most suitable to the present exigency."²⁸ His Majesty had been so advised by the Privy Council.

Nothing resulted from the royal advice for the Lords Baltimore and Culpepper to get together on the tobacco problem. In part the explanation lay in the personalities of the men involved. Culpepper in his annual report to the Lords of Trade and Plantations in 1681

²⁶ *Ibid.*, V, 357-358.

²⁷ *Ibid.*, p. 358.

²⁸ *Ibid.*, pp. 370-371. See also *C. S. P.*, 1681-1685, no. 650. From 1680 to the date of this order of cooperation, August 10, 1682, the officials of Virginia had been petitioning the king and councils for aid. The Commissioners of Customs in England in a report to the Lords of Trade and Plantations said that a cessation of tobacco planting would benefit only the wealthier planters and the merchants with large stocks, and at the same time would encourage Spanish, Dutch and French cultivation; the customs would also be reduced by a serious sum. The Commission disapproved the creation of ports in Virginia unless Maryland passed a similar law without which settlers would flow into Baltimore's province. *Ibid.*, 1677-1680, nos. 1433, 1434, 1483; 1681-1685, nos. 3, 104, 186, 318, 319, 448.

after expressing the opinion that North Carolina was "the sink of America," went on to say that "Maryland [is] now in torment, troubled with poverty but in very great danger of falling in pieces either because old Lord Baltimore's politic maxims are not pursued or that they are unsuited to this age."²⁹ One can imagine with what pleasure the court gossips circulated that tidbit until it reached the ears of the proprietors of both Maryland and Carolina whose cooperation with Virginia would have been necessary to erect an effective mechanism for tobacco regulation. Moreover, Baltimore was not getting along any too well with the Lower House of his legislature. But probably the major explanation for the passing of the clouds of distress in 1683 and a return of disinterest in far-reaching reforms lay in a temporary improvement in tobacco prices. Culpepper in March wrote officially to England that he had been successful in restoring quiet in Virginia which would hold "so long as tobacco bears a price, which I hope will be two years at least."³⁰

The Maryland Assembly of October-November, 1683, passed six bills, two of which pertained to tobacco. Although both houses in 1682 had considered a measure that penalized packing trash in the casks and making poor quality hogsheads for the leaf, by the next year interest in rotten, frost bitten, ground leaves and seconds waned and the statute of the session concerned only the provision of well-seasoned staves for the hogsheads, the maximum weight of which could not be over ninety pounds.³¹ That law both supplemented and modified the combined gauge and cooperage act of 1676. The second bill pertaining to tobacco was a detailed one

²⁹ *Ibid.*, 1681-1685, no. 319.

³⁰ *Ibid.*, no. 1007.

³¹ *Archives*, VII, 605-606.

"for Advancement of trade."³² Previous measures³³ lacking popular support had proved ineffective in the establishment of definite ports through which all the trade of the colony had to pass, so this time the program was going to be different. In each of ten counties two to four places of one hundred acres were designated for development under the direction of some twenty planters, names given, of the respective counties. Streets were to be laid out, lots sold, space left for warehouses and wharfage,—all to be completed by August 31, 1685, after which date all trading, domestic and foreign, had to be conducted at those towns. Suitable penalties were assigned for disobedience. Among other provisions the owners of storehouses at the ports had to house tobacco brought in by planters if there was room; also the Proprietor's rents payable in tobacco could be discharged at the same places and at a 5 per cent discount. Inducements to bring residents to the towns and to encourage marketing were included.

If one can picture Maryland at that period, reasons for such a specific port act would be apparent. Waterways formed the natural, indeed almost only, channels of social, political and economic intercourse between the plantations spread over large tracts of land. The mercantilists saw to it that the needs of the colony were predominantly met through trade with the mother-country and not through a self-sufficient economy. Furthermore, with an emphasis on individualism there seemed to be a direct encouragement of social irresponsibility that proved annoying to the lay and clerical officials because a loosely tied colony was not easy to administer either as a political unit or as a source of

³² *Ibid.*, pp. 609, 619.

³³ Above, p. 87.

revenues. Virginia had the same problem which she tried to solve under a series of cohabitation acts, one purpose of which was to modify "the wild and rambling mode of living" of isolated country life.³⁴ Giving full weight to all such considerations it seems necessary to find the basic reason for the port development act in the economic needs of the province. Revenues for the king and Proprietor, trade channels for the prominent planters and merchants,—and in all of that tobacco continued to provide the arterial blood.³⁵

Opposed to the port legislation were two groups, both strategically enough placed to hamper the administration of laws passed against their wishes. Small tobacco growers comprised the first, English manufacturers the second. The attitude of the poorer planters toward regulation of tobacco cultivation and marketing has been discussed in tracing the evolution of legislation relating to that crop. Lacking effective control in the Assembly they viewed with suspicion additions to the Maryland statutes. A penny in hand for a pound of tobacco was worth more than a promised three pence after proposed stinting. An informal, scattered market that would buy ground leaves, seconds and even stalks was easier to please than specified merchandising outlets for only best quality tobacco. Thus the small farmers saw no profit for themselves in being forced to trade through established ports. Economic shortsightedness perhaps, but also economic necessity! And in England there were protests from the manufacturers who feared,

³⁴ Letter of Secretary Spencer, July 9, 1680, *C. S. P.*, 1677-1680, no. 1434.

³⁵ In the 1682 Assembly this trade bill had been titled "for advancing the trade tobacco," but the House thought that just the word "trade" should be used to include all articles of commerce. *Archives*, VII, 343.

justly enough, that with the growth of towns there would also develop handicrafts to displace the merchandise of the British Isles. Maryland's port legislation continued intermittently up to the tobacco act of 1747, and although many of the original sites were left undeveloped or were soon abandoned, towns did grow where there was a coincidence between the inclinations of the inhabitants and natural geographic advantages.³⁶

THE BULK TOBACCO CONTROVERSY

It was just prior to the establishment of the royal government in Maryland that the question of bulk tobacco became a subject of controversy and continued as such for a number of years. As in previous and subsequent discussions over tobacco practices opinions about bulk tended to reflect economic interests, and there were many parties concerned with the tobacco trade. The king looked out for his revenues, his patents and abuses of royal dignity; the planters were divided according to riches or poverty; the foreign merchants reflected nationalities and also sources of incomes from commissions or ownership. Probably it is not far off the mark to

³⁶ For conciseness the history of port development in Maryland to the end of the seventeenth century is summarized: slowness of the commissioners in certain counties in laying out towns brought a reprimand from Baltimore and an extension of time. *Ibid.*, XVII, 219-220, 358, 403, 406-409. There were supplementary acts in 1684, *ibid.*, XIII, 111-120; in 1686, *ibid.*, pp. 132-139; and in 1688, *ibid.*, pp. 218-220; with an enforcing proclamation by the Council, *ibid.*, VIII, 3. With the repeal of all laws in 1692 and the reenactment of new ones the port act was omitted, but two years later two ports were designated with their use optional, *ibid.*, XIX, 110. A few more ports were established in 1695, *ibid.*, p. 211. The next legislation came in 1704. See also H. J. Berkeley, "Extinct River Towns of the Chesapeake Bay Region," *Maryland Historical Magazine*, XIX, 125-134.

summarize the problem offered by the shipments of bulk tobacco in these words: such tobacco could easily be smuggled into England, thus reducing royal revenues and when within the country it lowered the market price on the leaf that had passed through the customs and was offered through the established channels.

In August, 1687, sixteen English merchants and ship-owners who were engaged in the tobacco trade of Maryland and Virginia petitioned the king to prohibit the exportation from the colonies of bulk tobacco "by which they suffered much."³⁷ Backing that request was a well-organized list of reasons which because of their long continued pertinence to the commerce in tobacco are worth summarizing.³⁸

I. The king's interest:

- a. It was only tobacco that was run through the customs.
- b. A great quantity was so smuggled by seamen and runners.
- c. To supervise rather than prohibit imports of bulk would require three times the number of ship officers.
- d. Much of the bulk tobacco went directly to other countries in violation of the Navigation and supplementary acts.
- e. Ships in that illegal trading were kept from legitimate businesses.
- f. The king suffered a 25 per cent loss in revenues on bulk when compared to hogshead shipments.
- g. The masters of ships could not make true reports of their cargoes.
- h. Fewer ships were required for bulk tobacco than casked, the ratio five to six.
- i. Shipments of loose leaf led to false oaths.
- j. Bulk tobacco suffered greater damage in shipment than when packed.
- k. Ships were often wrecked in seeking hidden places to land smuggled cargoes,—losses to merchants and ship owners.

³⁷ *C. S. P.*, 1685-1688, no. 1396; *Acts P. C.*, II, no. 242.

³⁸ *C. S. P.*, no. 1397.

II. Colonial interests:

- a. As bulk tobacco was smuggled out of the plantations there were substantial losses of export revenues.
- b. Five ships for bulk tobacco compared with six for leaf in casks meant less port duties.
- c. Such a decrease in ships also lessened sales of provisions to vessels.

III. Shipping interest:

- a. In addition to the above injuries, bulk tobacco created disputes between officers and men because bulk was more difficult to handle, took longer time to load and gave rise to charges of malfeasance.
- b. Many suits at law arose over fraudulent dealings caused by bulk.

IV. Merchants' and planters' interests:

- a. The larger loads of bulk tobacco depressed the market prices for all the crop.
- b. Fair traders were hurt, the "ungenerous" were encouraged.
- c. But little packaged leaf could be sold until the bulk was off the markets; that delayed shipments and "lost" the best markets.
- d. Every planter could fill at least one hogshead.
- e. Bulk encouraged stealing by servants who could not ship enough tobacco to make up a cask.

The petition of the sixteen merchants and shipowners was turned over to the Commissioners of Customs for their consideration and in October they expressed to the Lords of the Treasury the opinion that a prohibition of bulk tobacco from the plantations would be advantageous to his Majesty's customs.³⁹ By the end of the

³⁹ *Ibid.*, no. 1461. Relative to the procedure for handling communications between the colonies and the mother country Andrews wrote: "The business of looking after the British colonies in America and elsewhere was intrusted in largest part to men who occupied in the British system of government a place no higher than that of advisers to the Crown. . . . in the greater number of cases the ultimate authority, the King in Council,

month the King in Council ordered bulk laws passed in Maryland and Virginia.⁴⁰ Although the Privy Council wrote in November, 1687, to Baltimore in London, he did not draw instructions to his deputy governors until July 14, 1688; the orders were received by the Maryland Council in October, and a meeting of the Assembly at St. Mary's was called for the twelfth of the following month.⁴¹ Some six months before that the Council in Virginia had convened the Assembly to pass a bulk law as requested by the king, but no action was taken.⁴²

At the November session of the Maryland Assembly the president of the Council, William Joseph, in unctuous terms expressed the desire of the king for a bulk tobacco law and the obligation of the legislators to obey such wishes,—provided the Virginia Legislature did likewise.⁴³ After an exchange of notes between the two Houses, the lower branch gave its considered opinion against such a measure.⁴⁴ It reasoned along several lines. First, as might be expected, the House stressed the loss of revenue to his Majesty, for most of the *bulk* tobacco legally imported by England was consumed there, paying the full duty of five pence a pound into the royal coffers. In contrast a great part of the cask tobacco was reexported on a drawback that left the king

accepted without change the reports of its committee, and we know that the committees [of the Privy Council] as a rule, though there are some important exceptions, followed the advice of the advisory board in making up its report." C. M. Andrews, *American Historical Association. Report, 1913, I, 321, 324.*

⁴⁰ C. S. P., nos. 1481, 1482, 1489, 1498; *Archives, VIII, 45-46.*

⁴¹ *Ibid.*, p. 46.

⁴² C. S. P., no. 1617; *Archives, XIII, 151.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*, pp. 198-199.

only one half penny a pound. Then the members of the Lower House called attention to the heavy losses that Lord Baltimore would have to sustain in the lessened quantity of exports on which he was entitled to two shillings per hogshead or equivalent, and a fourteen pence per ton (ship burden) port duty. The third argument was one nearest their hearts. Bulk tobacco was generally the dark leaf that found special favor with the outport ships. To buy that dark leaf the Scotch and other non-London traders brought serviceable goods to the province at better prices than the metropolitan merchants. Thus, if a bulk law were passed the greatest part of the province's crop " would lye and rott upon the Owners hands and they thereby perish for want of such of those Goods these small West and North Country Ships bring." And after all the outport merchants who would be injured were from British ports even though they did not have the influence of the London prestige. Again the representatives of " the people " blocked constructive tobacco legislation.⁴⁵

⁴⁵ No record of the bulk tobacco controversy during the last decade of the seventeenth century would be complete without mentioning the " Essay on Bulk Tobacco " often ascribed to William Byrd, of Virginia, though the authorship probably lay with one of the London merchants. The " Essay " was included in the *History of the Dividing Line and Other Tracts, II, 140-158.* At the date of that essay, April 15, 1692, Byrd although a resident of Europe for eight years was only eighteen years of age and had in other letters shown no marked interest in tobacco. J. S. Bassett, ed., *The Writings of William Byrd, p. v.* There were a few points brought out that have not been included in the previous discussion. For instance, the designation " bulk " allowed a lower shipping classification carrying port duties and freight charges much below those attached to tobacco in casks. That advantage allowed the leaf to be sold subsequently at retail at low prices and also induced sailors to break open hogsheads

THE CLOSE OF THE CENTURY

"In Maryland . . . at the time of the Revolution of 1689, all laws to control the production and export of tobacco had expired, failed to pass, or proved ineffective. Nor did the Royal government bring relief, for the evils of war were added to the misfortune of the planters."⁴⁶ That was a fair survey of tobacco legislation in Maryland as the province entered the last decade of the century under the direct supervision of the Crown. For four years there was no record of tobacco regulation. They were years disturbed by a brief civil war in Maryland and in England by the passage of the Crown into the Protestant hands of William and Mary. Sir Lionel Copley was appointed the first royal governor of Maryland in March, 1691, and came to St. Mary's in the early spring of 1692. In the meantime Governor Nicholson, of Virginia, had voiced complaints to the Lords of Trade and Plantations about lax supervision of Maryland commerce. Apparently the neighbors north of the Potomac were taking advantage of political disturbances! For both colonies the question of bulk tobacco was again raised when seventy-two London merchants engaged in the tobacco trade submitted a petition protesting such shipments and declaring that the previous opposition of the American plantations had given way

during a voyage. Also, the small ships that specialized in bulk cargoes were uneconomical in serious commercial development. Furthermore, when a planter sent tobacco in bulk there was no point in even roughly grading his different lots, for all would be mixed together; and the distinction already gained by Maryland and Virginia for their casked leaf would be ruined. Byrd (?) recommended a £1,000 penalty for bulk shipments, and full records kept by customs officers at both ends of the voyage.

⁴⁶ St. G. L. Sioussat, *Economics and Politics in Maryland, 1720-1750*, in "Johns Hopkins University Studies," XXII, 12.

to a better understanding of the question.⁴⁷ There was attached a list of arguments that duplicated the brief of 1687.⁴⁸ By June, 1692, instructions came from the Lords of Trade to the respective governors of Maryland and Virginia to pass a bulk tobacco law; in July orders to the same effect came from the queen.⁴⁹ No action was taken by Virginia, nor by the Maryland General Assembly of May-June which repealed all laws previously made in the province (except private acts) and established a new list of statutes, many of them nothing more than reenactments of pertinent legislation. Certainly the measures relating to the regulation of the tobacco industry showed no progress toward better control over the staple.⁵⁰ In addition to the reasons previously given for the absence of an unified policy on that problem there now developed among the Maryland planters a feeling of domestic irresponsibility. For the next twenty-five years the allegiance of the province was nominally to the throne of England with the Baltimores relegated to the position of absentee landlords, though in addition to the proprietary rents Charles Calvert continued to receive one-half of the two shilling export duty laid on each hogshead of tobacco.⁵¹ During that

⁴⁷ *C. S. P.*, nos. 2075, 2140.

⁴⁸ Above, pp. 98-99.

⁴⁹ *C. S. P.*, nos. 2300, 2308, 2348, 2349; *Archives*, VIII, 335.

⁵⁰ The laws were: an act restricting damages on protested bills of exchange to twenty pounds per hundred, *Archives*, XIII, 449; safe housing of tobacco by vendor until buyer took possession, *ibid.*, pp. 469-470; an act concerning coins and tobacco, *ibid.*, pp. 493-495; an act against engrossers or unscrupulous merchants trading in tobacco and goods, *ibid.*, pp. 526-528, 544; an act to encourage commodities other than tobacco for use and export, *ibid.*, pp. 532-533; an act regulating the size of hogsheads, weight and seasoning, *ibid.*, pp. 552-554.

⁵¹ *Ibid.*, p. 439.

period from 1689 to 1715 the colonial policies of England were under the direct supervision of committees of the Privy Council which in turn was responsible to the Crown.⁵²

Illicit trading was another problem with which the tobacco trade had to concern itself at the end of the seventeenth century. An incentive for smuggling lay in the heavy duties and burdensome regulations of that period and tobacco, especially in bulk, offered an excellent medium for the traffic. London was receiving about twelve million pounds of the brown leaf a year, the other ports of England fully four million.⁵³ At 5*d.* a pound the duties offered a gross yield of over £300,000; the net was much less, for on the 70 per cent reexported there was a drawback of 4½*d.* a pound. With the price in London for colonial tobacco about 2*s.* 6*d.* a pound smuggled leaf brought good returns to the vendors.⁵⁴ And certainly the records of the period indicated that the resentment of the planters about the excessive total charges was matched by the willingness of outport ships to evade the Navigation Acts, the custom regulations and share the savings with the makers of tobacco. Edward Randolph, who came to America in 1692 as surveyor of the customs, sent home gloomy reports of many infractions. He found very little trouble in unearthing evidence because violations were quite open; ⁵⁵ but when it came to convictions then his path was usually blocked.

⁵² See C. M. Andrews, *American Historical Association Report*, 1913, I, 319-406.

⁵³ *C. S. P.*, 1689-1692, no. 594, 595 (Custom House Report).

⁵⁴ Rogers, V, 467-468; Spanish tobacco was bringing 9*s.* 3½*d.* For an account of some of the fraudulent methods used in Gt. Britain to evade duties on tobacco refer to the *Gentleman's Magazine*, III, 121, 560-569.

⁵⁵ *C. S. P.*, no. 2295; 1700, no. 906.

In a request to Governor Nicholson of Maryland for leave to go back to England to recommend reforms he wrote:

After my great Endeavours to Surpress the illegal Trade Carried on in Virginia Pensilvania & [this] Province I find that by the partiality of Juryes & others that I can obtain no cause for his Ma^{ty} upon the most apparent Evidences . . . but that by such partiall proceedings the Trade of Importing Goods from Scotland and the carrying Tobacco directly from said plantations to Scotland &^a is increased, and as yet no Remedy appears for regulating such apparent breaches of the Severall Acts of Trade.⁵⁶

Channing gave the impression that although England was making headway in the suppression of illegal trading, the Navigation Acts were rather generally evaded, that ships were loaded "without any thought [by the masters] of giving bonds or paying the penny duty required by the Act of 1672."⁵⁷ On the other hand, Kelbaugh concluded "that illegal trade during the period was comparatively small and the offenders very often apprehended."⁵⁸ And Morriss summarized a careful survey of materials with the words, "on the whole breaches of the Navigation Acts, and apparently also of the several colonial acts were comparatively rare."⁵⁹ Beer confirmed the trend of those opinions by emphasizing the advantage to the southern colonies in using the active English tobacco markets, the drawbacks, the manufactured goods of the mother country. In inter-

⁵⁶ *Archives*, XX, 236. (Nicholson, late governor of Virginia, had been transferred by the Crown to Maryland, replacing Sir Edmund Andros.) Col. Quary who came as Surveyor General in 1702 gave about the same reports. *C. S. P.*, 1702-1703, no. 260.

⁵⁷ *History of United States*, II, 253.

⁵⁸ *Maryland Historical Magazine*, XXVI, 32.

⁵⁹ M. S. Morriss, *Colonial Trade of Maryland, 1689-1715*, in "Johns Hopkins University Studies," XXXII, 133.

colonial trade, however, there was more evasion by the South of duties on enumerated articles imposed by a statute of Charles II, and there was also some contraband trade with the West Indies.⁶⁰ It seems reasonable to conclude that although illicit trading was conspicuous in Maryland because of its very illegality, the quantity of it in foreign commerce was by no means a threatening factor.⁶¹

During the last five years of the seventeenth century the colony of Maryland moved along without any major disturbances. The question of bulk tobacco was reopened by Queen Mary and finally settled by a parliamentary prohibition in 1699.⁶² Tobacco prices slightly improved as the result of several years of unseasonable weather,⁶³ but as usual the advantages from such conditions lay more with the wealthy planters who at times spread rumors of a scarcity of ships thereby creating a buyers market in which they could at low cost gather odd lots of tobacco from the poorer farmers.⁶⁴ Two of the Maryland counties with a good proportion of Scotch-Irish began to turn quite actively to the making of woollens and linens from domestic sources and "plant but little tobacco." There was even a consideration of cotton as a crop because of its increasing cultivation in Virginia.⁶⁵ Inclined as were the Marylanders to paint

⁶⁰ *Commercial Policy of England*, pp. 132-133.

⁶¹ Some details of interest relative to the enforcement of customs regulations were recorded in the *Archives*, XX, index "Illegal trading."

⁶² *Ibid.*, XIX, 90-91; *C. S. P.*, 1693-1696, no. 1897.

⁶³ Morriss gave the price range on colonial tobacco from 1½d. to 2d. for the years 1697-1700 (pp. 38-39).

⁶⁴ Letter by Governor Nicholson to the Lords of Trade and Plantations, 1695, *C. S. P.*, 1693-1696, no. 1896. See also Gray, pp. 267-268.

⁶⁵ *C. S. P.*, no 1916.

rather gloomy pictures in their official reports to England, the answer of the Assembly in 1697 to queries from the Council for Trade and Plantations gave a fair presentation of conditions at the close of the century.

Generally all the Inhabitants of this province being Labourers are employed in planting Tob^o except Coopers and Carpenters and some few [others] which make not above the 60th part of such Labourers. . . . The Trade of this province ebbs and flowes according to the rise and fall of tob^o in the Markett of England. But yet it is manifest and apparent that universally less Cropps [of tobacco] are made of late than formerly. . . . The Sole and only Manufacture or rather production of this province for Merchants and Shippers Supply is Tobacco . . . except in inconsiderable Quantity of Furrs and Sassafriz Roots.⁶⁶

Hard pressed as were many of the planters for cash crops or credit "there was no lack of food and the colony had been made self-supporting partly by natural means and partly by legislation" without producing a surplus of food crops for other colonies.⁶⁷

The irregular growth of legislation in Maryland for the regulation of the dominant crop, tobacco, has been detailed. Mid-century attempts to restrict the number of plants and to control the quality of shipments had failed. By 1700 the direct supervision of that basic industry was confined to a designation of the size of the hogsheads and the seasoning of the staves that went into them. Absence of enthusiasm by the colonists for close supervision over their husbandry arose in part from reoccurring periods of mild improvement in the prices for tobacco. But more fundamentally it lay in the individualism of the settlers, the absence of effective

⁶⁶ *Archives*, XIX, 580-581. It was estimated that tobacco production per planter had declined from 4,000 pounds to 2,000 a year, but the total colonial output was greater because of the continued immigration. Morriss, p. 25.

