

**MARYLAND'S INFLUENCE IN FOUNDING  
A NATIONAL COMMONWEALTH, OR, THE  
HISTORY OF THE ACCESSION OF PUBLIC  
LANDS BY THE OLD CONFEDERATION; A  
PAPER READ BEFORE THE MARYLAND  
HISTORICAL SOCIETY, APRIL 9, 1877**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649644155

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Cover @ 2017

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**HERBERT B. ADAMS**

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*Franklin*

MARYLAND'S  
INFLUENCE IN FOUNDING A  
**National Commonwealth,**  
OR THE  
History of the Accession of Public Lands

BY THE OLD CONFEDERATION.



A Paper read before the Maryland Historical Society,

April 9, 1877.

BY

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Baltimore, 1877.

*"The vacant lands are a favorite object to Maryland."*

MADISON,

*On the plan for a general revenue, 1788.*

*"There is nothing which binds one country or one State to another but interest."*

WASHINGTON,

*On the Patomac Scheme for Opening a Channel of Trade between East and West, 1786.*

*"There is no truth more thoroughly established, than that there exists in the economy and course of nature an indissoluble union between virtue and happiness, between duty and advantage, between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and felicity."*

WASHINGTON,

*Inaugural Address, 1789.*

PRINTED BY JOHN MURPHY,

PRINTER TO THE MARYLAND HISTORICAL SOCIETY,

BALTIMORE, 1877.



## MARYLAND'S INFLUENCE

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### Founding a National Commonwealth.

THE claims of England to the lands immediately west of the Alleghany mountains and to the region north-west of the Ohio river, were successfully vindicated in the French and Indian War. By the treaty of Paris, in 1763, the English became the acknowledged masters, not only of the disputed lands back of their settlements, but of Canada and of the entire Western country as far as the Mississippi river. This was the first curtailment of Louisiana, that vast inland region, over which France had extended her claims by virtue of explorations from Canada to the Gulf of Mexico. Although now restricted by the treaty of Paris to the comparatively unknown territory beyond the Mississippi, Louisiana was destined to undergo still further diminution, and, like Virginia, which was once a geographical term for half a continent, to become finally a state of definite limits and historic character. Ceded by

France to Spain, at the close of the above-mentioned war, in compensation for losses sustained by the latter in aiding France against England, and ceded back again to France in 1800, through the influence of Napoleon, these lands beyond the Mississippi were purchased by our Government of the First Consul in 1803, and out of the southeastern portion of the so-called "Louisiana Purchase," that State<sup>1</sup> was created, in 1812, which perpetuates the name of Louis XIV., as Virginia does the fame of a virgin queen.

But it is not with Louisiana or the Louisiana Purchase that we are especially concerned in this paper. We have to do with a still earlier accession of national territory, with those lands which were separated from French dominion by conquest and by the treaty of Paris, and, more especially, with that triangular region east of the Mississippi, south of the Great Lakes, and north-west of the Ohio, for here, as we shall see, was established the first territorial commonwealth of the old Confederation, and that too through the effective influence and far-sighted policy of Maryland

<sup>1</sup>The final outcome of French dominion in this country is Louisiana, with its French inheritance of Roman Law. Having passed of late years through many corrupt phases of prætorian, proconsular, and dictatorial government, it was perhaps an historic necessity that she should revive the Roman theory of sovereignty, as did Louis XIV., by the aid of his court-lawyers, and reassert *la puissance souveraine d'une république* and *l'état c'est moi*, in the form of an enlightened absolutism of its sovereign people.



in opposing the grasping land claims of Virginia and three of the Northern States. The history of the accession of those public lands which are best known to Americans as the North-west Territory, and the constitutional importance of that accession as a basis of permanent union for thirteen loosely confederated States, and as a field for republican expansion under the sovereign control of Congress, may be presented under three general heads :

1. The land claims of Virginia, Massachusetts, Connecticut, and New York.
2. The influence of Maryland in securing a general cession of western territory for the public good.
3. The origin of our territorial government and the true basis of national sovereignty.

#### I. THE LAND CLAIMS.

Having indicated the historic place and territorial situation of the western lands in question, we shall now turn to the specific claims of Virginia, Massachusetts, Connecticut, and New York, the only States, which after the separation of the colonies from the mother country, had any legal title to lands north-west of the Ohio.

The charter granted by James I. to South Virginia, in 1609, was the most comprehensive of all

the colonial charters, for it embraced the entire north-west and, within certain limits, all the islands along the coast of the South Sea. It is not very surprising that the ideas and language of the privy council should have been somewhat hazy as to the exact whereabouts of the South Sea, for Stith,<sup>1</sup> one of the early historians of Virginia, tells us that in 1608, when the London Company were soliciting their patent, an expedition was organized under Captain Newport to sail up the James river and find a passage to the South Sea. Captain John Smith also was once commissioned to seek a new route to China by ascending the Chickahominy! This charter of 1609 is the only one which we shall cite in this paper, for it was especially against the enormous claims of Virginia that Maryland raised so just and effective a protest. The following is the grant:

“All those lands, countries and territories situate, lying and being in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the sea-coast to the northward two hundred miles and from the said Point or Cape Comfort, all along the sea-coast to the southward two hundred miles; and all that space and circuit of land lying from the sea-coast of the precinct aforesaid, up into the land throughout,

<sup>1</sup>Stith's *History of the first discovery and settlement of Virginia*. Reprinted for Joseph Sabin, 1865, p. 77.

from sea to sea, west and north-west; and also all the islands lying within one hundred miles along the coast of both seas of the precinct aforesaid."<sup>1</sup>

The extraordinary ambiguity of this grant of 1609, which was always appealed to as a legal title by Virginia, was first shown by Thomas Paine, the great publicist of the American and French Revolutions, in a pamphlet called "Public Good,"<sup>2</sup> written in 1780, and containing, as the author says upon his title page, "an investigation of the claims of Virginia to the vacant western territory, and of the right of the United States to the same; with some outlines of a plan for laying out a new State, to be applied as a fund, for carrying on the war, or redeeming the national debt." Paine shows how the words of the charter of 1609 could be interpreted in different ways; for example, the words "all along the sea-coast" might signify a straight line or the indented line of the coast. The chief ambiguity, however, lay in the interpretation of the words "up into the land throughout, from sea to sea, west and north-west." From which point was the north-west line to be drawn, from the point on the sea-coast two hundred miles above, or from the point two hundred miles below

<sup>1</sup> *Laws of the United States respecting the Public Lands*, (Washington, 1828,) p. 81.

<sup>2</sup> *Works of Thomas Paine*, L., p. 267.