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Land and Quit-Rent Reform in Virginia during the Administration of Francis Nicholson, 1698-1705

Margaret Conner Fortier

College of William & Mary - Arts & Sciences

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LAND AND QUIT-RENT REFORM IN VIRGINIA
DURING THE ADMINISTRATION OF
FRANCIS NICHOLSON, 1698-1705

A Thesis
Presented to
The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment
Of the Requirements for the Degree of
Master of Arts

By
Margaret Fortier
1970
APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of
Master of Arts

[Signature]
Author

Approved, August 1970

[Signature]
Bruce T. McCully, Ph.D.

[Signature]
John Selby, Ph.D.

[Signature]
Jane Carson, Ph.D.
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ABSTRACT

This study examines the attempts made to initiate land and quit-rent reforms in Virginia at the end of the seventeenth century.

It includes a discussion of the conditions existing in the colony at that time, the problems facing England as she sought to administer her oldest overseas territory, and the means chosen to solve these problems.

More specifically, this study details the degree of success experienced by Governor Francis Nicholson as he sought to implement the instructions of the home government.
LAND AND QUIT-RENT REFORM IN VIRGINIA
1698-1705
CHAPTER I
INTRODUCTION - VIRGINIA IN 1698

At the close of the seventeenth century there were five royal colonies on the mainland of British North America. Virginia, founded in 1607, was the oldest. From the original settlement at Jamestown its frontier had, by 1698, just begun to move beyond the fall line of its rivers into the area known as the Piedmont. Despite its continual growth, Virginia still resembled "a wild desert; the High-lands overgrown with Trees, and the Low-lands sunk with Water, Marsh, and Swamp: The few Plantations and clear'd Grounds bearing no Proportion to the rough and uncultivated."  

As with all English colonizing ventures, the founding of Virginia had been the result of private initiative and investment. In a sense, the original English settlements were not colonies at all, but rather "private estates, the proprietors of which . . . were endowed with wide powers and privileges, conferred upon them by royal charters." During its formative years the colony was administered by the Virginia Company, a joint-stock venture destined to have a short, turbulent career in the field of colonization. With the dissolution of this company in 1624, the Crown, for the first time, undertook the task of

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directly governing one of its overseas possessions: Virginia's problems were now those of the King and his advisors. 2

The principal figure in the system inaugurated in Virginia, and eventually applied to all other royal colonies, was the governor. He was the official representative of the Crown, and was responsible for securing obedience to English law. The governor was, in effect, the "connecting link between the colonial government and the home officials," possessing prerogatives which in England belonged only to the Crown, and which in Virginia rendered him the ultimate authority on every issue. 3 He was simultaneously the representative of the Crown, commander-in-chief of the military, Vice Admiral of the surrounding waters, Lord Treasurer, Keeper of the Seal, chief justice of all the courts, president of the council, and head of the established Church. 4

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Upon his appointment to an overseas colony, a governor received a commission from the Crown which vested him with all the power he would legitimately exercise in the province. Accompanying this broad statement of authority were two sets of instructions: one pertaining to trade; the other to civil government. These were the "formal expressions of the king's will as to the manner in which the powers granted in the commission were to be executed."  

A Council of State was established as a check against the arbitrary use of power by the governor. This body bridged the gap between the mother country and the colonists; as far as England was concerned it was, "next to the governor, the most important unit in the political framework of the province." Councillors were appointed by the Crown, but, unlike the governors, who came almost exclusively from England, they were drawn from among the leaders of the local population. Through its executive, legislative, and judicial functions the council entered into every phase of its colony's government.  

In its executive capacity the council was "to advise and assist the Governor in all Important Matters of Government, and to be a restraint upon him, if he should attempt to exceed the bounds of his Commission." As a rule, several of the instructions issued to the

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governor would stipulate that he seek, if not take, the advice of the
council. But only in such instances was a governor obliged to reveal
his instructions to the councillors.

Duplication of the intricate judicial system which existed in
England was unthinkable in the colonies. Accordingly, Virginia was
served by a system of county courts and one superior court. The let-
ter, composed of the governor and councillors, had ultimate jurisdic-
tion over every manner of case. When the General Court convened,
each councillor became the equal of the governor; so it was in its
judicial capacity that the council enjoyed its greatest freedom from
executive pressure.