⁶⁷ *Ibid.*, p. 18.

unity within the palatinate. That lack of harmony engendered by a hardening of social and economic class lines time after time blocked constructive action by the legislature in which no one group had yet established secure leadership. Nor was the tobacco problem peculiar to Maryland. Virginia's contribution to the total plantation exports was even larger and the Carolinas were also becoming areas of importance. If intraprovincial regulation of tobacco cultivation was difficult, intercolonial regulation could prove little else than futile. And as far as England was concerned, advice from that source was viewed with suspicion, even resentment. Thus Maryland entered the eighteenth century!

CHAPTER VI

MISCELLANEOUS TOBACCO LEGISLATION 1700-1725

I have also travelled in Maryland, I cannot but say it is a good Country, but its poisessed with Debauched, Idle, Lasy People, all that they Labour for is only as much Bread as serves them for one Scason, and as much Tobacco as may furnish them with Cloaths. I believe it is the worst improved Country in the world, for the Indian wheat is that they trust to, and if that fail them they may expect to starve.¹

I put myself and Goods a-shore:
Where soon repair'd a numerous Crew,
In Shirts and Drawers of *Scotch-cloth* Blue.
With neither Stockings, Hat, nor Shooe.
These *Sot-weed* Planters Crowd the Shoar,
In Hue as tawny as a Moor:²

Thus they depend altogether upon the Liberality of Nature, without endeavouring to improve its Gifts by Art or Industry. They spunge upon the Blessings of a warm Sun, and a fruitful Soil, and almost grutch the Pains of gathering in the Bounties of the Earth.³

In general, then, the colony was only self-sufficing, and in northern Maryland food-stuffs were actually imported. . . . 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.⁴

¹ Patrick Falconer's letter to Maurice Trent, 1684, contained in B. C. Steiner's *Descriptions of Maryland*, in "Johns Hopkins University Studies," XXII, item 10, a.

² From "The Sot-Weed Factor, by Eben. Cook, Gent." (London, 1708), Maryland Historical Society, *Fund Publications*, no. 36, item 2. Sot-weed was tobacco, so called because it made men besotted.

³ Robert Beverley, *The History and Present State of Virginia*, Pt. IV, p. 83.

⁴ Morriss, "Johns Hopkins University Studies," XXXII, 17-18.

These quotations give a picture of the tobacco planting Maryland about the year 1700. To be sure the extracts scarcely agree with certain popular notions that have their origins in the elegant furniture and exquisitely detailed rooms of well-preserved houses of the middle and late eighteenth century. The more substantial planters had comfortable homes, usually small but well furnished with goods from England. Annapolis was rather wantonly described by the picturesque Ebenezer Cook as:

A City Situate on a Plain,
Where scarce a House will keep out Rain;

One suspects, however, that the requirements of a rhyme as well as his personal misfortunes in Maryland colored the verse. Moreover, it was just as Maryland entered the eighteenth century that its capital began the rapid development which before the middle of the period made it one of the social centers of the American colonies.

The colony at that time had a population of about 35,000 people with a third of that number able to bear arms.⁵ During the years of the royal government some seventy-five ships entered annually into the tobacco trade between the province and Great Britain, a half of them having London as their home port. The other ports were principally Liverpool, Bristol, Bideford, Plymouth, Whitehaven, Chester, Barnstaple, Lyme and

⁵ Governor Seymour's report, July 3, 1705, *Archives*, XXV, 256. The parts of the total follow: masters of families, 5,172; women, free and servants, 7,163; free children, 10,935; free-men and male servants, 5,854; servants, boys and girls, 1,313; slaves, young and old, 4,475. From 1699 to 1707 there were 2,290 negroes imported, though in another report, 1708, Seymour stated that between six and seven hundred came in annually. *C. S. P., Col. Ser.*, 1708-1709, no. 197.

Exeter, the first five being the most important.⁶ To those ports Maryland planters shipped some 25,000 hogsheads of tobacco a year, ten million pounds weight, that represented about 36 per cent of the total Maryland and Virginia tobacco trade and 34.5 per cent of all tobacco exports from America.⁷ On the cargoes that were not reexported England retained the full duties of 6½d. a pound, but on most of the leaf drawbacks left only ½d. per pound for the royal purse; the net income to the government probably came to £100,000 a year.⁸ Tobacco was equally important to the palatinate; from export duties came most of the revenues for the support of the officials and about £1,500 a year for the proprietors.⁹

From 1699 to 1702 relatively good prices for American tobaccos were secured in the foreign markets. Gray mentioned that the heavy rains of 1698 had helped to push up the London price of Oronoke leaf to 20 shillings per hundredweight and of sweet-scented tobacco to 25 shillings.¹⁰ At the plantation tobacco was bringing 1¾d. a pound.¹¹ But it must be kept in mind that the general run of planters even in the good years did little more

⁶ Morriss, pp. 87-88.

⁷ *C. S. P.*, 1702, no. 97; U. S. Dept. Agri., *Yearbook*, 1908, p. 682. Spain and France were taking 8 million pounds of Maryland and Virginia tobacco a year from the English merchants. *C. S. P.*, 1708-1709, no. 249. There was a small inter-colonial trade in tobacco; Morriss estimated that Maryland planters shipped about 300 hogsheads a year to northern provinces (pp. 35-36).

⁸ *Ibid.*, pp. 45-46.

⁹ *Ibid.*, pp. 45-49.

¹⁰ Gray, *History of Agriculture in Southern United States*, p. 268. Rogers, *History of Prices*, VII, 372-375.

¹¹ Morriss, p. 38. In 1699 the farm prices for tobacco in the colonies averaged 3.13 cents; for the years 1703-1708 the average dropped to 2.03 cents. U. S. Dept. Agri., *Yearbook*, 1908, p. 682.

than cover growing and shipping expenses with their occasional meager balances quickly absorbed by necessary purchases in England or at the domestic stores. Even the mild prosperity soon came to an end with Queen Anne's War; until 1714 Maryland again suffered from an impairment in the trade of the one commodity on which her more-than-minimum subsistence depended.

With the outbreak of the War of the Spanish Succession the need for convoys for the tobacco fleets became a subject for discussion both in England and the American plantations.¹² As men of war could not easily be spared, it was necessary to gather together as many commercial vessels as possible into one fleet. At once was reopened the old dispute over irregular sailings versus group movements in the tobacco trade with the differences of opinions closely reflecting the economic interests of the respective parties. Although an order by the Queen in Council provided for two sailings with convoys in 1703 and one fleet a year from then on during the war,¹³ apparently little effort was made to carry out those instructions. Colonel Quarry, Surveyor General of H. M. Customs in America, in a report to the Lord High Treasurer in 1706 flatly declared that the tobacco trade between America and England was execrably managed.¹⁴ An indirect way of writing that there was no management at all. He mentioned that recently there had been three fleets in fourteen months which in discharging their cargoes on the British markets so demoralized prices that the merchants had to

¹² See B. C. Steiner, "Reports of the British Board of Trade," *Maryland Historical Magazine*, 1907, II, 363-365; *C. S. P.*, 1702-1703, nos. 38, 55, 73.

¹³ *Ibid.*, nos. 77, 97, 763, 777, 790, 1293.

¹⁴ *Ibid.*, 1706-1708, no. 130.

protest many bills of exchange drawn against anticipated credits; those protests cut the sale of English merchandise to the planters by fully one-half. He advocated one fleet a year under convoy. That would stabilize the price for tobacco in England because people knowing that no more leaf would be offered for another twelve months would buy briskly. Furthermore, the ships by sailing for America to arrive in December and return in April or May would avoid damages to the hulls by worm, injury to the crews by illness and losses to the cargoes by the enemy. Finally, to clinch his arguments he sent a gloomy memorandum to the Council for Trade: great imports were expected from Maryland and Virginia during 1706, the market was already a dismal affair and he heard that the Dutch and Germans had planted enough tobacco last year to fill 35,000 hogsheads.¹⁵

Quarry certainly set the trade on edge! A month later a petition with the names of twenty-four London merchants and another with twenty-two Liverpool signatures went to the Council, both containing vigorous protests against the one-fleet idea.¹⁶ In the first place, it was argued, the tobacco crops in America could not be got ready at the same time, and if the planters were hurried even worse tobacco would be packed. In the second place, although one shipment a year would be advantageous for commission merchants, rich planters and shippers, those who bought outright in the colonies would find the English markets sagging from the weight of thousands of casks of tobacco brought in by one fleet. Furthermore, in the colonies the stores would be faced with such a surfeit of imported merchandise that the residents in Maryland and Virginia could set

¹⁵ *Ibid.*, no. 225.

¹⁶ *Ibid.*, nos. 220, 242.

their own prices. Then to make sure that the cause of the "poor planters" was not overlooked the ability of the rich land owner to accumulate stocks of tobacco and hold for one fleet was contrasted with the economic pressure on the small farmer who must immediately cash in on his crop as soon as it was seasoned. The London merchants favored two fleets a year and the Liverpool group advised individual sailings. Colonel Quary replied to those petitions.¹⁷ Especially did he deride the "tender concern" of the merchants for the unfortunate poor of the provinces; more often did the merchants let their factors in America depress tobacco prices even as low as one-fourth pence a pound and charge what the traffic could bear for the local merchandise. The Council of Trade and Plantations finally recommended, April 26, 1706, to the Crown that starting September, 1707, one convoy a year be approved.¹⁸ With that judgment the President and Council of Virginia concurred.¹⁹ Maryland expressed no opinion and records did not give the result of the order, though in September, 1707, the Maryland Council did withhold clearance papers until information about a convoy could be secured from Virginia.²⁰

A recodification of most of the Maryland laws in 1704 contained the following statutes that referred to tobacco.²¹ All of the page references are to the *Maryland Archives*, volume twenty-six.

An act penalizing the unauthorized changing of any mark on tobacco hogsheads paid on debts or altering the quality of the leaf (pp. 231-232).

¹⁷ *Ibid.*, no. 289.

¹⁸ *Ibid.*, no. 295.

¹⁹ *Ibid.*, no. 477.

²⁰ *Archives*, XXV, 225; *C. S. P.*, nos. 824, 990.

²¹ The previous laws were first repealed, *Archives*, XXVI, 233, 359-360.

An act to encourage tillage by allowing other commodities to be substituted for tobacco in payments of debts (pp. 278-280).

An act prohibiting the importation of tobacco from any other colony for loading on ships; Virginia excepted (pp. 314-315).

An act for stay of execution of legal claims during the tobacco season (pp. 324-325).

An act for the safe keeping of tobacco, sold or pledged (pp. 327-328).

An act specifying the gauge of tobacco hogsheads and the use of well-seasoned staves with the weight of cask plainly marked (pp. 331-332).

An act requiring ship masters to publish freight rates for tobacco shipments (pp. 345-346).

An act requiring the inspection and approval of scales for weighing tobacco (p. 354).

An act limiting damages on protested bills of exchange (p. 356).

When it was necessary in those acts to establish an exchange value for tobacco in terms of sterling, the rate was one penny for one pound weight.²²

TOBACCO LEGISLATION BY ROYAL DECREE

Miscellaneous legislation in Maryland and orders by the Lords of Trade and Plantations continued throughout the next few years. The provincial Council was admonished to see that the parliamentary act of 1699 prohibiting the exportation of bulk tobacco was more carefully enforced.²³ In 1706 the permissive local port acts that had been in force since 1694²⁴ were replaced by a

²² *Ibid.*, p. 279. In 1708 the gauge law in the above list was disallowed by her Majesty because Maryland's gauge was not the same as Virginia's and ship officers had trouble handling casks of various sizes; besides Maryland in 1707 again passed a law penalizing the squeezing, pressing of hogsheads on board ships by officers or crews. *Ibid.*, XXV, 246-247, XXVII, 157; *Acts P. C.*, II, no. 1056.

²³ *Archives*, XXV, 163.

²⁴ Above, p. 97, footnote 36; *Archives*, XXVI, 233, 433.

comprehensive mandatory law similar to the "advancement of trade & erecting of ports" act of 1683.²⁵ As might be expected, the war England was waging with Spain and France seriously impaired tobacco shipments from the American plantations and worst of all, such restrictions on trade were given great encouragement to the cultivation of tobacco by European nations. Petitions to the Council for Trade and by that council to her Majesty expounded the peril of foreign competition.²⁶ One of the reports on trade conditions declared that the Dutch in 1706 had made 27 million pounds of tobacco of which 10 million went to the French, theretofore a market dominated by the English merchants. Furthermore, the shrewd Dutch tobacco traders were reported to be also stealing customers in Norway, Sweden, Russia and Portugal.²⁷ And to add insult to injury even the sailors

²⁵ Above, p. 95. For the 1706 act, *Archives*, XXVI, 636-645; supplemented in 1707, *ibid.*, XXVII, 159-168; and in 1708, *ibid.*, pp. 346-349. See also *C. S. P.*, 1704-1705, nos. 1065, 1085, 1210; 1706-1708, nos. 84, 470, 975. Instructions from the mother country at that time stressed the influence of established ports in "bringing people to more regular settlements" and lessening the clandestine trade in tobacco.

²⁶ *Ibid.*, 1706-1708, nos. 293, 295, 470, 684, 685, 1024.

²⁷ C. M. Andrews, "Anglo-French Commercial Rivalry, 1700-1750," *American Historical Review*, XX, 542. Andrews wrote that during the latter part of the seventeenth century the English and French governments finding that their merchants could not displace the Dutch in the American colonies by trading skill "found the only alternative . . . deliberate war." Certainly the colonial records of that period gave ample evidence of the capacity of the Dutch in commerce. If when peace came again to Europe England should find her former markets for tobacco seriously impaired one inevitable result would be the curtailment of mercantile sales to the tobacco planters in America. And one official English report estimated that Maryland and Virginia alone normally bought about £300,000 of woollens and other manufactured goods. *C. S. P.*, 1708-1709, no. 249.

of the English navy used Dutch tobacco. The reason was of interest. Because of low duties in Holland the retail price for the manufactured leaf was much less than in England, so the navy stewards bought in Amsterdam then sold the tobacco to the sailors at the high duty prices established by the Admiralty.²⁸ Free trade in tobacco in spite of the war and embargoes was the theme of the petitions. If Englishmen who had commissions from friendly nations and used neutral bottoms were allowed to ship directly from Maryland and Virginia to the European ports, all would be well. If not, then the tobacco trade would be ruined. There were several other aids that were desired: free imports into Spain and Russia; a drawback on tobacco stalks to meet the competition of the Dutch who flattened the fibrous stem, cut it into small pieces and mixed it with good leaf to give the strong smoking tobacco desired by the northern trade.²⁹ Russia was a particular object of attention at that time. Some English merchants were supplying the Czar of Muscovy not with Maryland and Virginia leaf, their original intention, but with Russian tobacco, the cultivation and manufacture of which they supervised in that foreign country. A very good thing was being made from that monopoly when the London merchants asked her Majesty to call home the traitorous fellows before the Russian demand for British colonial tobacco should be completely stultified³⁰ and

²⁸ The Privy Council ordered that practice stopped, 1708. *Acts P. C.*, II, no. 1044.

²⁹ Oldmixon emphasized the preference of northern countries in Europe for the strong tobacco, a requirement met by the Maryland Oronoke type that "no Englishman, who has not a very coarse Relish in his Smoke, will bear." *The British Empire in America*, I, 340.

³⁰ The Privy Council approved a recommendation of the Board of Trade that the English monopoly in Russia be opened for

before the colonial planters, desperate in their need, should turn to a self-sufficient economy.³¹

After the turn of the century Virginia did not give much attention to tobacco legislation until 1705. During that year the Assembly established ports and towns to be completed by 1708,³² a time interval that was shrewd for although urged on by the Council in England the Virginians were loath to set up such regulatory measures if Maryland did not follow suit. (Maryland's port laws of 1704 and 1706 comforted their southern neighbor on that score.) But of more importance was Chapter 46 of the 1705 laws, "An Act for improving the Staple of Tobacco; and for regulating the size and tare of tobacco hogsheads."³³ That chapter reestablished some of the prohibitions of the seventeenth-century tobacco acts such as a penalty for raising second crops the same year, false packing the casks with stones, dirt, stalks and other trash. Upon complaint inspectors of tobacco could be brought in to pass judgment and report to the county court. Creditors had to take tobacco for debts if the leaf was "merchantable"; the size of the hogsheads was limited to 30 by 48 inches and must be made from dry, seasoned wood, plainly marked with the initials of the cooper. That law renewed Virginia's efforts toward a well-knit system of tobacco regulation which was to culminate in

competition, and that no English person "versed in this Mystery" of tobacco manufacturing be allowed in that country. *Acts P. C.*, II, no. 971.

³¹ Governor Seymour repeatedly warned the English Trade Council of the inclinations toward colonial manufacturing; the planters did not want to get further in debt on merchandise. In 1707 he reported that most ships came to Maryland in ballast. *C. S. P.*, 1706-1708, nos. 470, 975.

³² Hening, *Statutes*, III, 404-419.

³³ *Ibid.*, pp. 435-440.

a comprehensive basic law in 1730. There was need for such legislation! William Byrd wrote that the people could not clothe themselves and the large planters were sinking deeper and deeper in debt.³⁴

Until the end of the war Maryland continued in a distressed economic condition. With tobacco her domestic medium of exchange and dominant commodity in international trade the whole life of the colony was thrown out of adjustment as the price of the fragrant brown leaf remained at the no-profit level until about 1712.³⁵ Nor were the occasional substitutions of other commodities and foreign coins for local money either adequate or basic. The advantages inherent in the position of the London merchant were too great to be overcome at times by even the exceptionally able planter. There was the handicap of impersonal remoteness between buyer and seller resulting from three thousand miles of ocean that immunized the English agent from direct, immediate responsibility for his actions; and of that he was aware. That he was also sinned against will be brought out later. Furthermore, Parliament gave constant support to domestic interests. In 1709 a few influential London merchants complained to the Privy Council about the Maryland laws for the relief of poor debtors, for lessening the costs on protested bills of exchange and for establishing ports. Those acts hurt

³⁴ Gray, p. 269.

³⁵ On the subject of tobacco prices, Rogers gave one entry for a retail price in London of 8½-9½d. per pound in 1709, then one of 2s. in 1710, and in 1712 a drop to ¾ to ½ a pound (VII, 372-375). As the heavy duties, the freight and merchants' charges accounted for fully 90 per cent of those retail prices, the net return per pound left for the colonial planters was certainly not over the 1-pence that Morriss gave as the average plantation price from about 1706 to 1711 (p. 39). In that year the average rose ½d. See also Gray, p. 269.

the merchants, therefore lessened trade with the colony, consequently encouraged American manufacturing. Implied, at least, was the idea that the Marylanders did not know what was best for their own interests. The Queen in Council repealed those laws in 1706-1708, and the same merchants then requested that the province be forced to delay the enforcement of any laws relating to commerce until after eighteen months, during which period the traders could present their case, if any.³⁶

Administrative officials on the other side of the Atlantic were by no means quiescent. The President and Council of Maryland voiced several complaints.³⁷ With low tobacco prices servants and slaves were a tremendous burden on the farmers and more negroes were coming in every year. All English goods in the palatinate were very dear; some of the country merchants had increased their prices two hundred per cent and were refusing tobacco that was bringing not more than four shillings a hundredweight. Many were finding it necessary to manufacture the essentials of clothing including shoes. Distress was increased by the avarice of creditors who demanded sterling with threats of imprisonment for those who could not get that scarce coin; even endorsers on notes were becoming desperately involved. Some of the planters who found themselves enmeshed in debt were escaping by emigration to North Carolina which colony, according to Governor Seymour, offered a five-year exemption from such obligations.³⁸

³⁶ C. S. P., 1708-1709, nos. 745, 773, 820, 880, 904, 905; 1710-1711, no. 342.

³⁷ *Ibid.*, 1710-1711, no. 474; 1712-1714, no. 11.

³⁸ As early as 1642 the Assembly of Maryland had passed a law requiring those who intended to leave the province to post a notice five days in advance; if not protested, they would be issued a pass for a fee, and anyone transporting a person out of the

Seymour also accused Pennsylvania of "raising the value of their coynes" to draw people from Maryland by the magnet of inflation, but the northern province denied that charge.³⁹ Oddly enough, although in 1707 the colony had made 30,000 hogsheads of tobacco, a very large crop, there was not enough to load all the ships of which there was an unusual number.⁴⁰

Governor Seymour's reports to the Board of Trade in England also offered good summaries of the political conditions in Maryland during the economic depression. Undoubtedly there was some prejudice expressed for he found the Assembly "stiffnecked" and their "reasons wholly bowyed up by a gainsaying & restless party." In the lower chamber especially he found liberal education so lacking that "it was too difficult a Taske . . . to graft good manners on so barren a Stock." Seymour's complex on the divine right of kings did much to create that feeling of mutual irritation. In a letter during 1709 he mentioned three things in the province that made "the Governm^t very uneasy." One was the Catholic influence of the Lord Proprietor and the presence of "Severall busie Iesuites"; another was a three-

province without such a pass was liable for the debts or damages caused by the flight. The bill was directed against freemen owing accounts and indentured servants with time to serve. *Archives*, I, 160. That part of the act restraining non-debtors was repealed the next session because free passage was declared "the common right of all inhabitants." *Ibid.*, pp. 174, 194. But continued trouble with debt evasion brought a law in 1666 that required the posting of intentions three months prior to departure. If not underwritten, a pass would be issued. *Ibid.*, II, 145-146. Intercounty flights to evade judgments brought a restraining law in 1701. *Ibid.*, XXIV, 201-202.

³⁹ Remedied by an act of Parliament for uniform valuation of coins, C. S. P., 1708-1709, no. 296.

⁴⁰ *Ibid.*, 1706-1708, nos. 160, 470, 975, 1189, 1570.

year residence qualification for office holders that must have restrained his hand; and the last was the constant obstruction of the work of the four provincial justices by the General Assembly.⁴¹ Under such a combination of economic and political maladjustments the continued vitality of the Maryland colony was truly remarkable.

The inhabitants of Maryland were by no means exempt from blame for the low state of their principal crop. Because many debts were payable only in tobacco those settlers who had other interests or had started to cultivate other products of the soil did not take much care in the growth of that tax-paying leaf. Besides it was known that outport traders even preferred trash tobacco that could enter England as "damaged" and therefore free of custom charges.⁴² That Maryland planters continued to put unmerchantable tobacco in hogsheads for buyers who did not desire trash was again evidenced by a stringent "false packing" law in 1713.⁴³ Added to such man-made troubles in the tobacco trade was a severe drought in the early summer of 1714. The Governor reported that all the plants had been sunburned with a great loss of revenue to the Crown and the planters were more miserable than ever. If no encouragement was given by England to the trade the people would turn even more to raising grain and cattle for their commerce with the West Indies and would soon completely clothe themselves.⁴⁴

Gray wrote that "the period of four years following the war was one of good prices, attributed to the re-opening of Continental markets, several years of small crops due to drouth, and the development of direct trade

⁴¹ *Archives*, XXV, 268-269.

⁴² *C. S. P.*, 1712-1714, nos. 531, i, and 688.

⁴³ *Archives*, XXXVIII, 175-176.

⁴⁴ *C. S. P.*, no. 717.

with Scotland."⁴⁵ But the dominant tune in the official and personal correspondence during the second decade of the eighteenth century was a wail of distress. Especially did it appear in the communications between the administrative officers of the province and the Council of Trade and Plantations. Even allowing for the proverbial pessimism of agricultural areas the weight of recorded evidence established meagerness of living, poverty though not starvation for many of the settlers.⁴⁶ Nor were the English merchants altogether contented. The requirement that all custom charges must be paid at the time of landing tobacco, or a bond given, placed a heavy financial strain on many, illustrated by the incident of several ships in the Thames with close to 7,000 hogsheads of tobacco rotting away until the Privy Council came to the relief of the importers who could not pay the duties until they had sold some of their cargo. It was not until later that bonded warehouses were established. Furthermore, although eighteen months were usually allowed for the reexportation of tobacco on drawbacks, in some ports of Great Britain the time allowance had been reduced to three or nine months. As a result an increasing number of merchants were storing their tobacco in Holland.

REVISION OF THE TOBACCO LAWS

With the restoration of the province of Maryland to the Calverts in 1715⁴⁷ the Assembly went about the task

⁴⁵ Gray, p. 269.

⁴⁶ *C. S. P.*, nos. 319, 503, 686, 688, 717; Morriss, p. 28; *Archives*, XXX, 322.

⁴⁷ With the death of Charles Lord Baltimore, on February 20, 1715, the palatinate again passed into the hands of a Protestant, for Baltimore's son, Benedict Leonard, had given up the Roman faith and with it a yearly allowance from his father. Although

of a thorough revision of the laws, and with a freer hand than had been thought expedient when royal governors were in the palatinate. One of the first moves was to revise the gauge act that had been forced upon the traders in 1711.⁴⁸ The new act expressed an independence of Virginian practices by making the dimensions for hogsheads 48 inches for the length of staves, 32 inches for the croze and 37 inches for the bulge.⁴⁹ There were also provisions for the usual marks giving the weight of the cask, penalties for cropping and for a slightly higher export duty per unit to prevent loss to the Proprietor on the larger casks. Governor Hart in a subsequent memorandum to Lord Townshend considered the act a good one: the merchants were protected from unreasonable gauges, the planters from having to press too much leaf into one hogshead and H. M. customs from losses on ruined shipments.⁵⁰ By reenactments the measure was continued to the inspection law of 1747.⁵¹

the new Proprietary lived but two months, the king restored control of the estates to the next heir, Charles, fifth Lord Baltimore.

⁴⁸ In 1711 the Privy Council had instructed the Governor of Maryland to have a gauge law passed that would conform to Virginia's so that ships would have no trouble loading casks from both colonies. There was much insistence by the Maryland legislature that the local tobacco leaf being lighter and more chaffy than Virginia's needed a larger cask if the freight charges continued to be based on four hogsheads to the ton. Ultimately her Majesty's suggestions prevailed. *Acts P. C.*, II, no. 1130; *Archives*, XXXVIII, 128-130. The enforcement of the gauge law by search warrants proved most irritating to the planters. Maryland Historical Society, Black Book MS, II, part 2, item 95.

⁴⁹ *Archives*, XXX, 348-355.

⁵⁰ *C. S. P.*, 1714-1715, no. 541.

⁵¹ *Archives*, XXXIV, 503, XXXVI, 596, XXXVII, 149, 553-555, XXXVIII, 199-207.

In addition to the gauge act there were other suggestions for the encouragement of the sick tobacco trade. Proper dates for shipping continued to be a moot question. In the opinions of the Governor and Council May tenth of each year should be the dead line for spring exports; if cargoes were thus concentrated there would be no hand-to-mouth buying that undermined the market. Furthermore, early packing and stripping of the leaf improved its quality because "the longer the Tobo hangs the more It loses its scent Freshness, Substance weight & Goodness."⁵² Another restorative was to continue the relief to those who owed tobacco on debts but could not pay in that commodity. Such debtors on provincial contracts were allowed to offer beef, pork, bacon, wheat, oats, barley, peas, beans at stated rates in shillings and/or tobacco; if creditors refused they could have no other recourse. On the other hand, honest creditors continued to receive protection from those who planned to leave the province by the law that required official passes from emigrants.⁵³

Then there again arose the question of an agent in London to represent the interests of the Maryland tobacco planters. That move had been urged in particular by the Privy Council during Queen Anne's War and for a reason that was equally pertinent in times of peace. It was conceded that the Maryland Assembly ought to be heard on petitions of complaint filed with the Council by English merchants; but the inevitable delays of transoceanic communication in those days often carried a controversy over several years, far too long in many cases for effective action. An agent in England authorized to act under occasional instructions would do much

⁵² Black Book, item 503; *Archives*, XXX, 29-30, 127-128.

⁵³ *Ibid.*, pp. 259, 322. See above, p. 120, note 38.

to remedy the maladjustments in the tobacco trade.⁵⁴ That such a guardian of the American planters' welfare was desirable was illustrated by the selfish testimony of Captain Hyde, a prominent London tobacco trader, before the Commissioners for Trade and Plantations.⁵⁵ He gave the cost of one pound of Maryland tobacco in the colony as one pence, Virginia tobacco would be 1½d., and said that at that price the planters and merchants could make money. Such was probably true for the trader who could usually count on passing on to the buyers the heavy costs of transportation and the duties, export and import. Then he framed a new argument: if prices were higher in the American plantations clandestine planting in England would be encouraged and cultivation of the plant extended to even greater acreage. In 1713 Nathaniel Blackiston, who had been Governor of Maryland from 1698 to 1702, as a resident of London offered to look after Maryland's affairs in the commercial world for a nominal sum. His services were used for a few years then discontinued.

Virginia planters continued their legislative efforts to improve their staple tobacco.⁵⁶ Their laws had usually led the way for Maryland, so an "Act for preventing frauds in tobacco payments and for the better improving the staple of tobacco" passed in 1713⁵⁷ shoved the palatinate a trifle nearer the basic legislation of 1747. The Virginia act provided licensed inspectors, minimum standards for tobacco leaf ware-

⁵⁴ *Acts P. C.*, no. 1130; *C. S. P.*, 1702, no. 242; 1710-1711, no. 839; *Archives*, XXIX, 6, 48, 274, 458, XXXV, 281, 286.

⁵⁵ *Journals of Commissioners of Trade and Plantations*, 1718-1722, p. 210.

⁵⁶ Above, p. 118.

⁵⁷ Hening, IV, 37. See also L. C. Gray, "The Market Surplus Problems of Colonial Tobacco," *William and Mary College Quarterly*, 2nd Ser., VII, no. 4, VIII, no. 1.

house receipts. It was opposed by the big planters and merchants who felt quite able to take care of themselves. For instance, William Byrd appearing before the English Commission for Trade and Plantations stressed the extra expenses created by that statute. To carry tobacco to the established public warehouses for inspection cost about one shilling per cask (he had his own docks); then there was the viewing charge that amounted to eight per cent of the value. He asserted that the only crop of tobacco so far marketed under the act "never came worse," and the inspectors took no more care than did the private shippers. Also the appointment of the viewers gave political power to the Governor over the Council and Assembly. And finally, the short broken leaves that were rejected for shipment were quite usable; their elimination diminished H. M. revenues.⁵⁸ On the other hand, a Mr. Offley expressed the opinion that the act in general was good, the tobacco was better packed and any talk about harmful competition from Maryland that had no inspection law was empty because the two colonies did not raise the same type of tobacco.⁵⁹ There is a modern ring to those arguments! Unfortunately the Virginia act of 1713 was repealed by royal proclamation in 1717, but its lessons were later used in framing the law of 1730.⁶⁰

Driven by the continued depression in tobacco the 1721 Maryland Assembly after detailed discussion passed two laws for the improvement of their staple. The first renewed and continued for three years the

⁵⁸ *Jr. Comm. T. and P.*, 1714/15-1718, p. 139.

⁵⁹ *Ibid.*, p. 142.

⁶⁰ The Virginia Assemblies of 1714 and 1720 made a cropping act of 1710 perpetual, punished more drastically the tending of seconds and expanded the warehouse act of 1712. Hening, IV, 57, 87-89, 91-92.

gauge and cropping act of 1717.⁶¹ The second sought to prevent the making of trashy tobacco and to better the staple of the province.⁶² In the trash act it was provided that after October 10, 1721, no tobacco was to be packed or offered for export or payment unless it was "in good condition and of a Clear and clean leaf free from ground Leaves, frost bitten Leaves, trashy Leaves, suckers or otherwise damnifying leaves." No planting was to be done after June, and no tobacco was to be shipped before the tenth of October in each year. There was a penalty for tending seconds or so cultivating as to violate the law, the observance of which was further secured by oaths of obedience by all parties in transactions involving more than one hundred pounds of leaf. Further enforcement came from the usual rewards to informers. The act was to continue for three years. It is of importance to notice that that act sought both to improve the quality of the tobacco shipments and to lessen the quantity available for the market. Supplementary legislation the next year even went so far as to prohibit giving away trash; although not explained it was probable that "gifts" to sailors for a consideration were in mind as well as small bundles of leaf run across the border into Pennsylvania. During the 1722 session it was remarked that in England "upon the Report of our Tobacco Law . . . the Market did rise 30sh. p Hogshead . . . and by sundry Advices we may expect Several Ships with Cargoes to purchase Tobacco in Expectation of the Continuance of our Law which otherwise would not have ventured."⁶³

⁶¹ *Archives*, XXXIV, 157.

⁶² *Ibid.*, pp. 264-265; for the law in full, *ibid.*, XXXVIII, 290-294.

⁶³ *Ibid.*, XXXVIII, 290, 300-304.

That such strict laws even after enactment would meet with opposition especially from the small planters was not surprising, for with them trash tobacco and broken leaves played an important rôle. Limiting them to only one crop a year and to only prime quality leaves left a quantitative shortage that after taxes, fees, rents were paid pressed the poorer planters and their families close to the living margin. Furthermore, the official classes and the big merchants stood to profit most from a trash law; that was reason enough for the opposition that developed in the 1723 legislature. But the Upper House in 1723 found no reason for rejecting the laws, although it did consent to relief in certain cases of administrative injustice.⁶⁴ Within a couple of years it was the Council that took the defensive against further regulatory measures.

The statistical position of Maryland at the close of the first quarter of the century was summarized by Governor Hart in his reply to queries from the British Committee for Trade. There were 55,000 white inhabitants and 25,000 black; "tobacco is ye principal trade" with 30,000 to 35,000 hogsheads exported annually to England. About 100 ships came yearly from Great Britain, they averaged 130 tons burden and 16 men in the crews; their outward freight amounted to approximately £20,000 of English manufactured goods a year. The province itself had 4 brigantines and not more than 20 sloops.⁶⁵

⁶⁴ *Ibid.*, XXXIV, 369, 375, 415, 417, XXXVIII, 338-339.

⁶⁵ *C. S. P.*, 1720-1721, no. 214.

CHAPTER VII
 MARKETING TROUBLES AND REOCCURRING
 DEPRESSIONS
 PLANTER-MERCHANT RELATIONS

Though the continuance of a severe depression in the tobacco trade during the third and fourth decades of the eighteenth century touched every aspect of colonial life in Maryland, undoubtedly there was one point of particular irritation. It was the debit-credit relationship between the planters and the foreign merchants who received the American tobacco and usually returned merchandise. Jefferson drawing upon his experience and observations well stated the acute problem.

... and long experience has proved to us that there never was an instance of a man's getting out of debt who was once in the hands of a tobacco merchant and bound to consign his tobacco to him. It is the most delusive of all snares. The merchant feeds the inclination of his customer to be credited till he gets the burden of debt so increased that he cannot throw it off at once, he then begins to give him less for his tobacco & ends with giving him what he pleases for it, which is always so little that though the demands of the customer for necessaries be reduced ever so low in order to get himself out of debt, the merchant lowers his price in the same proportion so as always to keep such a balance against his customer as will oblige him to continue his consignments of tobacco.¹

To be sure the quoted assertions were stated in a rather unqualified fashion, yet it seemed most probable that the colonial planter was more sinned against than a sinner. There were numerous handicaps: the farmer's

¹ Quoted by Gray, *History of Agriculture*, p. 415, and taken from *Writings of Thomas Jefferson*, edited by Ford.

lack of information about the European markets when his tobacco arrived in England; the long list of goods he wished bought at the London shops the prices for which he could but suggest and the bill for which he would not receive until the merchandise actually arrived in Maryland; the sapping tactics of the accommodating merchant in carrying the planter's accounts until a better market could even scores. Moreover, all charges incurred by the merchants including losses on retail credits were passed back to the shipper plus interest on any money advanced during the transaction.²

Letters from the London traders had a remarkable uniformity of content. There appeared first the regretful news of low prices for the tobacco just sold for the planter, then the expression of hope or promise of better times ahead, and in conclusion the assurance that the

² There follows an example of the total charges on one hog-head of tobacco weighing 732 pounds when landed in England. Gray, *William and Mary Historical Magazine*, 2nd Ser., VIII, no. 1.

	£	sh.	d.
British duties	16	18	2
Md. exp. duty.....	0	2	9
Freight	1	15	0
Primage & petty chrg.....	0	2	1
To entry inwd.....	0	1	6
To entry outwd.....	0	2	0
To cooperage	0	2	0
To portorage, etc.....	0	1	0
To warehouse rent.....	0	3	6
To brokerage	0	2	0
To postage of letters.....	0	1	0
To drafts	0	0	9
To loss wgt. 44 lbs. T.....	0	8	3
To commission of 2½% on duties & sale price	0	12	0
	£20	— 12	— 0

shipper's welfare was being kept next to the heart of his English agent. Parts of two letters are offered:

. . . . the acc'ts sale of all your Tobacco hath been allready sent by which you will find it hath sold very lowe this last yeare; indeed the two Last cropp from Maryland proved Generally very Ordinary, we hope your last Cropp will be better.

. . . . the last Cropp of Tobacco in Europe failed pretty much so that now there is not heare so much on hand as last yeare; which makes us hope we shall be able to advance Tobacco Something; in which we neither have nor shall be wanting, nothing being more uneasie to us then to render unpleasing acc'ts to our friends.³

Inclosed you have account of sales of your twelve hogshead Tobacco per Greenwood [the ship] producing forty five pounds Nineteen Shillings & 10d. the same is plaid to the Creditt of your accountt Greenwood arriving so late the Marketts were on the decline and those Tobaccos proveing so very light could not help the proceeds being so small, doe assure you we did the best we could for your advantage in the sale.⁴

And other extracts from the Higgenon letterbook threw the burden of low prices back on the grower of tobacco with such phases as the tobacco "was so much damaged" or "indifferent in quality," and the assurance that en route "all Imaginable care was taken to prevent loss of weight." In many ways the system of commercial relationships was more seductively dangerous than the present day high pressure salesmanship with instalment credit.

The English tobacco merchants had their share of the difficulties. Although they probably made a profit on their purchases of merchandise for American clients, one may feel sure that those obligations involved no

³ Letter from John Hyde to Clem Hill, London, February 19, 1722, Hill Papers MSS, Correspondence, 1685-1722, no. 53.

⁴ Letter to Mr. Patrick Sympson, 1718, Higgenon and Bird Letterbook MS.

little trouble shopping for a range of goods from hair-pins to an evening gown for the planter's wife and nails to coaches or horses for the planter. Good quality meant high prices and high prices aroused suspicion when the bills arrived in Maryland. It was often difficult to collect those bills, also to prevent overdrafts, especially when a protested draft invariably brought expressions of resentment from the colonial. The following letter to a merchant emphasized those points. It was from a Maryland widow who continued to manage the estate of her husband and did very well at it.

Respected friend

These Serves to Cover Bill of Loading and to give you an Account that I have Sent you 8 hhds of Tob. and I think they are good and weighty, and I hope will come to a good Market, by reason of the Scarcity of Tob, the Next Year is Like to be caused by the great Drouth this Summer. I Desire your Care in Sale of them. I received yrs per Capt Moorshead wherein you gave me an account of protesting my Bill, which I take a Little hard, you being the only person my Husband had Dealings with, which made me a little bold to Draw upon you, being it was and still is my Intent to keep Dealing with you, tho much persuaded against it. I have ventured to Draw a bill of £40 on you : I Desire you will be pleased to honour it and not Disappoint me this time, I shall take all the Care I can to Discharge you.⁵

As has been mentioned, some of those who got in debt to foreign merchants left the colony for other provinces or the wilderness. And even when merchandise was sent to Maryland not on consignment but for sale troubles were not over. Factors received those goods selling either on commission or on salary. But factors often handled the shipments of several English houses and not infrequently so managed affairs that they could set up shop for themselves instead of continuing to act

⁵ Letter from Ruth Richardson to Dan'l Mand(g)e & Co., May 24, 1724, Bozman Papers MSS, III, item 436.

simply as agents. Then in both Maryland and Virginia there were a number of rich, influential citizens who offered sharp competition. Gray described William Byrd, of Virginia, as a "planter, colonizer, wholesale exporter and importer, retail storekeeper, Indian trader, international banker, prospector for ores and a miller." Such colonial business men owning their own ships or having a few under charter successfully carried trading into the London markets.⁶

With the slow communications of the day arrangements for sailing dates and the number of vessels also presented problems to the merchants that were not easy to solve. Each party worked for his own interest. Planters would often write of short crops to discourage large fleets and thereby make shipmasters upon arrival bid against each other for the tobacco. But if ships were scarce freight charges would be pushed up, then some of the farmers would lose their nerve and sell at any price to get their hogsheads on board.⁷ Once vessels were in local waters the collection of tobacco from many plantation wharves by the shipmasters or even provincial factors often took many months thereby carrying the date for departure into the stormy period of the year. Furthermore, when the casks reached the London docks the tobacco was of most irregular quality except in the case of a few planters who had excellent reputations for good grading; their marked hogsheads brought premium prices.⁸ Small farmers did not have a large

⁶ See J. S. Bassett, "The Relation between the Virginia Planter and the London Merchant," *American Historical Association Report*, 1901, I, no. 17.

⁷ Letter, in part, by Daniel Dulany to Mr. Hunt, December 19, 1729, Dulany Papers MSS, Private Correspondence, box 2.

⁸ See *Burnaby's Travels in North America*, in Pinkerton's *Travels*, XIII, 706-707.

enough crop to carefully separate into various grades and pack in individual hogsheads. And when deep in debt some became careless, as described by Governor Seymour, of Maryland:

The Planters here being so Vastly indebted to the Merchants Allmost despair of clearing themselves and if consigning a small Quantity of Tobacco Yearly will keep of [off] their Creditors they care not how mean the quality is; . . . by which means the Credit of the Market in Europe is much Impaired.⁹

Possibly the greatest economic problem facing the English merchants and thus indirectly the planters lay within their own markets. It had two phases, cutthroat competition among themselves and the dominant position held by the buying agent for the Farmers General of France, a monopoly. The attempts of the tobacco dealers to form a trade association to offset the French stratagems were well set forth in the Darnall letters and open communications in the colonial newspaper, the *Maryland Gazette*, during the years 1728 and 1729. So pertinent were those writings to an understanding of the tobacco marketing during that period that a summary is desirable.

Colonel Darnall was a member of the Maryland Council. During the year 1728 while in London he got in touch with the tobacco merchants trading with Maryland and Virginia. The results were given in his "Just and impartial Account of the Transaction of the Merchants in London for the Advancement of the Price of Tobacco . . . in a Letter from him to the Inhabitants of Maryland," dated September 18, 1728.¹⁰ Darnall

⁹ "Unpublished Provincial Records," *Maryland Historical Magazine*, XVII, no. 2.

¹⁰ Henry Darnall, *Account of the London Merchants*, printed by William Parks, Annapolis, 1729, a copy of which is in the Maryland Historical Society Library.

with the aid of one John Falconar brought together those interested in the trade "for the service of my Country, my Self, and Posterity." There was some difficulty at the outset because the men were mutually distrustful,—a previous agreement having been broken; but they met and appointed a committee to recommend a course of action. Falconar presented the findings that in part read: "It is well known to us all that the chief Cause of the Depression of the Trade is from the great Ascendant the *French* Agent has got over us." At least the agent was an objective common enemy against whom there was a fair chance of securing united action. One buyer against many unorganized sellers of tobacco offered a situation that could yield but one solution, namely, an unbroken front on the part of the London merchants. To be sure there were buyers from other countries; however they took their cues and prices from the French agent. The proposed combination was not to seek an extravagant price for the leaf but one that would allow a living return "to Planters and Others concerned," and the price was "to rise or fall from Time to Time as the Circumstances of the Trade may require . . . to be done with all Civility." With the price fixed "the French Gentleman will then have nothing to do but please himself with the Quality of the Tobacco."

Certain machinery was advised to carry out that plan. A full time secretary, occasional dinners for the trade, cooperation with "clubs" of planters and merchants in the tobacco colonies, a boycott of those who broke the rules (this was finally voted down!), a supply of capital to members somewhat pressed so that they could keep their tobacco off the market if necessary, and last but not least a three pence per hogshead charge—shifted to the planters—as "a basis and support of their Union [and] to make Applications to the Parliament." In

other words, a lobbying fund. Certainly the trade associations of the twentieth century have shown but little improvement in tactics since 1728.

The influential London merchant, Mr. Hyde, thought that a little domestic house-cleaning might be in order. Furthermore, he offered the important suggestion that tobacco be graded by the merchants and inspected by five members from their own group before the leaf was offered for sale. Some opposed the idea of having competitors view their tobacco "for Reasons that need not be here mentioned." The worst scrubs of tobacco "we had better sink in the Sea than sell them at a very low Price, to hurt the Market." That the French buyer would remain quiescent under such a conspiracy was not to be expected. But the temptation on his part to go to other markets, the outport or Dutch, could be countered by assuring better quality of leaf in London and securing the promise of the American planters not to ship to competitive areas. Furthermore, only by that close accord with the colonies could another very destructive practice of the French be curbed. Apparently it was not unusual for the agent of the Farmers General to buy a ship load of tobacco, dump it on the Dutch market and then "upon the Pretence of the Lowness of the *Dutch* Market beat down the London and outport tob. prices." By that business trick it was said that the employers of the agent, the East India Company in France, "saves yearly from Forty to Fifty Thousand Pounds Sterling."

Shortly after Darnall left London he began to receive reports of dissension. Falconar wrote: "We are come to a Crisis: the *French* Agent declares he will break our Combination and has started to approach some Merchants as individuals."¹¹ Colonel Darnall on his part

¹¹ The Darnall letter.

continued by correspondence to urge cooperation. He reported that decided interest was shown by the tobacco merchants in other ports¹² and recommended that the Maryland planters write their London agents to support such associational agreements. Letters were exchanged between groups of colonial shippers and British importers, each side showing considerable acumen in detailing improvements in the tobacco trade for the other to initiate.¹³ The traders were especially prolific in advice. It seemed to them that the Maryland planters should take more care in packing their leaf, then sledge not roll their hogsheads to the wharves. Also they should plant less every year, or every fourth year cultivate none; trash and mean tobacco should be destroyed and if that would hit too hard the poorer cultivators whose usual crops were low grade they could be compensated by a tax on the good leaf that was exported. If a restricted crop embarrassed those who owed tobacco debts, change the medium of payment into money and the improved tobacco prices would then favor the debtors. On their part the planters protested the careless handling of casks and bulk on board ship, the exorbitant charges at the London end of the voyage and expressed serious doubt that all the merchants were really putting the three pence lobbying impost to its intended use. They also blamed certain individuals for the violation of even the fragile agreements that had been formed and expressed the determination to find out

¹² Gray recorded an attempt several years later of a group of Scotch outpost merchants headed by one Daniel McKircher to combine against the French agent. By that time the English commission traders had given up hope of cooperative action and their competition blocked the Scotch move. *William and Mary College Quarterly*, 2nd Ser., VIII, 9-10.