The laws enforced by the General Court were, very often, those
which the same councillors had helped to enact, for the council was
also the upper house of legislature. Usually selected from the
prominent families of the colony, the councillors represented not the
bulk of the population, but wealth and influence. Since these men
owed their offices to the good will of the Crown, usually enjoyed life
tenure, and were anxious to preserve their positions in the colony, the Council of State tended to be rather conservative in outlook.

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8 Labaree, Royal Government, 31, 95-96.
9 Hartwell et al., The Present State of Virginia, 44-46; Locke and
Blair, "Some of the Chief Grievances of the present constitution
of Virginia . . .," Locke MSS., o9, f. 17, Bodleian Library,
C.R.P.
10 Labaree, Royal Government, 407-08.
11 Labaree, op. cit., 135-38.
In theory, the council's position was extremely strong. The powers it possessed provided it with countless opportunities to become a potent force in the political life of the colony. By the eighteenth century the councillors had learned to use this power to the advantage of themselves and their class by siding with either governor or assembly as the situation demanded. The means by which royal governors might circumvent the restraining influences of the council had all but disappeared by 1700. Only one advantage remained, but this—the councillors' desire for the lucrative posts at the governor's disposal—was of considerable importance.

Completing the organisational system of British colonial government was the local assembly. The first such body, the House of Burgesses, was authorized in Virginia by the Great Charter of 1619 and held its first meeting the following year. When the Crown assumed control of the colony in 1624, the House of Burgesses was permitted to continue, thus ensuring the establishment of the principle of a representative assembly sharing in the passage of local legislation. The practice

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began in Virginia was eventually extended to every royal colony, and
played an important role in the relationship of colony to mother
country.

The governor was empowered to summon (upon advice of the council),
prorogue, and adjourn the assembly. He possessed an absolute veto over
all legislation passed by the two houses. As a further check, all laws
enacted in the colonial legislature and signed by the governor were
transmitted to England, where they met with royal scrutiny. Any colo-
nial law deemed to be an intrusion on the royal prerogative or inimical
to the interests of the empire would be disallowed. 15

Desiring a more positive role in the passage of colonial legisla-
tion, officials at home included in each governor's instructions cer-
tain laws expressly desired by the Crown. If the system were functioning
properly, however, the local legislature could not be effectively coer-
ced by the governor; initiative rested with the assembly, and the gover-
nor merely approved or rejected the laws passed by this body. While he
could do much to influence the passage of certain legislation, the gover-
nor could do nothing to assure it. 16 From the English point of view
this was a grave flaw in the colonial system; it meant that either the

15 Labaree, Royal Government, 218.
16 Labaree, op. cit., 219.
council or the elected representatives in the lower house could prevent the enactment of legislation suggested in the governor's instructions.17

It was acknowledged by most men of the day that royal authority did not end with the political administration of the colonies. Rather, this authority was seen permeating the entire atmosphere in which the colonists lived and worked. This was especially true in Virginia, where land was the most important single commodity in the social, economic, and political order.

Unlike the New England colonies, Virginia did not contain large groups of people settled in towns and engaged in commercial activities on a wide scale. Tradesmen and merchants were few in number, and those who did settle in Virginia found their operations hampered by the sprawling nature of the colony. Not insensible to the limitations of such conditions, the home government and the General Assembly attempted to bring the people together in towns, but by 1698 they had met with little success.18 In light of this, it is not surprising that society in Virginia was based on property, and that real property was of fundamental importance. With land came the franchise, economic independence, and social status—the latter being measured almost exclusively by the size of one's estate. Though a majority of the population were small

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17 Hartwell et al., The Present State of Virginia, 8-12.

farmers, the large planters possessed the wealth and the privileges that accompanied it. It was, of course, from this group that the members of the Council of State were chosen.

To say that Virginia society was agrarian is not enough. The economy of the colony was based entirely on one crop, tobacco. "It was this Indian plant," wrote T. J. Wertenbaker, "so despised by many of the men of the time, which determined the life of the colony and shaped its destinies for two and a half centuries." The dangers inherent in a one-crop economy were evident to many at the time, but few of the suggestions for diversification were implemented.