¹³ *Maryland Gazette*, February 4, April 15, 1729.

who "had acted fairly and justly by them," with implied punishment for the recalcitrants. Darnall again tried to point the way out by suggesting an agent in London to truly represent the planters' interests, offering his own services to those who were willing to bear the expense.

Then for several months during 1729 the columns of the *Gazette* were well filled with letters on the general subject and on the malfeasance of one or two London merchants in particular.¹⁴ The legality of the London agreement for price maintenance was raised in reference to a law against forestalling during Edward's reign. Collusion between a certain prominent London agent and the Dutch and French buyers was charged,—and refuted. One correspondent signing himself "Ferdinando Fair-Trade" well made the point that if enough Maryland and Virginia planters would get together to control 2,000 hogsheads, they could afford an agent in London, pay him on a commission basis instead of a flat fee, ask no credit from the merchandising houses but use cash for goods for the return voyage, and discharge the man if he proved unsatisfactory. Obviously the proposal would require unified action in the provinces. That was a stumbling block, for the disorganization in the tobacco trade was caused fully as much by the wide open competition in the plantations as in the English and Continental market places. So much for the planter-merchant fireworks of the late seventeen twenties.¹⁵

¹⁴ *Ibid.*, March 4, 18, 25, April 1, 8, 22, 29, May 6, 20, June 17, July 27, 1729.

¹⁵ The well-known *Case of the Planters of Tobacco in Virginia*, dated June 28, 1732, and printed in London the following year, duplicated many of the above contentions. It stressed the excessive charges imposed by the London merchants as well as the suspicious loss in weight of tobacco hogsheads when stored in

TOBACCO LAWS AS CLASS LEGISLATION

In a special session the Lower House of the Maryland Assembly in March, 1726, prepared a bill for "advancing the value of the Staple of this province . . . which is so much overdone at present, that unless a Speedy remedy be apply'd All persons concern'd in it must suffer." But the Upper House was in no hurry to pass such a measure and asked that it be carried over

some of the private warehouses on the Thames. In conclusion they proposed "that the Merchants be no longer solely trusted with the keeping of Tobacco, but that the same be deposited in Warehouses under the Lock and Key of the King and Merchant," that duties on tobacco be reduced and severe penalties imposed for relanding tobacco once cleared for reexportation. With such reforms "the Planters will be able to chuse their Merchants for their Probity and kind Treatment, and not for their Riches or Credit." Upon the appearance of *The Case* it was discussed on the Royal Exchange and "branded as the most scandalous and groundless libel that ever was formed and unworthy of any Regard or Examination." Rather vituperative for such a harmless document! The Virginia planters then replied with *A Vindication of the Representation of the Case* published in the same book.

Certain arguments against *The Case* appeared in the *Gentleman's Magazine* in 1733. One was that the merchants charged for themselves a commission of only 2½ per cent and their business was to sell the tobacco not "to ensure a Market, or to answer for a greater or lesser Produce." Furthermore, the complaint of American planters that their tobacco shipments lost so much weight on board British ships, pilfering, was turned back upon them. The London factors said that the leaf was weighed in the colonies before shipment by the planter's scales and upon arrival in London by the king's scales; they could draw their own conclusions about whose weights were inaccurate either by error or by design. *Gentleman's Magazine*, III, 185-186.

See also a petition by the Council of Virginia to the Lords of the Council for Trade and Plantations, Byrd, *Dividing Line and Tracts*, II, 206-210.

to the next session.¹⁶ That indifference represented a change in attitude toward tobacco regulation, for theretofore the representatives of the mass of the people had opposed enactments that might lessen the quantity of leaf or supervise the quality. The explanation is not involved. The origin lay in the age old stubborn antagonism between the wealthy and the poor, the debtor and the creditor, the privileged and the deprived. In Maryland there was the added complication of fundamental religious differences. Thus, what one group wanted, the other group instinctively opposed. The next consideration was the continuance of the depression in the tobacco industry that forced all but the most happy-go-lucky planter to think constantly in terms of public regulation of a drastic sort and eventually bore the majority of the inhabitants to one conclusion: they would give tobacco laws a thorough trial if the small upper class could be prevented from reaping more than their share of the possible benefits. That now seemed possible. The method was to reduce by law the fees and debts payable in tobacco by a quantitative amount somewhat in proportion to the anticipated rise in tobacco prices once regulation was seriously applied. The idea was to keep the creditors and officials from profiting in a rising tobacco market. So when the House felt that it had the incentive and power to fully protect the interests of the weaker economic groups, the members switched from a position of opposition to tobacco regulation to one of support, and thus forced their opponents in the Council to also about face.

From then on divisions in popular and legislative discussions of tobacco invariably found grouped on one side lawyers, clergy, the proprietary officials, large

¹⁶ *Archives*, XXXV, 485-486.

planters. On the other were the small planters, traders and the clergy who were "out" at the time. Sioussat in his discussion of the position of the lawyer in Maryland at that time wrote: "If this analysis be correct one may regard these attacks upon the lawyers as the expression of popular jealousy, among an agricultural people of a class of men necessary for their usefulness, but disliked for their high charges for their services."¹⁷ As for the clergy, lack of respect for a number with doubtful characters, division of authority over the church in Maryland between Lord Baltimore and the Bishop of London and the constant popular friction between Catholics and Protestants,—those experiences made the ecclesiastical group almost anathema to the average planter who too often grudged the tobacco he had to pay for the maintenance of the parish. The administrative officials represented in a generic way England from which so many of the settlers in the palatinate had departed eagerly or under pressure. Prominent landowners incurred the usual displeasure of those who by worth or wile had not made an equal success in the new country. Especially when the representatives of the people came in from the outlying counties to the legislative sessions at Annapolis did the class lines become emphasized, for the capital was fast becoming a center of fashion, of culture with noticeable cases of Veblen's conspicuous consumption.¹⁸

Continued complaints from the planters induced the Governor to call another legislative session in July, 1726. In his opening address Charles Calvert expressed the opinion that the low prices for tobacco were caused largely by sending trash to England and the uncertainty

¹⁷ "Johns Hopkins University Studies," XXI, 17-18.

¹⁸ N. D. Mereness, *Maryland as a Proprietary Province*, p. 111.

of shipping dates. To remedy the first he suggested burning all trash in the colony; for the second, definite dates on which all exportable tobacco must be ready for the vessels. Against a measure introduced in the Lower House that included a reduction of all tobacco debts by one-third, the Council filed objections; nor did a subsequent conference committee prove successful in ironing out the differences. The legislature closed with a renewal of the gauge and tare act of previous years.¹⁹ It happened that just before the opening of the July assembly the Governor and Council had written to the administrative officers in Virginia that "the melancholy Circumstances of the Tobacco Trade . . . calls loudly upon the Legislatures of both places for some speedy relief," and asked for copies of regulatory bills then before the Jamestown chambers. A month later Virginia sent a list of three laws relating to tobacco but mentioned that the most important one concerning shipping the leaf was rejected by the House of Burgesses because they "thought it not Advisable to pass a Law which gave their Neighbors so great an Advantage over them."²⁰

Benedict Leonard Calvert, as governor, on the first day of the 1727 legislative session spoke of "the Present Ill state of the Staple," and passed on to the legislators the complaints of English merchants about late and delayed shipments of tobacco as well as the heavy labor imposed on sailors when they had to roll casks long distances to the waterside. By gracious innuendos he assumed that the session would come to an agreement on necessary laws for tobacco.²¹ The Assembly did pass "An Act Concerning Tobacco" that broke

¹⁹ *Archives*, XXXV, 491-492, 517, 548, 556, 565, 596.

²⁰ *Ibid.*, XXV, 454, 456, 458-459, 460.

²¹ *Ibid.*, XXXVI, 5.

away from the restricted scope of the previous law. It was introduced by the preamble: "Whereas Tobacco, the only Staple of this Province, and the principal Dependence of its Inhabitants has been for several Years, and now is so very low, that the Makers of it cannot possibly support themselves by the Produce thereof." The act penalized false packing, set a dead line for getting leaf ready for exportation, required the cutting of all tobacco stalks within twenty days after the leaf was removed (to prevent second crops), and provided for the rolling of the hogsheads properly marked to a point within one mile of the wharf designated by the buyer.²²

No provision for a reduction in the quantity of the first crop was contained in the 1727 law, so that a more drastic move came up for consideration in the 1728 session because the tobacco market was still hitting bottom. Again arose the old dilemma: if crops of leaf were reduced and the public levies, fees and charges payable in tobacco remained the same, then the average planter would not have enough tobacco left in his own hands to support his family even though the price strengthened. And by no means incidently the receivers of the tobacco payments would have a greatly increased purchasing power at the expense of the debtors. Feelings were not concealed. At one time the Upper House in a message to the Lower stated: "We are treated in such a manner in your Message of the 22d Inst. . . . that we think our selves Obliged to take notice of it and to put you in mind that the reflecting ridiculing Expressions and misconstructions therein contained are not agreeable to that modesty and wisdom which ought to

²² *Ibid.*, pp. 86-89; repealed in part by ch. 10 of the 1728 laws and allowed to expire in October, 1730.

rule in parliamentary proceedings."²³ (A year later they again protested the "airy & Drolling Way of expressing a great deal of Indifferency" by the House on a subject under discussion.) Nor was interest in the measure confined to the state house. In a deposition filed with the Council it was asserted that certain eastern shore burgesses who opposed the bill were roundly cursed in a tavern discussion and one disputant offered to bring fifty Prince George County men (western shore) to drive out those one hundred objectors to a tobacco law. The Upper House maliciously sent that deposition across the hall to the lower chamber "as it Concerns some of [your] Members."

When the legislature got down to business the Council agreed to a production of 6,000 tobacco plants per taxable person, to a one-quarter reduction in clergy's, attorneys' fees and public allowances payable in tobacco; but they felt that the officers' fees had been reduced enough by an act of 1725 and should not be lowered further.²⁴ As might be expected, the clergy objected. They termed the proposed reduction of their incomes "a Greivous Offense against God in violently taking away part of what they had formerly devoted to him." Both Houses countered with a written expression of surprise to the governor that the representatives of God should be willing to frustrate such earnest attempts to improve the conditions of the provincial staple; moreover, the annual allowance for the clergy of the province was 1,097,320 pounds of tobacco, a far too heavy burden.²⁵ Finally the bill became law.²⁶ It limited the number of plants that could be tended by the

²³ *Ibid.*, p. 135.

²⁴ *Ibid.*, pp. 117, 131.

²⁵ *Ibid.*, pp. 162, 169-170.

²⁶ *Ibid.*, pp. 266-275.

average taxable person to 7,000 with a maximum of 10,000 for servantless planters. Masters with six or more servants or slaves and all artisans that were at work at their trades were excluded from the personal cultivation of tobacco. The parish vestries were to appoint examiners to enforce that provision in accord with the further details of the act. All public levies, parochial charges, lawyers' fees and private debts payable in tobacco that would be due by August tenth of next year could be satisfied either by paying in current money at the rate of ten shillings per hundred weight or "Three Fourths of such Tobacco, in Lieu of the Whole." Officers' fees were not mentioned. Many of the Maryland population enjoyed the benefits of that law until Lord Baltimore's objections to it, delayed by ocean travel, became known in the spring of 1730. Another act by the same Assembly of 1728 repealed the mandate of the previous year that stalks be cut down after the leafs were stripped, that no tobacco be sowed in hills and that the seller of the staple roll his own casks nearer the wharves,—concessions to the small planters.²⁷

There were several discussions of interest in the legislative session of midsummer, 1729. The Lower House admitted that the crop reduction provisions of the 1728 law were being ignored in most of the districts, thus tobacco prices were not likely to improve. In spite of the failure of that part of the act they wanted to ease the inhabitants of tobacco debts and pressed the reduction of officers' fees by twenty-five per cent. The Upper House did not yield.²⁸ Another item was the rumor that the clergy were carrying an appeal to Lord Baltimore from the 1728 reduction in the poll tax for their support.

²⁷ *Ibid.*, p. 284.

²⁸ *Ibid.*, pp. 349-350, 361-363, 380, 381.

That rumor had three results.²⁹ First, it seemed expedient to pass an act reviving for one year the usual gauge and tare provisions of 1717 that included prohibitions against mishandling the casks on the ships. Second, the right of the Proprietor to dissent to acts of the General Assembly was questioned by the Lower House which did not intend to be ungrateful to Baltimore but hoped that that prerogative "will soon be examined & determined in a proper Place." There again the Council came to the support of its patron and declared that it would recognize such dissents as long as they conformed to the powers granted the Calverts under their Royal Charter. Third, the uncertainties of the effectiveness of the Maryland tobacco legislation again directed the minds of those concerned toward cooperation with Virginia to raise the price of the leaf. It was decided to ask Governor Calvert to get in touch with the Jamestown Council at once for it was known that the planters to the South were determined to effect a remedy.

THE VIRGINIA TOBACCO ACT OF 1730

There can be no doubt that the Virginia act of 1730 "for amending the Staple of Tobacco; and for preventing Frauds in his Majesty's Customs" served as the example for the subsequent Maryland inspection law of 1747.³⁰ Leadership in legislation of that character

²⁹ *Ibid.*, pp. 310, 321, 332-333, 373, 376-377, 455-456.

³⁰ A royal proclamation had removed from the statute books the Virginia act of 1713 for the improvement of their staple tobacco (above, pp. 126-127), but the same title reappeared in 1722, 1723 and 1727 without the full acts being given. Hening, *Statutes*, IV, 106, 134, 197. However, those statutes duplicated the titles of the 1717 and 1730 laws thus making it probable that threads of tobacco regulation were continued during that thirteen-year period.

had come from Virginia for a hundred years, many sections of the Maryland act duplicated the Virginia measure and in the correspondence of the period between 1730 and 1747 there were favorable references by the planters of Lord Baltimore's palatinate to the experiences of their southern neighbor. Maryland's faltering steps toward tobacco regulation have been detailed in the previous pages of this study, but the Virginians forced the issue, wisely tied royal revenues to tobacco control and worked out the structure for a law that the Assembly at Annapolis seventeen years later found convenient to use.³¹ Not without significance was the act of 1730, forty-nine sections, the longest statute up to that year.³² As might be expected, changes in and

³¹ A draft of the 1730 bill had been sent in 1729 by Governor Gooch, of Virginia, to the English Board of Trade which passed it on to the Privy Council with the recommendation of a trial. The Council in Virginia and the London merchants favored the law; the members of the Virginia House of Burgesses were luke warm; the British customs officials opposed it because of the reduction in the quantity of provincial tobacco that could pass the proposed inspection for exportation. Such reduction would mean less revenues. St. G. L. Sioussat, "Virginia and the English Commercial System, 1730-1733," *American Historical Association Report, 1905*, I, 79-80; P. S. Flippin, "William Gooch," *William and Mary College Quarterly*, 2nd Ser., V, 249 and note.

³² Hening, IV, Acts of 1730, ch. iii. The more important parts of the act follow:

I. "Whereas, the laws heretofore made, have been found ineffectual, to prevent the exportation of bad and trash tobacco, and the many frauds in deceiving his majesty of his customs, which of late years have greatly increased, to the great decay of the trade of this colony: "

II. All tobacco for export to be first brought to established warehouses and inspected by appointed persons.

III. All ship officers to be placed under oath not to load tobacco that has not been packed and inspected; penalties for violation.

supplements to that basic law were found necessary with an occasional consolidation act that continued the elements of the regulation up to the Revolutionary

IV-VI. Prohibited any movement of bulk tobacco except within the boundaries of the colony; penalties.

VII-IX. Felony to change destination of tobacco casks or to break them open, except when necessary by distress of weather, Acts of God.

X. Inspectors, method of appointment and duties.

XI-XII. Promissory notes (tobacco notes) to be given by inspectors for tobacco brought to warehouses for discharge of any public or private debt or contract; notes to be legal tender in all tobacco payments; inspectors' fees 5s. per cask; allowances for shrinkage and weight of hogshead.

XIII-XV. Unless a ship captain owns the tobacco to be freighted, he or his men may not put it on board his vessel.

XVI. Every inspector must redeem upon demand the tobacco notes he has issued.

XVII-XXIV. Inspected tobacco, or notes, to be used in payment of public debts; few exceptions.

XXV. Penalty for clandestine running of tobacco into Maryland.

XXVI. Scales and weights to be provided by provincial treasurer.

XXVII. Tobacco for export to have cask stamped after inspection, then a delivery of receipts to owner; inspection fee 3s.

XXVIII. No trash to be packed; no unsizeable casks.

XXIX. Refused tobacco to be burned or repacked at owner's expense.

XXX. Overseer, if responsible for such expense, shall pay it himself.

XXXI-XXXII. Provisions for proper manifests, freight lists, etc.

XXXIII-XL. Inspectors: oath, bond, attendance at office, viewing own tobacco prohibited, salary, responsibility for money received, no bribes, no trading in tobacco, penalty for passing bad tobacco.

XLI. Procedure for reinspection of leaf when demanded by receiver.

XLII. Penalty for forging or counterfeiting tobacco notes.

XLIII. Location of warehouses, about 67 in number; two or three usually included under one inspection service.

War.³³ Most administrative trouble arose, probably, with the human frailties involved in the inspection system. Planters from one county in 1732 wrote Governor Gooch that the inspectors "passed very bad tobacco for some people, and often burnt good Tobacco, and made the people pick it over & over again, . . . and this year they burnt 800 out of 900 Large Tobacco, such as the Merchants would be glad to buy." On the other hand, from the same district came the statement that the inspector to which reference was made and his assistants were honest men and careful in their duties.³⁴ It possibly depended on whose tobacco was being rejected. There was a reasonable explanation for Virginia's priority over Maryland in such tobacco regulation. Baltimore's province from its founding had relative freedom in framing laws and the Lower House pressed that advantage to the full, but the palatinate lacked certain qualities possessed by their neighbor. Osgood listed those qualities: a homogeneous population almost entirely English, an absence of religious disputes, no perplexing boundary controversy and relief from constant Indian troubles.³⁵ Such conditions made for greater unity of action in handling the maladjustments of the tobacco industry.

XLIV-XLVIII. Erection of warehouses by owners of land or by inspectors or by county court; provisions for maintenance.

XLIX. The act to be in force for four years from August 1, 1730.

³³ The sequence of those laws may be traced through Hening. A good summary of the development of inspection systems in the tobacco colonies was offered by Gray, *History of Agriculture*, pp. 225-231. Osgood was in error when he wrote that the 1730 Virginia law was soon repealed. *American Colonies in the Seventeenth Century*, IV, 87. See below p. 210, n. 66.

³⁴ *C. S. P.*, 1730-1742, I, 218-219.

³⁵ Osgood, I, 328.

At the opening of the May-June Maryland Assembly of 1730 His Excellency Benedict Leonard Calvert explained the call for the special session: "Such is the present Condition of Our Staple, that a Speedy Care for its Amendment is necessary." The legislature had been informed of the Proprietor's dissent to the 1728 tobacco law. Calvert at once took up the subject of the previous instructions for him to get in touch with Virginia. He had done so and had received a copy of a bill that was at that time before the Virginia Assembly. The copy then laid before the Maryland Houses was in essence the Virginia tobacco law of 1730.³⁶ Appreciation was expressed of the efforts by the Governor, then he was asked for the reasons lying behind Baltimore's objections to the 1728 statute. Such information would better enable them to frame the necessary new legislation.

The reasons were well framed.³⁷ Baltimore had seriously questioned the beneficial effect of a diminution of tobacco in Maryland as long as substantial supplies of the staple came from other plantations and European countries not under a stinting agreement. Suppose the price of tobacco did rise; was it not likely that the market values of other commodities would also increase thus leaving the planters' purchasing power the same as before? Then it seemed to him that there could be "no reason why the Property of the Publick or of any Private man should be in any Degree Substantially Diminished which must Necessarily be the Effect of this Act," because the ten shilling valuation per hundred weight of tobacco offered as one alternative for public debts was a depression price. Also to give the debtor the sole choice of paying either in tobacco or money was a

³⁶ See *Archives*, XXXVIII, 2-6.

³⁷ *Ibid.*, pp. 75-76. See Calvert Papers MSS, no. 2951.

heads I want this you see" proposition. And finally, the discrimination in tobacco payments to the clergy was particularly odious as they had no other source of maintenance than the parochial levy of forty pounds of leaf per poll.

With these criticisms in mind the Assembly of 1730 passed a comprehensive act that in its title and sections included the improvement of the staple tobacco, the usual regulation relative to gauge of cask and weighing by shipmasters. Tied to it were provisions for the support of the government, for the encouragement of settlers, for the payment of his Lordship's rents, all very canny riders. Certain public allowances were reduced by one-fourth; others including fees for the lawyers and the poll for ministers could be paid up to one-fourth in specified grains at definite values per unit. And as the Proprietor stood to lose through a diminution of tobacco exports, a three pence per hog-head export levy that had been used for local defense was diverted into his coffers. In view of his attitude toward the 1728 act which was pretty completely duplicated by the new one of 1730, such consideration for Baltimore's interests smacked of a bribe, especially by the Lower House. On the last day of the session both Houses addressed a petition to his Lordship to support

Lord Baltimore's brief covered the numerous petitions that came to him as soon as the 1728 act was received in England. The London merchants asked him to approve the act because the low price for the Maryland tobacco resulted from unmerited stinting of leaf and the stinting ought to assure better quality. *Archives*, XXXVIII, 441. Then there were the petitions of the clergy against the 1728 and later the 1730 acts. *Acts P. C.*, III, 1730-1741, no. 189. A detailed account of the clergy's fee controversy was offered in the *Archives*, XXXVIII, 443-449. See also *ibid.*, XXIV, 91, 265. *ibid.*, XXXVII, 138-151.

the act because Virginia was benefiting from similar measures and in their opinion the especially objectionable provisions of the 1728 law had been removed or remedied.⁴⁰ In spite of renewed protests by the clergy Lord Baltimore approved.⁴¹ The act was published and offered for sale by William Parks in Annapolis immediately upon the close of the legislature.⁴² Although false packing was penalized it must be emphasized that again the provincial lawmakers shied away from provisions that would have placed close supervision over the *quality* of the leaf prepared for exportation. There still was no official inspection of the shipments at designated warehouses, which was the core of the Virginia law of 1730, that, after seventeen years more of discouraging tobacco prices, became the basis of the Maryland inspection law of 1747.

Making linen cloth and growing flax and hemp were occupations encouraged by the Assembly of July, 1731, but there was no act relative to tobacco, although the subject came up for discussion. The Governor in a short address at the next meeting in August mentioned the expiration of the stinting sections of the 1730 tobacco law and expressed regret that the trial period had been so short. Apparently the struggle with the floods of tobacco had proved too much for a divided province. It must be mentioned, however, that a measure was introduced in the Council to amend the staple of tobacco by destroying trash and another to stop the running of

⁴⁰ *Ibid.*, pp. 60-61.

⁴¹ *Ibid.*, XXXVIII, 443-449.

⁴² Advertisement, *Maryland Gazette*, June 16, 1730. In October the Virginia tobacco law was available in the same form, a reflection of local interest in it. The sections of the 1730 Maryland law that related to stinting expired in 1731; the balance in 1732.

uninspected tobacco from Virginia; only the first bill became a law.⁴³ A paper currency measure provided for the payment of fifteen shillings in a new currency for the destruction of every 150 pounds of "the most ordinary tobacco" per 6,000 plants, but the measure was not to become effective until it had the approval of Lord Baltimore; this, however, never came.⁴⁴

Despairing of relief from excessive crops of tobacco by legal processes some residents of Prince George County "in a riotous manner" cut up the plants on a number of plantations during the early summer months of 1732. The Governor at first ascribed that action to "a few evil minded People under pretense of the Publick Good," and then later in a better display of understanding spoke of them as "well meaning honest men [who had] despaired of any Relief from the Legislature."⁴⁵ Although the last interpretation was given directly to the Assembly at their July-August, 1732, meeting, the two Houses responded with a severe law punishing with a £100 sterling fine and six months in jail those who maliciously cut or destroyed tobacco plants or tobacco in any form belonging to any one else. For those who wilfully burned tobacco not their own the penalty was death as a felon without benefit of clergy.⁴⁶ Once that was out of their systems the legislators revived the well-tried ineffective gauge, cropping and false packing measures of previous years. Stems and stalks were to be destroyed, and as usual the enforcement rested upon public cooperation and informers who received a share of the penalties.⁴⁷ That chapter of the laws expired in 1733.

⁴³ *Archives*, XXXVII, 268, 288, 359-360.

⁴⁴ *Ibid.*, pp. 340-341.

⁴⁵ *Ibid.*, p. 370.

⁴⁶ *Ibid.*, pp. 530-531.

⁴⁷ *Ibid.*, pp. 553-557.

TOBACCO AND CURRENCY IN MARYLAND

Maryland in the early thirties had approximately 75,000 white inhabitants and 21,000 blacks. Most of the manufactured goods used in the colony came from England though poverty and inclination were slowly forcing an increasing number of the planters to make woolens and linens. Some grain, bread, flour, beef, pork and lumber were sent to the West Indies in exchange for rum, sugar, molasses and wine. But the specialty of the trade was tobacco. Such was the essence of a short account of the province sent by William Janssen, his Lordship's secretary, to the Lords Commissioners of Trade and Plantations in 1732. The paragraph about tobacco continued with a description of the low state of trade.⁴⁸ A more intimate, first-hand view of the plantations was offered in a letter to Charles Lord Baltimore from his brother Governor Calvert. After mentioning the uses of money in New England, its benefits and the debates on paper currency in the Maryland Assembly a rather poignant paragraph followed.

In Virginia and Maryland . . . Tobacco as our Staple is our All, and Indeed leaves no room for anything Else; It requires the Attendance of all hands and Exacts their utmost labor the whole year round; it requires us to Abhor Communitys or townships, since a Planter cannot Carry on his Affairs without Considerable Elbow room within his plantation. When All is done, and our Tobacco sent home it is, perchance, the most uncertain Commodity that Comes to Markett; and the management of it there is of such a nature and method, that it seems to be of all other, most lyable and Subject to frauds in prejudice to the poor Planters. Tobacco Merchants who deal in Consignments, get great Estates, run no risque, and Labour only with the pen;

⁴⁸ *Ibid.*, pp. 588-589. Records of tobacco prices, wholesale in America and retail in London, showed new lows during the fourth decade of the eighteenth century. Rogers, *History of Prices*, VII, 374-375; U. S. Dept. Agri., *Yearbook*, 1908, p. 682.

the Planter can scarce get a living, Runs all the risques attendant upon trade, both as to his negroes and Tobacco, and must work in variety of Labor. I write this not in malicious Envy to the Merch^t, nor do I wish them less success in business; but I heartily wish the Planters Lay was better.⁴⁹

Calvert again turned to the subject of money with the remark that as Maryland tobacco was sold in England for goods there was scarcely any coin in the colony and "the want of such Circulation must leave (a country) almost Inanimate."⁵⁰

The feeling expressed by the Governor that a currency was vital to the economic life of a people was undocumented but widely held. Although England had been quite successful in stultifying internal exchange of

⁴⁹ B. L. Calvert to Charles Lord Baltimore, October 26, 1729, "Calvert Papers," *Fund Publications*, no. 34, p. 70. That no Maryland planter grew anything but tobacco was a hortatory exaggeration. For instance in an agreement between a planter and an overseer, the latter was "to make a Crop of Tobacco, Corn, Beans, Oates, &c.," and for his services was to receive $\frac{1}{4}$ of the tobacco and $\frac{1}{2}$ of the other products. Tools were to be furnished by the planter as well as 300 weight of meat, 3 bbl. of corn, lodging, pasture for the oversser's horse and casks for his tobacco. S. A. Harrison Papers MSS, *Industrial Annals*, no. 3, p. 102.

⁵⁰ The plight of tobacco was also receiving attention in England at this time from Walpole in his fight to simplify the English system of customs by substituting excise taxes for duties on many of the raw material imports, including tobacco. During the Parliamentary discussions the effects of such changes upon tobacco were heatedly debated. And to further the change such points were stressed as the widespread smuggling of the leaf, the desperate condition of the tobacco colonies "if we can give any Credit to what they themselves say." Another suggestion was to provide official warehouses for tobacco upon arrival to relieve the merchants of the necessity of paying the duties in cash before sale or posting bond. Walpole did not succeed in making those changes for tobacco. Pertinent extracts of the discussions were printed in the *Gentleman's Magazine*, III, 121, 559-574, XVIII, 331, XXI, 320-321.

goods within Maryland, rebellion was growing as the colony became increasingly confident that it could be self-sustaining. A system of coins was almost a badge of competence. Moreover, tobacco had few characteristics of a "good" money and interestingly enough one of its strongest points was considered by many to be undesirable, namely the difficulty of its use in a process of inflation favored by the planters in debt. Then there were those in the province who had turned from tobacco cultivation to other crops or handicrafts and a small number who lived on administrative salaries. For all of them debts, public or private, payable only in tobacco were a nuisance.⁵¹ Before the establishment of paper currency in Maryland there were two principal forms of money when and where money was used as a medium of exchange. There were coins of gold, silver and copper that changed hands in the settlement of personal expenses and small debts. Transactions involving larger sums were paid by bills of exchange drawn in most cases against tobacco; bills were almost the exclusive form in trade with England and other foreign countries. "What little tobacco was paid out in small amounts may be said to have entered circulation as money, but in general tobacco did not circulate."⁵²

⁵¹ There are several pertinent references: Neil Carothers, *Fractional Money*, ch. iii; A. B. Hepburn, *A History of Currency in the United States*, ch. i. For Maryland: K. L. Behrens, *Paper Money in Maryland, 1727-1789*, in "Johns Hopkins University Studies," XLI; Gould, in *ibid.*, XXXIII. The continued reliance upon tobacco even in the fourth decade was illustrated by an excerpt from the Harrison Papers, no. 4, p. 32: "By a minute of this day it appears that one inch boards or planks were worth 1 pound of Tobacco per foot, and Indian Corn 30 pounds of Tobacco per bushel. The wages of Brick Makers was 450 pounds per month."

⁵² Gould, pp. 9, 50-51.

In each of the four years from 1727 through 1730 the Maryland Assembly had in one House or the other introduced the subject of a paper currency for the province, and each time nothing came of it.⁵³ Then in 1731 a bill was passed conditioned by a clause that the actual issuance of money would have to await the approval of Lord Baltimore.⁵⁴ The Proprietor never expressed himself upon that measure, so it died. But in 1733 when his Lordship was in the palatinate in person there was enacted a bill "for Emitting and Making Current, Ninety Thousand Pounds, Current Money of Maryland, in Bills of Credit."⁵⁵ It was framed as "the most probable Means to enable the People to discharge their Taxes, and other Engagements now payable in Tobacco, and to destroy such ordinary and unmerchantable Tobaccos, which serve only to clog the Markets, and to depreciate the best Sorts of that Commodity as well as to put the People in a Condition to carry on the Tobacco Trade, to the Advantage of Great-Britain, and this Province."⁵⁶

The bills of credit were based on a sinking fund fed by a fifteen pence sterling duty on each exported hogshead of tobacco. They were legal tender for all future contracts in current money, for lawyers' fees, levies, duties and penalties, but payments for such charges could continue to be made in tobacco. The rate of exchange between the paper currency, gold or silver and tobacco was at ten shillings per hundred pounds of tobacco, and £133 1/3 currency was equivalent to £100 sterling. Three exceptions were made: the clergy's poll was to be paid in tobacco as were funds voted for build-

⁵³ *Archives*, XXXVI, 76, 253, 342, 412, 439, XXXVII, 20, 71, 104.

⁵⁴ *Ibid.*, XXXVII, 337-350.

⁵⁵ *Ibid.*, XXXIX, 92-113.

⁵⁶ *Ibid.*, p. 92.

ing churches, and the Proprietor's duties on tobacco exports and ship tonnage were to continue in sterling.⁵⁷ By purposeful omission officers' fees were also made an exception. Again class bitterness, mainly in the Lower House, prevailed against the logic of economic necessity, for the failure to allow the payment of *all* debts in the alternate paper currency defeated one of the main purposes of the act, namely, to relieve the inhabitants of the necessity of raising tobacco or dealing in it. To better prevent the exportation of trashy tobacco, in the years 1734 and 1735 150 pounds of such "ordinary" leaf were to be burned for every taxable in the families of a master or mistress. For each unit of destroyed crop the province was to pay six pence in the bills of credit; a procedure that supplemented the primary channels of currency circulation which were an outright payment of thirty shillings to every taxable person and loans on security at the nominal rate of 4 per cent.

Gould concluded that the paper currency of Maryland proved a convenience and helped materially in financing the French-Indian War. The greatest benefit was "the economic stimulus caused by the presence of a large amount of paper currency . . . [which was] the most successful paper money issued by any of the colonies."⁵⁸ Behrens felt that in spite of the currency circulating much of the time at a depreciated value that the act of 1733 "had proved a fairly successful one, . . . [and] was certainly a contributing factor" in bringing about better conditions up to the date of final redemption, 1765. "As a colony Maryland had solved the problem of a paper currency."⁵⁹

⁵⁷ *Ibid.*, pp. 95-96.

⁵⁸ Gould, pp. 110-111.

⁵⁹ Behrens, pp. 45, 55.

Apparently the provisions for burning 150 pounds of tobacco per taxable did not materially lessen the discontent in the ranks of the planters because a renewal of the routine gauge and cropping acts was vigorously debated in the Assembly of 1735. The usual disagreements on certain parts of the proposed bill prevented conclusive action.⁶⁰ One modification of the 1733 currency measure was approved to allow people to pay a 20s. fine for not burning tobacco—the weather had reduced the last crop—and relieved them of the expenses of a prosecution and trial.⁶¹ Another law provided that shipments of tobacco between the last day of August and the twenty-fifth of November were to be forfeited; the legislators felt that some restraint on dilatory freight was necessary.⁶² In the March meeting of 1736 a gauge and cropping bill was again introduced only to be blocked by altercations that were carried to such a point that the Houses began to withhold bills from each other. When that happened Governor Ogle prorogued the convention.⁶³ After letting the various factions cool for ten days he convened the two chambers urging peace. An armistice resulted in a renewal of the acts of 1732 against cutting or destroying tobacco, a gauge and cropping measure, a bill to prevent the making of seconds and because of the late season for tobacco an extension of the shipping date dead line

⁶⁰ *Archives*, XXXIX, 205. One debated point was a penalty on ship officers for loading tobacco casks that exceeded the maximum gauge.

⁶¹ *Ibid.*, pp. 284-285. Some planters had to burn as much as 2,000 pounds. Black Book, III, part 2, item 83.

⁶² *Archives*, XXXIX, 303-304.

⁶³ *Ibid.*, pp. 344, 362, 364, 365, 366.

from August 31st to October 1st.⁶⁴ Vestry records showed that tobacco in Maryland was selling for about 10s. per hundred pounds, though it was shortly to show a shaded improvement; Virginia leaf hung a trifle above that price and from 1739 to 1746 brought from 1½d. to 2d. a pound.⁶⁵

There was no tobacco legislation of importance that came from the two sessions of the General Assembly in 1737. One reason was the continued bickering; the second was the weather which, coming in where men feared to tread, provided a great drought that curtailed the tobacco output in a better fashion than any law passed to that date. Grain, bread and flour were banned as exports and the shortness of the tobacco crop made limitations on the shipping dates inadvisable so that previous acts on that subject were repealed.⁶⁶ Suffering among the colonists of the poorer sort had apparently induced stealing to such an extent that more laws were necessary. Those who broke into secured tobacco houses or other outhouses and made away with goods to the value of five shillings sterling or more, or who stole ships or slaves were to suffer death as felons without benefit of clergy. The same penalties applied to abettors of such crimes.⁶⁷ Justice in those days was administered in a firm manner!

Irritating conduct by both Houses and an aggressive challenging by the Lower House of Lord Baltimore's right to certain revenues induced Governor Ogle to prorogue the sessions of 1738 and 1739. The Lower

⁶⁴ *Ibid.*, pp. 470-472, 474-478, 493, 498. The gauge act was continued by the acts of 1740, ch. 10, and 1744, ch. 7; and finally incorporated in the tobacco inspection law of 1747.

⁶⁵ Harrison Papers, p. 33; Gray, p. 272.

⁶⁶ *Archives*, XL, 134-138.

⁶⁷ *Ibid.*, pp. 86-87.

House, however, had prepared an address to the Proprietor, and in case he did nothing a second petition was written to be presented directly to the king through a person appointed by a sub-committee. Taxes without local consent, ordinances laid upon the people that had been framed solely by the appointees of the Governor or the Council who shared in the spoils, "many other Evils too tedious here in particularity to mention, but are Contained in several Reports of our Committee of Aggrievances,—" those were the complaints. His Majesty was assured by the House that none of his subjects were "more peaceably disposed or more firmly attached to [his] person and Government," but it was the brewing of the revolution. The House had previously been defeated by the Council in an effort to get an agent in London "to transact the emergent and necessary Business of this Province" and to refer solicitations to the king.⁶⁸ Naturally the Council as representative of the Proprietor turned down such a proposal offering as one explanation of their action that political intrigues with dangerous possibilities might develop.⁶⁹ The question of an agent in England had by now become divorced from the tobacco trade as an exclusive issue and had crystallized into a demand for direct representation on general colonial affairs. Because of that shift in emphasis attention to the agency issue will not be continued in this study except where it directly concerned tobacco.

⁶⁸ The House found other channels for irritating initiative: a special committee investigated the legality of some of the administrative fees, (*ibid.*, pp. 320-335) and at the 1740 meeting it illegally expelled a member who had accepted a government position (*ibid.*, p. 79).

⁶⁹ *Ibid.*, pp. 256-257, 264, 390-394.

Urging "Temper and Moderation" on the part of the members of the lower chamber Governor Ogle opened the session of April, 1740. Tobacco bills for gauge, cropping and wanton destruction of plants were again introduced, but not until the legislators had cooled their heads in another interval of a month's prorogation were acts on those subjects completed.⁷⁰ That Maryland was taking seriously the development of domestic manufacturing was evidenced by "An Act for the Benefit of the Poor and Encouragement of Industry" by which cash prizes were offered for the best pieces of lincn cloth.⁷¹ No legislation relative to the regulation of tobacco was introduced in the sessions of 1741 and 1742. There were several reasons. The laws of 1740 that assured a minimum of protection ran for three years; the importance of tobacco as money was declining; and Britain's wars with Spain and France excluded the tobaccos of those countries from competitive European and English markets.⁷²

⁷⁰ *Ibid.*, XLII, 141-143.

⁷¹ *Ibid.*, pp. 144-146.

⁷² However, the same wars played havoc with merchant vessels; by the close of 1741 official shipping lists disclosed that 301 ships had been seized or destroyed by the enemy. *Gentleman's Magazine*, XI, 644.

CHAPTER VIII

THE TOBACCO INSPECTION LAW OF 1747

Stephen Bordley, a prominent Maryland merchant-planter, after one of his quarterly trips over the province estimated that the tobacco crop for 1742 would be about one-third the usual amount. Dry weather had ripened the tobacco before it had reached full growth. "This may in a great measure have the Effect of a Burning Law, which indeed was very much wanted in order to lessen the quantity and by that means to raise the price of Tobo. . . . [Some] who think themselves very Cunning" tried to make up a good crop by using seconds, but Bordley thought that they would fail at that because probably there would not be one plant in ten of their seconds worth carrying home. If the expected scarcity of tobacco did not strengthen prices in London because the merchants might have a stock on hand, "the year after it cannot fail."¹ However, one year later in another letter he mentioned that the farmers were talking in terms of "a law like the Virginia Inspection Law. But the major part are for a Burning law & I own I am one of these number." Bordley concluded that probably no law of any kind would be passed because the people would not consent to the legal restrictions surrounding an inspection law and the court would probably not approve a measure for burning tobacco, "tho 'tis Evident some law to that purpose is very much wanted."² That last comment was much to the point, as a large crop of tobacco was on hand.

¹ Letter to Wm. Hunt, a London merchant, dated Annapolis, September 18, 1742. Bordley Papers MSS, Letter book, 1740-1747.

² Letter to Hunt, dated Annapolis, November 9, 1743, *ibid.*

The year 1743 was evidently another one of discouragement. Daniel Dulany, a member of the Council and a large-scale planter, wrote frequently in his capacity as an official lawyer to Lord Baltimore by whom he was held in high esteem. Two letters from Dulany in the fall of 1743 gave an excellent summary of conditions in the colony.

There is now a prospect of a very great crop which will quite sink [the market] unless the people could be induced to cease the very dishonest practice they have got into of shipping such trash as is only fit to manure the ground. The Virginians have been wise enough to put their Staple of Tobacco under such regulation as Makes it very Valuable to them; but I am afraid we shall not be so much our own friends as to follow an example of which the advantages are obvious.

[In the second letter he again wrote of the Virginia law] w^{ch} is Executed in such a manner as gives people those very great advantages and will in a little time throw the whole trade into their hands unless we prevent it. But this cannot be done without Retrenching [reducing] the tobacco payments by Sacrificing part of the Clergys' & Officers' Income to the Common good. I am informed that they will come into any measures that shall be Thought proper to relieve the Country. Should your Lord'pps Officers show less forwardness to contribute on their part to Common good, it would render them odious to the whole Country. . . . a proper Regulation of our Staple . . . will enable them [the people] to pay their quit-rents and to [— ? —] their professions, as well as Invite great numbers of people to come in an settle the back lands which must increase your Revenues. Without sound effectual Regulations I am afraid that a great many will be under the unhappy necessity of deserting their Habitations, and very few, if any, will come into a country which is on the brink of ruin.³

³ Dulany Papers, MSS, Private Correspondence, box 2, nos. 16, 17. The month of the first letter was blurred but was probably September 24; the draft of the second had just the year, 1743. Nor was the second one signed; it has, however, been listed as a Dulany paper by the archivist of the Maryland Historical Society upon the basis of similarity of writing and content with signed contemporaneous letters.

Those personal letters helped to prepare the way for an official address by the Governor and Council to Lord Baltimore prepared February 1, 1744, and presumably sent on the next vessel to England. Governor Bladen in a note to the Proprietor the previous month had mentioned that such a representation had been drawn by Dulany and urged his Lordship to consider the contents most carefully.⁴ The petition, a long one, was well reasoned reflecting credit upon its author.⁵ Among the arguments for an inspection law not included in Dulany's private correspondence with Baltimore were the following, briefly stated: tobacco factors and the French buyers were deserting Maryland for Virginia because of the assurance of better leaf; Maryland had the advantage of both climate and soil but the people would put themselves "under no kind of Restraint"; the colony's tobacco had "a very bad Character at all the European Markets"; several attempts at regulation had been made that left the planters discouraged because no immediate results in improved prices were apparent. And although an occasional small crop made it appear that vagaries of nature were the only possible remedy, continued low values and the loss of trade had again stirred up a resolution to supervise tobacco cultivation. "One great Obstacle of which Every Body is sensible" remained, namely, the specific payment in tobacco of the fees to the clergy, lawyers and officials. Those fees would have to be reduced if an inspection law was to be enacted.

It might have been felt that the great planters deserted their social class to join hands with the mass of the people in "putting the screws on" the administra-

⁴ Governor Bladen to Charles Lord Baltimore, January 22, 1743-4, "Calvert Papers," *Fund Publications*, no. 34, p. 94.

⁵ *Archives*, XXVIII, 308-311.

tive officials of the palatinate, temporal and spiritual. But the strains of economic pressure repeatedly forced strange fellows to share the same bed. And there was every reason to suppose that by then even the officers and clergy felt it both necessary and expedient to submerge their particular interests to the common good. Such submission was also encouraged by the possibility that under an inspection law the prices of tobacco would improve enough to give reduced quantitative tobacco payments just as great purchasing power.

Another valuable primary source for Maryland material on colonial tobacco marketing at that period was the set of letters by Henry Callister "who came to the eastern shore of Maryland as an indentured factor for a well-known firm of London merchants, Cunliffe and Sons. He had many successful years in the capacity of agent and store keeper, then went into business for himself, ultimately failed and disappeared from historical records in the late sixties. Writing in 1744 he mentioned the poor quality of the exported tobacco. At that particular time, however, a ship load of merchandise had come from his firm.

[The goods have] put us in a Condition to buy what Tobo we please, and as the times are so discouraging, to reject that Tobacco we please. We buy no Tobacco at present but what we are sure from the Character of the Planter will be good, of this sort there is not a great Deal; the rest is narrowly inspected by our Receivers before we buy it and all viewed examined when brot home [?] here. other Receivers have taken a good deal of Tobo that our Rec'r refused. . . . There have been some Overtures made at our Assemblies for a Tobacco Law, but they have had such Disputes among them as seemed to divert their regard for the Trade, & it is laid aside for the present, they will be forced to it at last, in the mean time W. B. [?] Morris [a prominent merchant] has made a Law to his receivers wch may answer the end as well, for an Inspection Law would intitule the Tobo to a

⁶ Callister Letters MSS.

price, whereas this makes no alteration that way, it only fits it for the market. Almost all the Merch'ts in this Country are come into the scheme, but none of them so well able to put it into practice.⁷

That letter was full of pertinent observations. The point of view was that of a temporary resident in Maryland who had come to promote the mercantile interests of his London employers. Not only did he give a picture of his own shrewdness in inspecting tobacco that he bought through receivers, but he also with good trading spirit told how he had the local planters on his hip because of hard times and his fresh stock of goods. The system of private inspection by the receiver and then by the merchant or his factor showed that the planters were familiar with the practice of the more discriminating buyers.⁸ But more to the point, such a private, individual examination did not raise the price of the tobacco before the factor got his hands on it, and once packed it assured the English merchants of a quality in proportion to the industry of his colonial agent. Such inspection was, however, crude as it did little more than separate the good from the bad leaf. Grading according to type, color, texture, length, etc., was a refinement that was scarcely known. And finally, Callister indicated that the discussions about an inspection law had appeared in the Assembly as well as numerous disagreements over the exact contents of such legislation.

In 1745 Callister wrote his firm that one of their ships just leaving for home was "full of good Tobacco & cheap bought. . . . there's a miserable prospect of a Crop this year in this Country—the Planters have

⁷ Letter to Foster Cunliffe & Sons, dated, Oxford, Maryland, August 13, 1744, *ibid.*, I.