The granting of land in Virginia was originally in the hands of the Virginia Company. The Charter of 1618 provided that:

... for all persons ... which during the next seven years ... shall go into Virginia with intent there to inhabit, if they continue there three years or dye after they are shipped there shall be a grant made of fifty acres for every person ... which grants to be made respectively to such persons and their heirs at whose charges the said persons going


21 Hartwell et al., The Present State of Virginia, 1-5; Beverley, The History and Present State of Virginia, 411.
to inhabit in Virginia shall be transported with reservation of twelve pence yearly rent for every fifty acres to be answered to the said Treasurer and Company . . . after the first seven years of every such grant . . .

Though empowered to make grants in Virginia, the company was in no sense the owner of the land. The ultimate disposition of all the colony's land lay with the King, and its occupants were his tenants: Virginia was "a legal appendage of the King's Manor of East Greenwich to be used as he saw fit." 23

During the life of the Virginia Company, the Crown's ownership of the extensive lands in the colony was merely a tacit assumption, but, with the company's dissolution, the right of the Crown to the land became explicit. Rather than initiate a new method of granting land, the Crown retained the system of headrights used by the company. What had begun as a means of paying dividends on shares of stock became the legally accepted method by which land in Virginia might be acquired. 24

The operation of the headright system, as it had been conceived, was outlined by Edward Randolph in 1696. His detailed, yet concise, summary of the steps involved is perhaps the best account of the system:

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The manner of taking up land in Virginia is this. Every adventurer planter has, upon his arrival, a right to fifty acres of land in the Colony. If he intends to take up any, he must first take the oath, before the council in a County Court, of the number of persons that he imports, and they of course grant him a certificate thereon, which is entered at the Secretary's office and is then produced to the Surveyor of the County where the land lies waste. He makes a survey allowing fifty acres according to the number of his rights (persons imported) which with the right is carried to the Secretary's office, in which a patent is made and signed by the Governor in Council, who causes the seal of the Colony to be affixed to it. 25

Figuring prominently as a motive for the retention of the headright system was the belief that indentured servants, who bound themselves to a master for a given period in return for their passage to America, would receive land at the end of their tenure. It was hoped that in this way the colony's population would be increased. Unfortunately, the practice of giving land to the indentured servants never became firmly established; rather than serving to augment the population, the system encouraged land speculation in Virginia. 26

According to law, a man was required to fulfill two conditions upon laying claim to a piece of land. First, he was obliged to "seat"


or "plant" his claim within three years of the date of patent. To
"seat" the land he had to build a house or keep stock on it for one year,
while "planting" involved the clearing and tending of an acre for one
year. In other words, as Philip Bruce explains, "All requirements in
this respect were thought to have been performed if the patentee had
erected a small cabin of the meanest pretensions . . . , and had put
down an acre of tobacco or corn whether subsequently allowed to choke
with weeds or only tended with sufficient care to produce an insignifi-
cant crop." Any land not properly seated or planted within the three
years allotted would return to the Crown to be reassigned.

A new landholder was also obliged to pay a "quit-rent," a tax of
two shillings for every 100 acres of land held. Feudal in origin, this
tax was a "commutation in money of certain medieval villain obligations,"
such as working for the lord on his manor for a certain period each year.
When this sum was paid, the individual was "quit" of all other annual
feudal charges.

The practice of paying a quit-rent in Virginia was established by
law in the Charter of 1618. Anyone receiving land by headright was

1320 II, p. 606; Hartwell et al., The Present State of Virginia,
19.

28 Bruce, Economic History of Virginia, I, 553-54.
29 Hartwell et al., The Present State of Virginia, 20.
30 Beverly W. Bond, Jr., The Quit-Rent System in the American
Colonies (New Haven, 1919), Introduction by Charles M. Andrews,
16, 25.
obliged to pay twelve pence, or one shilling, for every fifty acres.
Payment of the tax was not to begin until seven years after the issuance of the land patent.31 Prior to the demise of the Virginia Company in 1624, the quit-rent was paid to one of its officials living in the colony. Thereafter the tax was to go to the Crown, but it was not until the appointment of Jerome Hawley as treasurer of the colony in 1637 that any attempt was made to collect the fee.32 In 1639/40 the Virginia Assembly called for the collection of the quit-rent on the basis that had originally been established.33

The revenue exacted through the quit-rent was not sent to England; instead it was held in Virginia for the support of the government there and for the financing of any emergencies that might arise.34 From time to time it was ordered that certain annual expenses, such as the salary