⁸ See L. C. Wroth, "A Maryland Merchant and His Friends in 1750," *Maryland Historical Magazine*, VI, 214.

been quite indolent and careless, they neglected the planting season as well as their Tobo Beds and now they cry out they cannot get plants."⁹ Callister regarded most of the farmers as knaves who tried to put over as much trash as they could, but the factors usually got the best of them even though "much dissimulation if not downright lying" was necessary at times. When the planters tried to hold out with the hope of getting better prices their success or failure depended upon the development of the crop then at hand. He thought that the 1745 prices of 12s. to 12s. 6d. paper currency per hundred weight would probably bring in the tobacco fast enough. Callister was interested in tobacco not only as an agent but also as a principal, since factors were often allowed to do a certain amount of trading on their own account. However, he found trouble in getting cargo space for his personal tobacco if he did not consign his freight to shipowners or give independent captains permission to unload at the best markets. Few roving traders wanted to take the trouble of handling tobacco assigned to definite ports and receivers. When some years later Callister broke with Cunliffe & Sons and went into business for himself, such shipping difficulties arose both in Maryland and London that it seemed not unlikely a boycott existed among the English merchants against those American factors who proved too enterprising.

As the question of an inspection law came more and more to the front in public discussions, the conspicuous colonial newspaper, the *Maryland Gazette*, provided a forum. Definite recommendations for the erection of sixty warehouses with two inspectors at each came in an article signed by "A. B."¹⁰ The costs of the system

⁹ Letters; dated August 4, 1745.

¹⁰ April 1, 1746.

and the sources of revenue were carefully estimated with the conclusion that the results would compare favorably with Virginia's experiences. Another writer, "Q. B.," favored the objective but not the method; it would be too expensive, he claimed, and offered as an alternative the well-worn plan of burning a certain proportion of the annual crop. Those two correspondents continued to beg the indulgence of the editor for space until well into the fall of the year. The editor freely gave front page columns and extended the privilege to another interested party, "Z. Z.," who entered the fray.¹¹ Callister in May, 1746, expressed great hopes that the province would get an inspection law since it was by then approved by most of the clergy, officers and the planters who "are in general convinced of the necessity of some such Scheme as they have in Virginy."¹²

Until the passage of the basic tobacco inspection law by the Assembly in July, 1747, the *Gazette* during that half year continued with many letters that thoroughly examined the pending issue from every point of view. So many observations were duplications of the material that has been offered in previous pages of this study that to give them again would serve no purpose. However, as one looked over the news columns certain items deserved attention. At that time it was estimated by one correspondent that 16,000 hogsheads of tobacco were shipped by the Maryland planters on consignment and 20,000 bought at the farms; those figures were certainly the maximum. The same writer asserted that more tobacco was spoilt in the cask by too tight pressing than was exported in trash and that an inspection law which would prevent the injury would bring the

¹¹ April 22, May 13, June 17, August 12, October 28, 1746.

¹² Letters to Cunliffe, May 8, November 20, 1746, Callister Letters, I.

colony additional thousands of pounds sterling through higher prices. A London merchant's letter to a friend in Annapolis kindly informed Maryland planters that the Virginians were stealing the London tobacco market and would soon supply the entire demand if no improvements were made in the palatinate's leaf. One planter referring to the success of the system of inspection used privately by factors and traders asked why it would not work as a general law. Moreover, "all the staples and other commodities of Great Britain are under Parliamentary regulations" and if such were necessary to maintain the reputation of English products why could not Maryland learn from such practices? A good point was made that an inspection would make the tobacco notes generally acceptable for small amounts in trade and easy to get, neither advantage then being offered by the paper money. Such notes would let the planter choose his merchandise market as became a freeman; they would also attract traders who would bring ready money and goods. One planter in Virginia gave the benefit of that colony's experiences with an inspection law, though from a selfish point of view it was to the advantage of his fellow farmers to have Marylanders continue sending trash to England. There were very few letters opposing the proposed law. Opposition, such as it was, was based on several contentions: the heavy expense of the system that would absorb all gains in tobacco prices; the large planters would alone gain as the smaller ones would have no leaf left after a careful inspection; the appointment of inspectors would be a spoils racket; the failure of previous attempts to supervise tobacco cultivation and marketing gave little hope for a new law of even greater detail.¹³

¹³ Letters on the controversy appeared in the following numbers of the *Maryland Gazette* during 1747: April 7, 21, 28;

During those few years the informal popular discussions of tobacco regulation had been supplemented by the General Assembly. The session of 1744 was again inclined to do nothing except reenact measures to penalize crop destruction and to prescribe the gauge of tobacco casks with the usual correlative act fining those shipmasters who allowed hogsheads to be abused while in their care.¹⁴ Several petitions relating to the improvement of the staple tobacco, one of which referred to the Virginia law, were handed on to the next legislature.¹⁵ There was a special meeting of the two Houses in August of 1745 to vote aid to the king's forces in the defense of Cape Breton. The Lower House, unwilling to support the government in that adventure, attached a rider to their appropriation bill laying a two pence sterling export duty on each hogshead of tobacco, the money to be used for the maintenance of an agent in London who would have direct access to the king. Naturally the Governor and Council refused to give their consent to that high-handed move so the appropriation measure did not pass.¹⁶ As an extra dig the popular branch addressed the Crown explaining the circumstances of their above refusal, so framed that the onus of the failure lay on other shoulders. The meeting was marred by the customary wrangling over taxes and the Proprietor's prerogatives. Three meetings of the Assembly were necessary in 1746 to provide bills of

May 5, 12, 19, 26; June 2, 16, 23, 30; July 14; and two letters written before the law was passed were printed in the December 9 and 16 issues.

¹⁴ *Archives*, XLII, 598-599, 599-600.

¹⁵ *Ibid.*, pp. 453, 545.

¹⁶ *Ibid.*, XLIV, 92-93, 95-112. Daniel Dulany in a letter to Lord Baltimore emphasized the friction in the Assembly and the attempt of the House to kill the appropriation bill by a "tack." Dulany Papers, box 2, nos. 33, 37.

credit for the intended expedition against Canada and the subsequent provisioning of those who went from Maryland. No legislation relative to tobacco was considered that year.

THE LAW

Opening the May to July session of the Legislature in 1747, Governor Ogle in the first sentence of his address bespoke the assistance of the members "at this time when our Staple of Tobacco and Consequently every other Branch of Our Trade is in so very Low and Languishing a Condition." And he referred to the favorable experience of their neighbor, Virginia, with an inspection law that "has now Stood a Tryal of many Years . . . to the General Satisfaction of all Parties."¹⁷ The Upper House admitted the bad conditions, laid them to the trash tobacco and acknowledged the virtues of the Virginia law. A noncommittal formal response came from the lower chamber. Bills were at once introduced along the old lines, and then on the third day a member of the Lower House moved that a bill be brought in "for the Regulation of the Staple Tobacco."¹⁸ In the meantime petitions from several counties relating to the distress of the planters were filed. On May 26th the question arose in the House of regulating tobacco along the lines of the Virginia law or by a measure for burning trash. It was voted, 31 to 14, to follow the Virginia enactment and to put in the same law the appropriation clause for officers' fees. Obviously the latter was a rider that would very probably be approved by the Governor and Council in order to get the staple of tobacco under effective control.¹⁹ There

¹⁷ *Archives*, XLIV, 454.

¹⁸ *Ibid.*, pp. 472, 492, 509, 512, 559.

¹⁹ *Ibid.*, pp. 509, 515, 516.

is very little material in the Maryland archives or other provincial sources to give an idea of the debates in the two houses upon that important measure. For such a long time had the subject of tobacco regulation been discussed by the inhabitants of the province in tap rooms, on the plantations and in town residences, in the halls of the state capital, that even extensive records could add but little.

There was finally passed "An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees."²⁰ Each part of the title was significant. The first represented the culmination of the long drawn out, vascillating desire of the tobacco planters for some method to improve the conditions for the principal crop. The second held the key to the interest that England had in the colony,—revenues. And the third reflected the final success of the representatives of the middle and lower economic-social classes in bringing the administrative officers of the Proprietor under some degree of popular control. There follows a summary of the more important provisions of the inspection law.²¹

The Preamble read: "Whereas the Laws heretofore made, have been found ineffectual to prevent the Exportation of Bad and Trash Tobacco, and the many Frauds in deceiving his Majesty's Customs, which have greatly increased, to the very great decay of the Trade of this Province. For prevention whereof,"

All tobacco made after December 1, 1747, and exported after December 1, 1748, was to be brought to one of the public warehouses established by the act.

Masters of ships were to take an oath not to load uninspected tobacco.

²⁰ Acts of May-July, 1747, ch. 1, *ibid.*, pp. 595-638.

²¹ Compare with the summary of the Virginia tobacco law of 1730, above, p. 148, note 32.

No bulk tobacco was to be loaded on any vessel except for movement between places within the colony, for carriage to the warehouses to pay levies, or for packing.

No casked tobacco was to be landed or to be taken from the cask before inspection except in cases of emergency made necessary by weather or damage through mishandling.

Inspectors were to give bond and to take an oath.

Time was given for attendance of inspectors at warehouses and their duties were to break open every hogshead, inspect tobacco, weigh and repack it branding cask with name of warehouse, tare and net amount of leaf. If two inspectors disagreed, a third was to be called.

For all tobacco brought to a warehouse for payment of debt, public or private, the inspectors were to give promissory notes for the approved leaf, which notes were to be "current" for all tobacco payments in that county, shall be transferable and redeemable. After a set date all tobacco debts to be payable only in notes. Establishment of allowances and inspection fees.

Dimensions of hogsheads were 48 inches in stave and 70 inches in diameter, maximum.

Punishment was prescribed for forging or counterfeiting notes.

Replacement was provided of notes lost or destroyed.

All public and county levies, parochial charges, officers' and lawyers' fees not payable in money according to the paper currency act were to be paid by inspectors' notes to the sheriff. Clergy's fees were 30 pounds of tobacco per poll, a continuation of the previous 25 per cent reduction; officers and official attorneys had their fees reduced by 10 per cent; a similar allowance on court costs; a deduction of 1/5 in all new county levies; lawyers' fees paid in inspected tobacco to be liable to an abatement of 1/5. (The deductions were to offset the expected rise in tobacco prices.)

Tobacco refused by the inspectors was to be burned or repicked by the owner; overseers were to make good all burnt tobacco of their original packing.

Frauds in the customs were to be prevented by detailed manifests one copy of which was to go to the port of delivery by a separate ship.

A statement was given of the location of the warehouses, some 80 in number, and the salaries of the inspectors at each.

Inspectors were to be chosen by the governor from a list of nominees presented by the vestrymen and churchwardens of every parish; necessary precautions.

Provisions were given for warehouses: to be leased if possible; if not, land to be taken by law and houses constructed. To be equipped with suitable weights, scales that shall be tested once a year. Local justices responsible for fulfillment of these provisions.

Annual accounts were to be delivered by the inspectors to the respective county justices, who also were to hear complaints against the inspectors.

Losses by fire, floods, etc. in warehouses were to be made good by the Assembly.

Penalties were stated for clandestine exportation of bad and bulk tobacco, and duties of sheriffs.

No inspectors were to hold other public office, to accept fees other than those established by the act.

Refusal of owner of tobacco (the receiver) to accept the judgment of inspectors of the quality of the tobacco leaf was to be referred to three county justices.

Light weight hogsheads (under 950 pounds) could be returned to owners, but not shipped.

Owners of transfer notes (inspectors' notes) could at any time receive and mark hogsheads of tobacco for the satisfaction of such notes. In such cases the transfer notes were taken and crop notes issued against those specific casks the continued safe-keeping of which was a duty of the inspector; there was a charge for that service. All tobacco not so redeemed was to be sold annually at auction and the money kept for the satisfaction of the transfer notes when presented.

Date and form for payment of inspectors' salaries and warehouse rents were given.

No creditor could force a debtor to give bond for payment of a tobacco debt in money in order to avoid the deduction allowed by the law after time for enforcement. Furthermore, all debtors, their executors and administrators, paying tobacco debts currently due in the inspected tobacco were to be allowed a deduction of $\frac{1}{4}$ of the said debt. (Again in expectation of a rise in tobacco prices.) Applied also to accounts on books of traders.

To encourage the growing of flax, hemp and to divert part of the people of the province from tobacco, it was lawful for those not raising tobacco to pay their debts, private and public, in the current money of the province rating tobacco at 12s. 6d. per 100 pounds weight.

Then came a detailed list of fees to be paid the provincial officers for every service they offered; no greater fees in inspected tobacco could be charged. The amounts in most cases included fractional pounds of tobacco. The officers were put under oath not to take more than the amount specified.

The act was to be in force for five years from December 1, 1748.

POPULAR REACTION TO THE LAW

"We have got a Tobacco Law at last, such as it is," wrote Henry Callister in August, 1747; "we shall see quickly what it will do. it is to be in force if assented to by my Ld Baltimore in December come 12 months."²² Baltimore approved the law.²³ In another letter at the end of the year Callister mentioned that "Tobacco is now on the advance on the strength of the Inspection Law & many Planters that are able will keep their Tob^o on hand or some of the late crop in order to pass inspection, if they don't get such a price for it as it wd be unreasonable to mention now."²⁴ The improvement in the price of inspected tobacco leaf was, of course, the major purpose of the act and the legal rating of the staple at 12s. 6d. per hundred pounds was about a 25 per cent increase over the previous official quotation of some 10s. for a hundredweight. Mereness recorded a new spirit of interest in raising tobacco and an article in *American Husbandry* emphasized that "the planter . . . may [now] go to any place and sell his tobacco without carrying a sample of it along with him [by showing the inspector's receipt], and the mer-

²² Letter to Charles Craven, August 30, 1747, Callister Letters, I.

²³ *Archives*, XXVIII, 439. Governor Ogle had announced Baltimore's approval to the December, 1747, Assembly. See also *Gazette*, February 1, 1749.

²⁴ Letter to Cunliffe, December 28, 1747, Callister Letters, I.

chant may buy it, though lying a hundred miles, or at any distance from his store, and yet be morally sure both with respect to quantity and quality."²⁵

Just before the law became effective in 1748 Callister expressed the opinion that the trader in tobacco would not receive any advantage from it, ingenuously overlooking the point that it was not for the trader primarily that the measure was passed. Profit for the factor was too often loss to the planter. However, within six months Callister had cleaned up bad debts, "laid in a Stock of the best sort" of goods in his store and spoke of tobacco being three times as high as the previous year because of the smallness of the crop.²⁶ Weather, not the inspection law, also seemed the major cause of better prices to Stephen Bordley who in the fall of 1749 wrote in part to his London agent:

Our Inspection Law has now been for some time in the Execution, and most of the Tobo sent home this shipping is under that Law; we already discover many villanies practiced under it, so that I am apt to believe you will notwithstanding have much very bad Tobo shipped home, & which it is impossible to prevent. The court [— ? —] its great patrons and attribute the present high price of Tobo amongst us altogether to it [the law], tho' 'tis obvious to the common sense it is owing to nothing more than the two past short crops and the peace; in short the law can never have any very considerable effect on Tobo because liable to numberless insuperable [?] abuses; and is besides Extremely dangerous from the prodigious & almost universal influence it gives our Government.²⁷

²⁵ Mereness, *Maryland as a Proprietary Province*, p. 118; *American Husbandry*, p. 225. Such notes allowed purchases of goods valued at less than one hogshead; see, Flippin, *William and Mary College Quarterly*, 2nd Ser., V, 247.

²⁶ Letter to Cunliffe, August 1, 1748, Callister Letters, I; a note dated only 1749, on p. 143 of the same volume, I.

²⁷ Letter to Wm. Hunt, November (?) 13, 1749, *ibid.* Illegible parts of the manuscript indicated by an interrogation mark.

A year later the effect of the law was probably better reflected in another letter by Bordley.

. . . . and tho' the Tobo in the Country was the first year of our Inspection Law more Generally sold than it had been before, yet the Generality of the planters, who are the 5 & 6 hhd. men & who always make up the chief part of every Loading did not then sell any considerable quantity. . . . I am Sensible there is not much money to be got in our trade by the article of Shipping, tho' it is in a much better Cond^o since our Inspection Law, than before; but it is certain there is no Carrying on the trade with us punctually & regularly without an Annual ship.²⁸

At the time the inspection law of 1747 passed the Assembly a number of the members of the Lower House were uncertain about the reaction of their constituents to it, because as has been mentioned from time to time the small, poor planter found that even with trash his total crop was scarcely enough to maintain life. A comment by Governor Ogle in a letter to Lord Baltimore presaged some of the trouble that later arose in 1753 when the act expired. "As the common peoples of all Countrys hate Restraint of any kind," he observed, "how much soever it may be to their Advantage, the Enemies of the Law have found out their own strength" and threatened to defeat for reelection those who supported the bill.²⁹ And that attitude of opposition was possibly present in a news item in the *Gazette* observing that although two counties reported tobacco passing inspection there was no record that any had been rejected and burned by the viewers.³⁰

It was from the Callister correspondence in 1751 that came an observation relative to the inspection law that

²⁸ Letter to Flowerdewe and Norton, October 31, 1750, *ibid.*

²⁹ *Archives*, XLIV, 699.

³⁰ March 8, 1749.

had seldom been even mentioned in previous years. His own words were expressive:

One grand cause of the rise & support of the Credit of Tobacco with us beyond what might seem reasonable with you is That as formerly the price of Tobo in a great measure was kept down by the Multitude of Officers whose fees [payable in tobacco] ran high & their Tobacco scattered all over the country being most inconvenient was in little Credit & consequently cheap bought, w^c of course brought down the Planters Tobacco. But now the Case is quite altered by the Inspection Law; the Officers fees are clip'd [reduced] indeed but at the same time rendered so convenient by its being prised [packed in cask] for them & made ready for shipping that they now choose to ship their Tobacco, or if they sell in the country it will fetch a better price on acco^t of the quantities in a few hands & the Despatch it gives together with the clear wighted [?] of the Proprietor, & if this better price is now given for the public Tobacco wch were lately so firmly established in bad credit the Planter will of course hold out as long as he can to be on a footing with the Officer; this will in some measure acct for the great prices given in Maryland & wch appear so incredible to you.³¹

There still remained in the marketing of the provincial tobacco an important operation that was left practically untouched by the inspection law,—namely, the grading of the leaf. Cunliffe and Sons, the London employers of Callister, had from time to time complained about the mixed qualities of leaf in the same cask and asked if their factor could not remedy that careless practice. Callister replied in the negative, for even though the trader remained at the warehouse when the tobacco was being viewed the inspectors were not inclined to separate the leaves except the good from the bad. In fact they seldom were capable enough and were "little to be relied on." There was a tendency before the French War for the planter to distinguish between the bright leaf and the dull. But now "as there has

³¹ Letter to Cunliffe, July 7, 1751, Callister Letters, I.

been no consideration offered for sorting his crop, & there's no Law to bind him or the Inspector to distinguish or separate the diff^t sorts his Grounds produce we cannot expect he'll take more pains than will fetch him more money."³² Incidentally he added an interesting comment that in a year of short crops the packed tobacco turned out worse in quality not only because of the poor growth but also because "the Planter & Inspector will have a fellow feeling" in not eliminating a too great part of the planter's crop.

In spite of the cross currents of opinion expressed at that time it is reasonable to believe that the provincial tobacco trade gained measurably by the inspection law of 1747. This conclusion is further supported by the fact that although constant altercations arose over the measure at the various expiration dates the law was continued by the colony without a break until 1770. Even at that time its temporary defeat was caused by a disagreement in the Assembly over official fees, a political issue, and not over the intrinsic economic value of the tobacco regulations.

Before concluding this chapter on the inspection law of 1747 it is desirable to comment about its effect on tobacco as a medium of exchange. Marked imperfections in that staple as money had been probably the principal reason for the establishment of a paper currency in 1733. After 1747 "there could no longer be any doubt in the mind of the receiver [of the tobacco notes] as to the coin in which he was being paid. With efficient administration this act furnished the best possible arrangement for correcting the defective homogeneity of tobacco money . . . as the tobacco notes

³² Letter to Cunliffe, August 7, 1752, *ibid.* Callister mentioned that he had offered premiums for graded leaf with little result; he would, however, try again.

issued by the inspectors told the weight, quality and condition of the hogshead."³³ With tobacco continuing as the staple of the province, with the people thoroughly accustomed to its use as a medium of exchange and with the paper currency laboring under the handicap of constant depreciation, the service of the inspection law in regularizing the tobacco notes was considerable. And although the correlation between tobacco as money and as an economic good was seldom discussed at that period, it is reasonable to believe that many of those who favored the 1747 law were conscious of its benefits on both counts. That more attention to the interrelationship was not given in Maryland might well be explained by the advent of grain culture and manufacturing in which tobacco money had slight use.³⁴

For the balance of the second quarter of the eighteenth century no tobacco legislation of importance was enacted in Maryland nor was the inspection law of 1747 amended in a vital way. Governor Ogle in opening the May 1748 Assembly said that he had found the statute meeting "with a general Approbation at Home" in spite of several anonymous letters to the contrary. There was at that session quite an interchange of messages between the two Houses over the provision of the 1747 act that allowed the deduction of one-quarter weight in tobacco debts during the period between the passage of the bill, July, 1747, and its application, December 1, 1748.³⁵ It was to be expected that creditors bitterly complained when that clause became known and sought by both civil law and legislative appeal to get a remedy.

³³ Gould, "Johns Hopkins University Studies," XXXIII, 63. Gould did not comment on the efficiency of the administration of the tobacco inspection law of 1747.

³⁴ *Ibid.*, pp. 70-71.

³⁵ *Archives*, XLIV, 628. See also above, p. 176.

Certainly foreign creditors were caught, for the slowness of ocean travel seriously impaired their ability to protect themselves. The Lower House refused to allow an amendment to the provision even when brought forward as a rider to certain minor changes that were considered desirable.³⁶ Slight adjustments were made by the Legislature of 1749.

At the May Assembly of 1750 the governor mentioned the need for care in the administration of the inspection system. Some trouble was being experienced in securing competent men for the posts of viewer because the salary was small and no one liked the prospect of having to condemn the tobacco of a neighbor.³⁷ There was another phase of the inspection law with which the same session had to deal. The original act had provided that tobacco intended for exportation if cultivated and processed before December 1, 1747, could be shipped without inspection. Leaf made after that date for foreign markets had to come to the warehouses. But for several years after 1747 "sundry evil-minded Persons" had gone into the business of buying trash and then "under color of it's being old Tob" (cut and dried before December, 1747) had shipped it without inspection and got for it the prices of the viewed leaf. The Assembly of 1750 required that *all* tobacco intended for export should be first brought to the warehouse; then if the owners could prove under oath that their crop was "old" it could go through uninspected.³⁸

³⁶ *Ibid.*, XLVI, 48-54, 118-119, 157-163.

³⁷ For instance the "regrets" of one nominee read in part: ". . . whereas it Doth in no Sort sute me to Serve—I therefore refuse to take upon me the Said Office." For other refusals and acceptances sent to the Clerk of the Council, see Black Book, VIII, part 1, items 1-19.

³⁸ *Archives*, XLIV, 453-455.

Thus at the turn of the half-century both Maryland and Virginia had legislation on their statute books that expressed the determination of most of their planters to remove their staple crop, tobacco, from the handicaps of unsupervised marketing. That the attention was directed to the centralized points of shipment and not to the scattered plantations was wise as was also the concentration in a rough way upon quality of the leaf, because through the separation of the good from the bad the quantitative menace of too much colonial tobacco in foreign markets was lessened.

CHAPTER IX

IMPROVEMENT IN THE TOBACCO TRADE

GENERAL ECONOMIC DEVELOPMENT

Although domestic and foreign political disturbances brought inevitable repercussions in the economic life of the tobacco colonies the third quarter of the eighteenth century was a fairly comfortable one for the planters of Maryland. Sioussat ascribed the improvement during those twenty-five years to three factors: the tobacco inspection act of 1747, the increased production of crops and goods with less dependence upon tobacco, and the extensive immigration of "other than the old English stock."¹ Certainly among internal contributions to that relative prosperity must be listed the paper currency of the province and the capable administration of Governor Sharpe from 1753 to 1769. Externally Maryland was aided by the growth of intercolonial trade.

That the farmers of Baltimore's province were turning to occupations other than tobacco cultivation became apparent in the *Maryland Gazette* during those years. Accounts of a good tobacco crop and also wheat and corn "all over the Province" was found with increasing frequency in the newspaper. Callister, the eastern shore tobacco factor, had been in business for himself for some years when in 1761 he wrote Governor Sharpe of the "visible decline of the trade wherein I am embarked."² Within a year or two he collected his debts, satisfied his creditors, moved to a smaller estate

¹ Sioussat, "Johns Hopkins University Studies," XXI, 76.

² Callister Letters, III, 478.

in another county and without success sought a minor political position. It was in his area that for many years the planters had turned to other crops and domestic manufacturing when tobacco prices failed to maintain life. By 1765 the delightful accounts of "A French Traveller in the Colonies" confirmed the agricultural transition in that section of the province between the Chesapeake and the Atlantic Ocean. "The country [is] very pleasant and [has] fine roads, farming seems [to] take up the peoples attention here more than any other. they raise great quantitys of wheat and Indian Corn. tobacco Does not answer at all and is but little Cultivated on this [side of] the Bay."³ A convenient list of the miscellaneous exports was contained in an answer by the Governor to queries from the Lords of Trade and Plantations in 1761. He replied that for the past year the colony received about £140,000 for their tobacco "while the Merchants get as much more for Conveying it to great Britain and selling it." All other exports did not bring over £80,000; the products were wheat, Indian corn, bread, flour, pig and bar iron, skins, furs, lumber and some flax seed.⁴ England a few years before had encouraged the colonists in the production of iron at the same time giving notice that the erection of fabricating mills would be prohibited, a good mercantile policy.⁵ The *Gazette* also contained news items about what was taking place in other colonies along the line of manufacture hoping both to encourage their own subscribers and to discreetly emphasize the possibilities of inter-colonial exchange.⁶

³ *American Historical Review*, XXVII, 77.

⁴ *Archives*, XXXII, 24.

⁵ See *Maryland Gazette*, August 22, 1750.

⁶ For instance in the issue of January 17, 1765, there was an article about the New York Society for promoting Arts, Agri-

There was another stimulant shifting the interest of farmers from tobacco to other commodities. It was the soil exhausting attribute of the tobacco plant. "The story of colonial tobacco production became one of uninterrupted soil depletion," wrote Craven. ". . . a superior tobacco could be produced only on fresh land. . . . The planters seldom counted on more than three or four crops from his land before it was abandoned to corn and wheat and then to the pine, sedge and sorrell growths which usually characterize our sour lands."⁷ Governor Sharp at one time advised Frederick Lord Baltimore that to protect his manors from exhaustion it was necessary to insert a clause in all leases restricting the amount of tobacco that could be planted during the last three years of the tenancy.⁸ Commercial fertilizers were not known, so manure was sometimes used. That there was a prejudice against that method of reviving the soil was indicated in a comment by the Rev. Hugh Jones who wrote, "land when hired is *forced* to bear *Tobacco* by penning their Cattle upon it; but *Cowpen Tobacco* tastes strong, and that planted in wet marshy Land is called *Nonburning Tobacco*, which smoaks in the Pipe like Leather, unless it be of good Age. When Land is tired of Tobacco, it will bear *Indian Corn* or *English Wheat*, or any other *European Grain* or *Seed* with wonderful Increase."⁹

culture, and Oeconomy, which society gave premiums for the best (quality and quantity) yarn, potash, cloth, stockings, leather, shoes, gloves, slate.

⁷ A. O. Craven, *Soil Exhaustion as a Factor in the Agricultural History of Virginia and Maryland, 1606-1860*, in "University of Illinois Studies," XIII, 30.

⁸ *Archives*, VI, 38.

⁹ *The Present State of Virginia* (1724), p. 39.

Another part played by soil exhaustion under tobacco cultivation was so powerful and conspicuous that like the purloined letter it was often overlooked. "Expansion was the only escape, and expansion from the small to the large unit and from the older to the newer regions became a normal part of life in this section; and when expansion became difficult, lowering standards of living, hardening of social lines and conflict between the various agents in the social, economic and political life developed."¹⁰ The fertility of virgin woodland soil invited extensive agriculture and such a movement was restrained only in part by the labor of clearing new lands or leaving old homes. Where handsome buildings had been erected as evidence of the intention to develop a permanent estate, then other tracts were opened and cultivated under overseers. In such a system of cultivation obviously lay the explanation of the need and desire for large acreage; such holdings assured fresh lands, the employment of slaves, ample timber for fuel and for tobacco casks and fields enough for cattle. Fortunately the continent had ample land to give to those who were willing to work, or could afford the laborers.

There were other considerations in the administration of the plantations of which mention must be made. The supply of capital was not plentiful. At the same time there was need for such funds in the securing of supplies, equipment, labor for the farms and in the marketing of products, especially tobacco.¹¹ Traders and merchants came in at that point to lend their credit at interest rates that on even well-secured loans amounted to 8 or 10 per cent. And then contrary to popular belief the use of slave labor was by no means an unmixed blessing. Slaves represented a relatively large fixed

¹⁰ Craven, p. 162. See also *American Husbandry*, p. 229.

¹¹ Gray, *History of Agriculture*, ch. xviii.

capital expenditure with high risks of loss and a rapid depreciation in usefulness especially if not well maintained. Only in the prime of life might a good negro field hand give a return of 15 to 25 per cent to his owner, and some of the shrewd planters owned slaves only during their working years preferring to avoid the expense of raising them and then caring for the aged.¹² Another problem of farm life occurred in the combat against insect pests especially as grains and corn came to occupy a more important rôle in the agricultural layout of the planter. Frequent suggestions of remedies against such small enemies were found in the columns of the *Gazette*.¹³

Scharf well summarized the social development of the palatinate as it entered the third quarter of the eighteenth century.

. . . there was, *socially*, a distinctly aristocratic class in Maryland, a class comparatively large, wealthy, and some of them very well educated. Their fortunes rested on lands and slaves. They communicated with one another, but did not associate with

¹² Calculations of expenses in using slaves were offered, for instance, in *American Husbandry*, pp. 229, 234, 235. If a male negro cost £50, his annual upkeep might run £5 and overhead and operating expenses in producing £16 of tobacco and £4 of corn would come to about 35s. The net return from the tobacco and corn would be perhaps £12. A large estate of 2,000 acres would require some 22 slaves on which a return of 15 per cent might be gained. Thus the writer concluded that if the planters were poor it was because of "the general luxury and extravagant way of living which obtains among [them]." The author of *American Husbandry* strongly felt that in the cultivation of tobacco no rational principles were used and no experimenting "for the planters never go out of the beaten road, but do just as their fathers did, resembling therein the British farmers their brethern."

¹³ Issues of December 21, 1758; April 5, 1759; January 31, 1760, as examples.

other classes. The cadets of these families furnished the lawyers and generally the men who held places in the civil government of the colony. They had built themselves up by large land-holdings and extensive tobacco planting.

Those who lived "up-country" gradually tended to seclude themselves and often "relapsed into the old sotweed manners again." Moreover, there seemed to be a distinct spiritual deterioration in share cropping under overseers and absentee ownership. "But tobacco did Lord Baltimore's system a worse hurt yet. It converted what he meant to be an aristocracy of land and hoped would become one of merit, into an aristocracy of mere wealth."¹⁴ The great fortunes, however, came not from an exclusive devotion to tobacco cultivation, but rather from combining that occupation with merchandising and the holding of public offices that brought large fees, directly or indirectly.¹⁵

In his travels through the tobacco areas of America, Burnaby found it "hard to determine whether this colony [Virginia] can be called flourishing, or not; because though it produces great quantities of tobacco and grain, yet there seem to be very few improvements carrying on in it." And he remarked that "a spirit of enterprise is by no means the turn of the colony, and therefore few attempts have been made to force a trade."¹⁶ That absence of a trading spirit on the part of probably most of the planters combined with a minimum of self-sufficiency on the average estate, both made more firm the plantation system of cultivation and also retarded greater economic development.¹⁷ Another

¹⁴ Scharf, *History of Maryland*, II, 21, 49, 51.

¹⁵ C. P. Gould, "Johns Hopkins University Studies," XXXI, 84.

¹⁶ *Travels*, in Pinkerton's *Travels*, XIII, 716.

¹⁷ Jacobstein, *The South in the Building of a Nation*, V, 166-167.

glimpse of life in that area before the Revolution was offered in *American Husbandry*:

The tobacco planters live more like country gentlemen of fortune than any other settlers in America. . . . and such a country life they lead, in the midst of a profusion of rural sports and diversions, with little to do themselves, and in a climate that seems to create rather than check pleasure, must almost naturally have a strong effect in bringing them to just such planters, as fox hunters in England make farmers.¹⁸

That there was another side of plantation life at least for those masters who took a personal interest in farm management was shown by an extract such as the following from the entry book of a planter.

Worming and suckering tobo with all hands, which at this season of the year is the burden of the planter's song. . . . Striking Tobo finished about one o'clock this morning. Rain commenced last ev'g, which brought it [tobacco leaf] rapidly in order. [Handling the leaf must be done in moist air.] I had supper cooked for my people, sent them whiskey and a lantern with candles to the prize house [packing house]—and thus we have struck our whole crop in the last three days. [Another entry after a rain.] My people all engaged in planting tobo, a thing I rarely do [it was Sunday] but compelled on this occasion by the scarcity of plants not to miss an opportunity so late in the season.¹⁹

Those two quotations were not necessarily contradictory because after the tobacco season was over there was time to loaf and for those land owners who had competent overseers there was no need for personal supervision of the slaves.

That the colony continued to rely heavily upon tobacco was stressed by Charles Carroll III, probably the wealthiest land owner in Maryland, in a letter to an

¹⁸ Pp. 237-238.

¹⁹ U. B. Phillips, *Life and Labor in the Old South*, p. 237. See also Phillips, *Plantation and Frontier*, in *Documentary History of American Industrial Society*, I, 208-214.

English friend: "Our estates differ much from yours, the income is never certain. It depends upon the casual rise or fall of the price of tobacco."²⁰ First hand accounts from that period offered another point of interest by a French traveller who in his diary recorded that "after Dinner went to see tobacco Inspected at the ware house and saw some of the bright coloured tobaco which sels So Dear in foreign markets. . . . it is Custumary for all ships that Come to the Country to take tobaco on freight home, to give a Dinner to which they generally invite the planters and familys, Especially those who freight tobaco on board, who take Care to tell of it in their Cups."²¹

Although life on some of the plantations was most comfortable and the houses of notable proportions,²² Annapolis, the colonial capital offered many illustrations of fortunes from shrewd traffic in tobacco, merchandise and political favors. With the enthusiasm of a Maryland historian Scharf described it as "the most luxurious town in America." Abbé Robin observed the spacious dwellings, landscaped grounds, valuable furniture, handsome carriages in the southern colonies and wrote that "this opulence was particularly observable at Annapolis. . . . out of the few buildings it contains, has at least three-fourths such as may be stiled elegant and grand. Female luxury here exceeds that is known in the provinces of France"; and he thought the state house the most beautiful he had seen in America.²³

²⁰ K. M. Rowland, *Life and Correspondence of Charles Carroll of Carrollton, 1737-1825*, p. 71.

²¹ "Journal of a French Traveller in the Colonies," *American Historical Review*, XVII, 71-72.

²² A. L. Sioussat, *Old Manors in the Colony of Maryland*.

²³ *New Travels through North-America*, letter IX, p. 45. Annapolis today has such colonial houses as the Brice built in

Burnaby struck a more conservative note. Some of the more conspicuous houses had not been built when he wrote in 1760 that "Annapolis . . . is a small, neat town consisting of about a hundred and fifty houses. . . . The town is tolerably well built, and has several good brick houses, . . . the few public buildings here are not worth mentioning."²⁴

When one turns again to the relations between the planters and the English merchants there was a continuance of the irritations that had characterized the contacts for many decades. For instance, Stephen Bordley in 1751 wrote to a London firm of merchants:

I cannot avoid again Complaining of your tradesmen in General, they Impose upon our good nature to our prejudice; . . . I suppose they still retain the opinion that any thing is good enough to be packed up for the plantations; but I can assure them that they are mistaken, and your's more particularly so, from whom my goods have been always worse in kind and by much worse packed, and at least as dear as ever had them from any. . . . Your Cabinet maker, your Glassman & your Pewterer are particularly very sad fellows. I beg you will endeavor to reform those abuses; I am not fond of Changing a Correspondent if it can be avoided.²⁵

One may be assured that the complaints were not one-sided. In turn Bordley received a letter from William Hunt of London concerning the failure of a Maryland lawyer to collect some accounts and passed on at the same time a sentence from a provincial shipper of to-

1740, Paca (1763), Carvel (1750), Ridout (1763), Chase (1770), Harwood (1774) and nearby in the counties Whitehall (1750), Tulip Hill (1750). See also L. A. Coffin, Jr. and A. C. Holden, *Brick Architecture of the Colonial Period in Maryland and Virginia*.

²⁴ Pinkerton's *Travels*, XIII, 725.

²⁵ Letter to Flowerdewe and Norton, dated Annapolis, December 13, 1751, Bordley Papers, 1749-1752.

tacco who spoke feelingly "of the rigour used by the plantation lawyers." As a prominent member of the Annapolis bar Bordley could not let that go by. He replied "I should be glad to know how we are to Act; for I know by a long and very troublesome Experience that a man may write his heart out by way of Dunn to the people here and scarce collect enough to bear the Expense of pen Ink & paper."²⁶ Callister was also despairing of local conditions. He attributed the difficulties of the colonial factors and storekeepers to the indifference of the legislature in which the dominant influence was exerted by the shippers of tobacco.²⁷ Occasionally a defense of the merchants appeared in the *Maryland Gazette*. One contributor signing himself "Philopatriis" regretted the "false Distinction made betwixt the landed and trading Interests" and gave the proof to three propositions: one, that a flourishing commerce gave employment to the people of the province; two, that it greatly increased the number of the inhabitants; three, that it raised the prices of commodities and consequently the rents and values of land.²⁸

CONTINUED TOBACCO LEGISLATION

Turning to the official reports from the province as it entered the second half of the eighteenth century there continued the same emphasis upon "the Trade consist[ing] Chiefly in the Exportation of Tobacco to Great Britain." The commerce was carried in about 200 vessels averaging 60 tons burden and using some 20 men in each crew. Marylanders themselves owned 50 small boats of 8 tons burden each that required 7 to 8

²⁶ Letter to Wm. Hunt, Annapolis, November 26, 1756, *ibid.*

²⁷ Letter to Craven, September 17, 1752, Callister Letters, I.

²⁸ Issue of March 11, 1762.

men to man each of them.²⁹ Prices for one hundred-weight of tobacco at the wharves were between 12s. 6d. and 15s. sterling.³⁰ Relative to legislation for the regulation of tobacco it will be recalled that the inspection law of 1747 was to be in force until December 1, 1753.³¹ In the Assembly of May, 1751, both the Governor and the Legislature in an exchange of messages acknowledged the "great" and "visible" advantages that had arisen from that law. To supplement it and stop all holes through which trash tobacco was trickling a measure similar to previous bills on the subject was approved. In addition the act of 1744 against cutting tobacco plants and burning storage houses was made perpetual.³² Legislation in the December meeting and in the session of 1752 made minor changes in the location of certain warehouses. Governor Ogle died in 1752; Benjamin Tasker, a native of Maryland, served one year as the administrative officer until Horatio Sharpe could come to the palatinate.

Apparently rumors had been spread around the province by the opponents of the inspection law that when it expired in the fall of 1753 the Assembly would not re-enact it. Again the columns of the newspaper were used by those on each side of the re-created issue. Opposition to the renewal of the measure was established upon several arguments: the prices for tobacco had gone too high; the organization and operation of the public warehouses was a costly expenditure; the accounts of sale showed no benefits to the poor planter who was just as

²⁹ Report of the Maryland Council to the Commissioners for Trade and Plantations, *Archives*, XXVIII, 436, 468.

³⁰ Black Book, IX, items 116-141.

³¹ Above, pp. 174-177.

³² *Archives*, XLVI, 506, 508, 603-607, 612.

bad off as ever because he could not dispose of his inferior leaf and yet had to pay rent and other expenses. To those complaints came a flood of answers. Prices since the law of 1747 had been definitely better and with the reduction in public dues the average planter had more money for himself. Moreover, with credit for crops in the form of acceptable tobacco notes the planter was able to shop around the county for his purchases. Detailed estimates of the cost of the system were also given with emphasis upon the point that the heavy initial expenses had been met and the operating charges were passed on to the buyers.³³ If the Maryland law died, farmers who lived near the Virginia line would send their leaves to that colony for inspection and the better prices. For example, there was New York which upon dropping regulations on flour had lost her trade in that commodity to Pennsylvania that retained its strict inspection laws. If the poor were oppressed then the rents were too high; furthermore, if there was much suffering because of the law there would be emigration to other provinces and such was not the case. Several of the proponents of the law wisely admitted that possibly there were too many warehouses and some of the inspectors had not done their work any too well.³⁴

³³ This assertion was in line with a conclusion by Beer relative to the export and import charges laid on tobacco: "From an exhaustive examination of the complications that prevailed [in the tobacco industry in the 17th and 18th centuries] it would appear that in ultimate analysis the bulk of this [tobacco] revenue was paid by the English consumer and not by the colonial producer." *Origins British Colonial System*, p. 171. Contemporary accounts of the results of the inspection system seemed to support that conclusion.

³⁴ For the various letters in the *Gazette*: April 5, May 24, 31, June 7, 14, 28, July 12, August 16, 1753.

Affirmations continued. Without a law prices would fall by an amount that could not be balanced through the greater quantity of tobacco each planter would then be free to throw on the market. Slovenly farmers would unload their trash and "one scabby Sheep will infect a whole Flock." Moreover, the storekeepers had a decided interest in the alternative moves. If the law were allowed to die then planters who had debts outstanding at the stores would pay in the depreciating tobacco as the cheaper medium. Callister, for instance, with the approach of the 1753 dead line started in to collect all debts he could and where unsuccessful instead of bringing suit he "translated the Tobo Debts . . . into Curr't Money by discount at the Curr't price by Bonds." As he observed such a move was decidedly necessary because "in two or three times making & unmaking Tobo Laws they [the planters] may after a fashion clear 100 p Ct & pay off all their Debts."³⁵

In the Assembly itself there was very little evidence of an opposition to the major parts of the previous inspection law when a similar bill was introduced.³⁶ Substantially a reenactment, the measure became law in 1753 for a period of five years. It contained one new clause that was later to threaten trouble; for all money payments allowed by the inspection statute, rates of exchange were given between English sterling and such foreign gold and silver coins as circulated in Maryland.³⁷ Parenthetically it might be mentioned that in the same year, 1753, Connecticut passed a law "to regulate the curing and packing of tobacco, and prevent fraud

³⁵ Letter to Cunliffe, July 9, 1751, Letters, I.

³⁶ On an early vote in the House there were 40 for the bill and 12 against it. *Archives*, L, 227.

³⁷ *Ibid.*, p. 362. For the whole act, *ibid.*, pp. 303-367.

therein." Each town having the leaf for export was to appoint "surveyors and packers [who] shall pack or press no tobacco but what is by him judged to be sound, well ripened, sufficiently cured and in every way good and merchantable."³⁸

Not until one year and a half later did the province learn of the reaction of the Lord Proprietor to the act of 1753. In March of 1755 Governor Sharpe laid before the Council a letter nominally from Frederick in which his Lordship's inclination toward a dissent was explained. He thought that too many items were covered by the one act, namely, tobacco regulation, supervision of the customs, regulation of officers' fees and other public charges. As has been mentioned, the Assembly, especially the Lower House, was very well aware of those links and had fought for them. Baltimore objected to another part of the 1753 law. The settling of rates of exchange for foreign coins in terms of his Majesty's currency was not a proper subject for the plantations; there was cited an act of Parliament of the 6th of Queen Anne. Furthermore, he thought that such acknowledgment of the use of other monies would hurt the acceptance of the Maryland paper currency. And finally, Lord Baltimore claimed that the determination of the fees for his administrative officials was "an Infringement on [his] Prerogative Rights."³⁹ As Frederick Lord Baltimore took only a monetary interest in his colony Governor Sharpe in reply to the above

³⁸ Ramsey, "Smith College Studies," XV, 116-117. Miss Ramsey mentioned no influence of the southern tobacco colonies on the Connecticut legislature and I have not made a study of the Connecticut archives; but it is certainly probable that the Maryland and Virginia laws were known.

³⁹ Gilmor Papers MSS, I, div. 1, no. 6. See also *Archives*, XXXI, 56-57.

criticisms wrote directly to Cecil Calvert, uncle of and secretary to the Proprietor. Sharpe had foreseen some of the objections and had tried to have the Assembly eliminate the provisions about foreign coins and the officers' fees, but the lower chamber had been unyielding. In diplomatic terms he expressed the sympathetic attitude of the Council. Wisely he made no promises, for in the next major consolidation act regulating tobacco, 1763, the debatable clauses were retained.⁴⁰ One minor change was made in the new inspection law by the first of the four assemblies that were convened during 1754 to handle Maryland's participation in the French and Indian Wars.⁴¹ Other adjustments in the location of warehouses and the salaries of certain inspectors came in the years from 1755 through 1762. In 1758 the comprehensive inspection act of 1753 was renewed.⁴²

During the sixth decade of the century the tobacco colonies found their trade with foreign countries decidedly harassed by the war between England and France. The *Gazette* printed occasional news items of

⁴⁰ *Ibid.*, VI, 175-176, 183. In that correspondence the subject of patronage arose. Sharpe wrote: "You are pleased to acquaint me that his Lordship desires Recommendations from me of Personages from the Lower House to be now and then preferred to be of his Council of State, and that his Lordship also desires the members of the Lower House or their Families may have share of his favors as thereby their virulency may be abated. [Such a procedure] will be like beheading a Hydra where three serpents' heads are fabled to have immediately sprouted out instead of one."

⁴¹ *Ibid.*, p. 441.

⁴² References for the laws relative to tobacco follow: *Laws of Maryland*, February, 1755, ch. 7; September, 1757, ch. 31; November, 1758, ch. 7; March, 1760, ch. 7; September, 1760, ch. 14; March, 1762, chs. 20, 26.

ships captured in the colonial trade, but it was the carrying of tobacco by London merchants from England to France that was especially hard hit. The annual shipping of the leaf between those two countries amounted to about £160,000 or 20,000 hogsheads a year and engaged some sixty ships. Naturally the traders made themselves heard, arguing that tobacco was not an instrument of war and therefore should not be considered contraband. Moreover, the French Court had granted the right to the Farmers General to import tobacco from Britain in neutral bottoms; all that was necessary was for the Admiralty to issue passes to English merchants who would handle their cargoes according to those terms. If that were not done, France might start to cultivate tobacco and, more likely, increase her imports from other foreign countries. The petitions were granted. Ships of not less than 150 tons burden might sail if the masters would give bond not to run contraband. Over fifty passes were issued from 1756 through 1757.⁴³ That the restrictions of war had given rise to clandestine shipments and an increase in the freight between Maryland and commercial nations of Europe seemed to be established in a communication to Governor Sharpe from the Lords Commissioners of his Majesty's Treasury in 1763 at the end of the war. They found the revenue from the customs had so declined that it did not even meet one-fourth of the expenses of collection. There was also mercantilist complaint that "the Commerce of the Colonies is diverted from its natural course." And they concluded with the command of his Majesty to suppress clandestine tobacco trade "in the Strictest manner."⁴⁴

⁴³ *Acts P. C.*, 1745-1766, pp. 328-333.

⁴⁴ *Archives*, XXXII, 89, XIV, 102, 118.

Governor Sharpe in the opening address before the October Assembly in 1763 spoke of the expiration of the inspection law of 1753. He knew that the legislators would gladly consider "what further Amendments to that Act it might be expedient to make for the better Advancement of our Staple, and by what other Means, consistent with the Laws of Great Britain, the whole Trade of this Province might be encouraged and Promoted."⁴⁵ Although both Houses were in general agreement upon the desirability of a renewed act, there were several points of discussion. The Council thought it best to have the last day for viewing tobacco each year changed from July 31st to the 20th; the earlier sailing would help the "damage attending a Winter Passage . . . and the expense of freight might be lessened." Also they agreed with informal expressions of the House that the shrinkage allowance for tobacco leaf was too great. But they dissented from a plan to have the clergy and others receive tobacco notes after three months from the date of issue. Finally they proposed "to insert Sterling throughout the Law instead of currency [the paper currency act expired in September, 1764], to rate Dollars at four Shillings and Sixpence each and to make them a Legal Tender in discharge of Sixty pounds of Tobacco" for all who had the right to receive either sterling or tobacco.⁴⁶

⁴⁵ *Votes and Proceedings of the Lower House, Maryland*, October, 1763, p. 58.

⁴⁶ *Black Book*, no. 4, part 1, item 13. The inspection law of 1753 had rated Spanish dollars at 0/7/6 sterling and "other gold coin, per dwt." at 0/6/3. *Archives*, L, 362. As the 1733 paper currency act neared its expiration date, 1764-1765, agitation began for another issue. After considerable jockeying the Assembly approved a new issue of \$173,733 value at the rate of 7/6d. current money (1763) and 4/6 sterling. The security for the new bills of credit was the surplus from the old sinking

In reply to such expressions the Lower House held that the earlier viewing date would interfere with farming in many parts of the province. The members felt as the Council did about shrinkage; but they could not consent to shortening the time for compulsory acceptance of tobacco notes because such a restriction would "tend to frustrate the general design of the Law to make the Transfer Notes a kind of paper Currency." About the proposed change in money there was decided disagreement. The representatives declared that the monies proposed by the upper chamber "will probably soon be drained away by Remittances to Europe and then what is the Alternative of paying money worth to those who do not make Tobacco." Then there was introduced a new issue. "The Complaints of the People [were] many and loud with regard to the Illegal charge of Fees by Officers and the Neglect of the Owners and Proprietors of Warehouses" in not keeping them in repair.⁴⁷ Eventually after conferences between committees of the two houses and suggestions by Governor Sharpe, an inspection law to run for two years was framed on practically the same lines as the act of 1753, again reflecting the power of the lower branch of the legislature.⁴⁸ By supplementary and continuation acts the inspection law was continued to October 22, 1770, when it expired.⁴⁹

fund. There were also small emissions in 1766 and 1773; both were retired by 1806. See Behrens, "Johns Hopkins University Studies," XLI, 46-58.

⁴⁷ Black Book, items 26, 49, 50.

⁴⁸ The inspection act of 1763 consolidated the previous laws. *Laws of Maryland*, 1763, ch. 18. For Sharpe's comments, *Archives*, XIV, 124.

⁴⁹ *Laws*, 1765, ch. 30; 1766, chs., 8, 9, 19; 1769, ch. 7; 1770, ch. 1.

It was in 1765 that the colony of Maryland became aroused over the English Stamp Act which received the royal approval March 22, 1765. Governor Sharpe had been previously asked by Lord Halifax for a list of all legal instruments used in the province, the paper of which could be made to bear that excise.⁵⁰ Notice of the final action of Parliament reached Annapolis by June, 1765, and the *Gazette* at once entered the fight, announcing at the outset that it would cease publication when the Act became effective on November first.⁵¹ Of course its columns were filled with the controversy. Among the letters were several from London merchants deploring the loss in trade between the two countries and expressing their opposition to the taxes. The numerous communications of resentment from the inhabitants of the palatinate were on the "liberty" theme, though one bitter writer expressed the conviction that the London merchants would now add their excise tax on letter paper used in correspondence with Maryland planters to the long list of charges that were already placed on the tobacco trade. Repeated prorogations of the Assembly from 1763 through to 1765 prevented the province from officially joining with the other American colonies in protests against England's tax policy.

With the repeal of the Stamp Act in March, 1766, the London merchants hastened to smooth the feelings of their valued clients in America. Fifty-five of the most

⁵⁰ *Archives*, XIV, 108-109.

⁵¹ The October 10, 1765, issue of the *Gazette* in large type at the top of the first page contained the word "EXPIRING" and beneath in smaller letters: "In uncertain Hopes of a Resurrection to Life again." Supplements continued through October 31st. "An Apparition" appeared on December 10th, then no more papers until the regular sequence February 20, 1766.

prominent traders wrote John Hancock and other gentlemen in Boston to tell how hard they had worked to get the Act repealed.⁵² Twenty-nine merchants directed their healing rays toward Maryland and urged an expression of "filial Duty and Gratitude to your Parent Country." And more to the point they mentioned that if the province exulted too boastfully about the way Parliament had backed down then the English friends of the colonists would be in a jam.⁵³ Direct solicitations of tobacco shipments as well as less formal notes couched in almost ingratiating terms sought the renewal of the trade relations during the brief period before the colony entered upon the non-importation campaign.⁵⁴

For five or six years tobacco prices showed considerable strength. Eighteen to twenty-two shillings per hundred weight were not unusual and in 1770 a total shipment of 110,000 hogsheads of tobacco by Maryland and Virginia brought Maryland's share of the sales to about £300,000.⁵⁵ Probably the most consistent influence in keeping prices for the leaf at a fairly profitable level was the quarter of a century of inspection laws in both the tobacco colonies. Spurts above the average price and drops below it resulted from the non-controllable effects of weather. It happened that the last part of the seventh decade presented the planters

⁵² *Gentleman's Magazine*, XXXVI, 397-398.

⁵³ *Gazette*, May 15, 1766. The letter was to Daniel Dulany; it did not mention tobacco in particular. In the *Gazette* of June 13, there was printed a formal statement of the same character that had been sent to the Committee of Merchants of Philadelphia.

⁵⁴ Hill Papers MSS, Correspondence 1722-1768, items 87, 89.

⁵⁵ Scharf, II, 47. Total tobacco exports from the colonies were valued at £900,000, well over one-fourth of the value of the total American colonial exports of all commodities. Kirkland, *History of American Economic Life*, p. 109. See also Gray, p. 255.

of the province with some short crops of their staple. In August, 1769, one prominent planter wrote a friend, "I never have known the first of July with so little Tobo planted as at this Time, but yet if a Rain should happen in a week we may make a good Crop." A year later an interchange of letters between the same men contained the news that "our Crops of Tobb are now promising and from appearance we shall make much more, for the last years Crop now Shipping is certainly very Short and the Tobb very ordinary in Quality and I hope the scarcity will keep the price up, that we ship is very good."⁵⁶

THE END OF TOBACCO LAWS IN COLONIAL MARYLAND

As has been mentioned, successive continuation laws carried the tobacco inspection act of 1763 through to October 1, 1770.⁵⁷ The Assembly of September, 1770, extended the law past the expiration date of October 1st to October 22nd expecting its renewal, but instead it died in the controversy over officers' fees.⁵⁸ There was no indication that the clauses relating to the inspection of tobacco were not agreeable to both Houses. But whereas in previous years the lower chamber had tied to the tobacco regulation the sections for officers' and clergy's fees to assure their passage, now the House

⁵⁶ Letters to Mr. James Russell, Samuel Galloway Letterbook MS, 1760-1772. The Galloways also built ships and then offered both the vessel and the cargo for sale upon arrival in England, letter to Capt. William Toppel, August 25, 1771.

⁵⁷ Above, p. 202.

⁵⁸ *Laws*, September, 1770, ch. 1. In Kilty's *Laws of Maryland*, the extension was erroneously given as October 22, 1771, instead of 1770. A bill to continue the power of tobacco inspectors was pushed through the necessary readings then apparently failed. *Votes and Proceedings*, 1770, pp. 299, 300-301, 338.

wished to strike out everything relating to those controversial issues and let the tobacco items go through alone. The reason was simple enough. In the opinion of the delegates drastic readjustments were desirable in colonial expenses because administrative payrolls and charges had been grossly padded. That meant a fight to the finish with the Council which spoke for the officers of the province. Thus the House saw no reason to sacrifice a perfectly good inspection law on the altar of class conflict. Of course the Council took just the opposite view, insisting with their tongues in their cheeks that as the tobacco law had so long been connected to official levies and the like there was now no reason to separate them. With the resulting acrimonious political maneuvers this study has no particular concern; the tobacco of the province ceased to be publicly regulated for three years.

Upon the expiration of the inspection act notices appeared in the *Gazette* from groups of planters in several counties that they intended to continue marketing their tobacco upon the basis of the lamented law.⁵⁹ In one area the feeling against the officers and clergy was so strong that the private inspectors were instructed not to handle any tobacco presented by either of those groups. The next year in the October session the question of combining tobacco inspection and officers' fees again arose. Nothing could be done; there was too much ill feeling between the Governor and the Council on one side and the House on the other. Fundamental issues of the privileges of free men and the procedures of representative government were involved. Governor Eden, a brother-in-law of Lord Baltimore, had replaced Sharpe. Such bickerings involving loss of

⁵⁹ Issues of December 6, 13, 1770, in 1771, February 7, 21, March 28, June 20, and in 1772, June 18.

time and money gave Eden "the greatest Concern as I had flattered myself that the Inspection Act would be re-enacted, from which so many Benefits had been experienced." He pointedly contrasted the attitude of the House of Delegates on the subject of fees in 1753 with their position in 1771.⁶⁰ That the disposition of the Assembly was well understood in London was shown by a sentence in a letter from Hillsborough to Eden. It read: "I have no doubt the Province of Maryland . . . will act so inconsistently with their more important Interest in respect to the Staple of Tobacco, as not to revive the Inspection Law."⁶¹

By 1773 the swing of the weather cycle had brought excessive tobacco crops. That quantitative handicap combined with the lapse of the inspection law and commercial difficulties in England quickly pulled prices for the Maryland leaf down to previous low levels. An extract from a letter by an English gentleman to a Baltimore friend stated that the quality of the provincial tobacco had been "most shameful: They put up any Trash; and if no Method is fallen upon to stop such Abuse the Trade will be lost. The French refuse one-third of it, indeed they will scarce take it at all especially that from the Eastern Shore; and on a full Crop it will not be worth the Freight home. The present French Price is Three Half-pence Farthing a Pound."⁶² There

⁶⁰ *Ibid.*, December 5, 1771.

⁶¹ Gilmor Papers, III, div. 2, no. 7.

⁶² *Maryland Journal*, September 18-25, 1773. As France was buying some seven million pounds of tobacco a year from England, about one-seventh of the tobacco exports from that country, and a very substantial proportion of the total Scotch exports of forty-six million pounds the French attitude was of importance. See J. B. H. Sheffield, *Observations on the Commerce of the American States*, tables I, III.

were also two other factors that certainly influence the decline in the price of Maryland tobacco in the few years preceding the Revolutionary War. "It was just at this moment that the transition from tobacco culture to wheat culture began," wrote Scharf, "the transition, namely, from a husbandry in which slave labor is more profitable to one in which free labor is more profitable. The meaning of such a change is tremendous [because] the old Province of Maryland rested on tobacco. It owed its existence to tobacco."⁶³ Thus it was inevitable that as the interest of the more influential owners of large estates turned gradually to grains, continued diligence in the close regulation of tobacco cultivation and exportation should begin to wane. Then the second influence was undoubtedly the approach of the struggle with England. Schisms within the colony, if nothing else, prevented that unanimity of action necessary for a constructive commercial policy in which tobacco would have a solid place. And, of course, as the previous regulations had been developed principally for the trade with England there was less and less an incentive to meet the requirements of the merchants of the mother country.

After two years of prorogation Governor Eden found it desirable to convene the Assembly in June, 1773. During the earlier months the newspapers of the province again provided space for letters upon the controversial tobacco-officers' fee bill. One writer strongly recommended the division of the proposed measure into its three natural parts: tobacco inspection, officers' fees, clergy's poll tax. The province needed tobacco regulation, the fees for officials of the province ought to be high enough to attract "gentlemen of the first rank

⁶³ II, 46. See also *American Husbandry*, p. 228.

and capacity," and the question of the legality of the ministers' forty pounds of tobacco was before the courts. On the other hand, another correspondent insisted that "a design is assuredly formed by the Officers to worry the people into submission to their exorbitant terms."⁶⁴ It took three separate sessions of the legislature during 1773 to get through "An Act for the Regulation of the Staple of Tobacco, and for preventing frauds in his Majesty's Customs."⁶⁵ Bitter religious differences had stalemated the first meeting in June. In the midst of the second session the Lower House without consulting the governor adjourned for two weeks so he prorogued it until further notice. The third convention in November got down to business. From the title of the above bill it was evident that the Upper House had consented to a division of the contents, after certain concessions by the Delegates. "This compromise was absolutely necessary for the very commercial existence of the Province," wrote Riley in his history of the General Assembly of Maryland.

According to the new inspection law all tobacco assigned for export after January 1, 1774, had to be brought to the public warehouses, viewed, marked and recasked. Until November of the same year leaf that had been inspected under the old law or by private agreements could be placed directly on board ship. Again the church vestries nominated men for the positions of inspectors with the final appointment resting in the hands of the governor. The remaining provisions

⁶⁴ *Maryland Gazette*, November 4, 1773; *Maryland Journal*, October 30–November 6, 1773.

⁶⁵ *Laws of Md.*, November, 1773, ch. 1. By this chapter the inspection law expired in three years; by ch. 31 of the same acts it was extended for twelve years. However, in 1780 the law was repealed and a new one passed, *ibid.*, June, 1780, ch. 14.

were practically duplicates of the law of 1763 minus, of course, the sections relating to fees of administrative officials and the poll tax for the clergy. For a while there was some difficulty at a few warehouses in handling oversize hogsheads that had been made during the lapse in the laws, but as a whole it seemed that the people of the province quickly worked back into the system of tobacco inspection.⁶⁶

Maryland by that time was well into the preliminaries of the Revolutionary War. As might be expected with the tightening of the non-importation agreements in the colony it became increasingly difficult for British merchants to effect payments for tobacco in merchandise. Yet the reports of the total tobacco trade with Great Britain during the last five years of the third quarter of the century did not show a drop until 1775. In the following table the tobacco indicated as "prize" was sometimes captured honestly and sometimes by collusion. The drastic falling off of English imports of the leaf in 1776 was a combination of the inevitable restrictions of war and the application of the non-importation agreement of the Continental Congress that became effective September 10, 1775. Previous to that date the Maryland planters meeting in Annapolis, June 22, 1774, had decided that "the non-exportation of tobacco [would] depend and take place only on a similar agreement by Virginia and North Carolina, and

⁶⁶ Virginia had continued to supervise the tobacco cultivation and marketing along the lines established by the law of 1730; above, pp. 147-150. By successive reenactments and consolidations that law was brought up to 1775 when it expired by limitation. Hening, *Statutes, Acts of 1742*, ch. 1; 1748, ch. 51; 1764, ch. 18; 1772, ch. 1. See also Cabell, *Early History of Agriculture in Virginia*, p. 92; Brock, "A Succinct Account of Tobacco in Virginia," *Tenth United States Census*, 1880, III, 817.

to commence at such time as may be agreed on, by the deputies for this province and the said colonies."⁶⁷ That resolution in turn had followed one pledging Maryland to join with the other "principal and neighboring" colonies in stopping all trade with Great Britain until the acts closing the port of Boston were repealed.

OFFICIAL REPORTS ON THE TOBACCO TRADE OF GREAT BRITAIN,
1770-1783

(Figures in millions of pounds)

Year	Imported into			Total	Imported from North America
	England	As prize	Scotland		
1770	39.2	0.0	39.2	78.4	...
1775	56.0	0.0	46.0	102.0	101.3
1776	7.3	0.0	7.4	14.7	14.6
1777	0.2	1.9	0.3	2.4	0.4
1778	0.7	8.4	2.9	12.0	1.7
1779	4.4	9.6	3.1	17.1	3.3
1780	7.4	4.9	5.1	17.4	1.0
1781	5.1	6.2	2.0	13.3	1.9
1782	4.4	2.8	2.6	9.8	1.1
1783	2.1	...	14.6

⁶⁷ Taken from *Annals of Commerce*, by David Macpherson, III, 583, IV, 37. The last column clearly showed the decline of American tobacco in trade with England.

There were no further official references to tobacco regulations up to the outbreak of the war. However, during the intervening months the provincial newspapers carried many notices of addresses by London merchants to the Crown that complained of "the interruption of commerce, the distress of the manufacturers, the diminution of his Majesty's revenues." They estimated that in London every fifth man was directly affected by the disruption of trade with North America.⁶⁸

⁶⁸ *Maryland Gazette*, June 30, 1774.

⁶⁹ For instance the *Maryland Journal*, March 13, June 1, 1775.

That tobacco would open other channels of trade to European countries was to be expected. Hogsheads were sent to some of the foreign West Indies for re-exportation to the British West Indies and then to England. In fact in 1780 Parliament legalized that roundabout trading. Smuggling continued, and it was known that direct trade with France was not only carried on but once the war had started was encouraged to provide credits for war supplies.⁶⁹

⁶⁹ See Gray, pp. 589-592. In September, 1775, the Earl of Rochford sent a protest to the British chargé d'affaires in Paris about "the Encouragement given to carrying Tobacco & other American Products directly to France. . . . This is publickly known to be an illicit Trade at all times, and at this Juncture in particular" because it allowed the purchase of arms and ammunition. B. F. Steven's *Facsimiles of European Manuscripts Relating to America*, XIII, no. 1304.

CHAPTER X CONCLUSIONS

The public officials in Maryland during the colonial period who were responsible for the tobacco trade found themselves swirled by powerful cross currents, an inevitable experience in any community which is not controlled by a ruthless purposeful government. At that time probably the swiftest currents were three: English mercantilism, American pioneer individualism and the boundaryless, ageless antagonism between social-economic classes. Minor eddies were changes in the government of England, European wars, inter-colonial disagreements and within Maryland the homely task of providing food and clothing for day-to-day living in spite of the gold from tobacco leaves. The English mercantilists soon found that although a house searching type of economic regulation might work fairly well within the confines of their own country, their philosophy contained contradictory premises when extended to colonial areas. One premise rested upon individual and collective submission to a central government. The other demanded untiring initiative by adventurers in the exploitation of virgin lands. As might be expected the colonial settlers found it hard to reconcile those two points of view. And the freemen of Maryland did not in fact make much of an effort to accept unquestioned the advisory orders of either their Proprietor or the Crown. When into such conflict between theory and practice were introduced the basal schisms between the poor and rich, the small and large planters, one can appreciate that such tobacco legislation as did become effective was indeed concerned with the primal elements of provincial existence.

The starts and steps of tobacco supervision in colonial Maryland have been detailed. In the actual cultivation of tobacco very little progress was made during that century and a half. One may state with equal accuracy that essentially the same methods prevail today. To be sure the planting and early tending of the tobacco plants are now facilitated by modern agricultural implements, but from this stage on to the finished hogshead packed with air-cured Maryland leaf there is no appreciable difference between farm practices in 1935 and those in 1635.

Direct control of the amount of tobacco produced in early Maryland was spasmodically successful. The most marked progress in that direction came indirectly through the provisions of the basic act that was delayed until 1747. That act by establishing a system of inspection for all leaf intended for domestic monetary uses or foreign export necessarily reduced the amount put on the markets. Difficult as it is to judge with accuracy the results of such indirect quantitative controls it seems reasonable to conclude that they furthered the ultimate purpose, namely, profits. Certainly the continuation of the essentials of the 1747 act to the Revolution reflected majority approval. It is pertinent to note that the quantitative control of tobacco today has come less through acreage restrictions, voluntary or forced, than through the establishment of definite tobacco types the production of which so far has been limited by natural elements of soil and climate.¹ That the maladjustments giving rise to similar market surpluses for many agricultural products have continued through the years to the present time is tragically evident; furthermore, now our whole country is affected.

¹ For recent modifications see W. W. Graves, Jr., "Effects of AAA on Tobacco Production," *Harvard Business Review*, XIII.

Maryland colonial planters made progress in the marketing of their staple. Some functions were distinctly improved such as the assembling and storing of the leaf for commercial purposes. The financing of the transactions was in accord with the times, though it did appear that the time element in the ocean voyage and the consignment practices threw an unnecessary burden on the farmers. It was in the function of classification of tobacco that stagnation seemed most evident. Yet even there one is forced to observe rather than condemn. At that time there were in most shipments just two types of tobacco, the Maryland Oronoco and the Virginia sweet scented. Except in the few districts that bordered the two colonies there was little chance to mix the two types because the leaf in bulk seldom went to a common export market. Nor was there much demand by smokers for finer distinctions in grades and mixtures. And finally, experimenting with tobacco types was practically an unbroached subject. Thus public inspection and classification in the colonial period came to mean the separation of the good leaf from the bad with at times a three-grade basis of best, good and unmerchantable. As has been mentioned, private inspection was used by some of the most enterprising factors, but there again such major grade factors as group, quality, color and length were but roughly approximated. When it is realized that tentative official public standards for tobacco in this country were not completed until 1922 and an official federal grading service not established earlier than 1930, the progress of the Maryland planters was not discouraging.²

² References on tobacco classification: C. E. Gage, "American Tobacco Types, Uses and Markets," U. S. Dept. Agri., *Circular No. 249* pp. 22-25, 86; Gage, "Tobacco Grading," U. S. Dept. Agri., *Yearbook*, 1930, pp. 519-522; J. V. Morrow, "Tobacco

Existing records allow no question about tobacco being the foundation of the more-than-subsistence economic life of Maryland from 1634 to 1775. As such there was one and only one basic problem, namely, a profitable price for the leaf. And the solution of that problem rested in turn upon satisfactory answers to two secondary ones, surplus production and the maintenance of quality. Neither of the secondary problems was solved with the result that the price for tobacco remained uncertain, often unsatisfactory. However, there were positive gains. The legislation and the practices that developed established a trend toward the objective. Possibly more important was the crystallization of the idea of a self-imposed public supervision over a necessary commodity and the evolution of an administrative technique. Finally it is desirable to mention that the varied material relating to tobacco in Maryland during the colonial period repeatedly emphasized that there are today few fundamental agricultural experiences, the bases for which were not indicated in those earlier years.

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