31 The Three Charters of the Virginia Company, 107.
32 Bruce, Economic History of Virginia, I, 556.
33 William Hening, comp., Statutes at Large: Being a Collection of All the Laws of Virginia from the First Session of the Legislature, in the Year 1619 (13 vols.; New York, 1823), I, 228.
of Commissary Blair, be paid from the quit-rent funds. In 1645 the assembly ruled that:

all the quit rents for land due to his majesty in this colony be disposed as followeth (viz.): first allowing to the treasurer for the time being his salary of £500 per annum, as the revenues shall amount thereto, and then what shall arise by surplusage the account thereof to be presented to the Governor and Council and then to be disposed of by the Assembly as they shall think fit.

The collection of the quit-rents was managed by the county sheriffs who received as remuneration ten per cent of the total gathered in their respective counties. The balance was to be surrendered to the receiver general, whose records would then be scrutinised by the auditor. For an extended period (1688-1704), however, William Byrd I acted in both capacities in Virginia, thus removing the system of checks originally established by the Crown.

It became obvious quite early that tobacco, rather than money, would be the most convenient medium for payment of the tax. Accordingly, the Virginia Assembly declared in 1645/46 that quit-rents might be received in tobacco at the rate of three pence per pound. In 1660/61

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35 Laberge, Royal Instructions, II, l92-93; Treasury Warrant, November 19, 1698, CO 5/1318, ff. 32-32a, P.R.O.; C.R.P.; John Povey on Plantations in America, August 26, 1701, C.T.B., XVI, 359.

36 Hening, Statutes at Large, I, 306-07.

37 Hartwell to Popple, September 13, 1697, G.S.P.O., 1696-1697, No. 1320 II, p. 606; Francis Nicholson to the Commissioners of Trade and Plantations, July 1, 1699, CO 5/1310, ff. 4-9, P.R.O., C.R.P.

38 Hening, Statutes at Large, I, 316.
the rate was lowered to two pence per pound, this figure being reaffirmed the following year.39 Henry Hartwell noted in 1697 that the quit-rent tobacco was being collected at a rate of one penny per pound.

Though the quit-rent formed no great burden to the individual planter, and all the revenue collected did remain in the colony, the Virginia planters objected to the tax. They found it hard to accept the limitation of ownership of their land, and they believed that only land actually under cultivation should be assessed. As it stood, all land, regardless of its quality or degree of cultivation, was taxed to the same extent.40 In their opposition to the quit-rent the landholders found important and influential allies among the council membership. Themselves holders of extensive claims, the councillors understood the attitude of those who sought to minimize their payments, and their varied offices placed them in a position to do more than sympathize. Through its power to advise and consent to the governor's acts, the council possessed a semi-veto on all land-grant regulations. Also, as members of the General Court, the councillors were able to interpret the forfeiture laws with the greatest leniency.41

The officials in England did not long remain ignorant of the fact that planters and some officials had devised means to line their pockets

41 Voorhis, "Land Grant Policy . . . ," 77; Bruce, Economic History of Virginia, I, 560; Williams, "Political Alignments in Colonial Virginia . . . ," 8.
42 Williams, "Political Alignments in Colonial Virginia . . . ," 5.
at the expense of the royal treasury. In 1697 Commissary Blair travelled
to London for the purpose of revealing many unpleasant details about
practices in Virginia. Engaged in one of the many wars which characteri-
zed this period in her history, England could ill afford the additional
drain on her treasury which would result from low quit-rent revenue. 13

The handling of this matter fell to the newly-created Board of
Trade. The last in a series of attempts to devise a satisfactory organ
for the direction of England's overseas settlements, the Board had begun
to function in 1696. Though purely an advisory body, the Board was of
enormous importance in the relationship between mother country and colo-
nies. Among its duties were the framing of instructions for the royal
governors; the enforcing of trade regulations which tied the colonies
to England economically; the recommending of men for seats on the pro-
vincial councils; the hearing of complaints lodged against the repre-
sentatives of the Crown; and the examining of colonial legislation with
an eye to its disallowance or confirmation. 14

13 Peter Laslett, "John Locke, The Great Recoinage and the Origins
of the Board of Trade: 1695-1698," William and Mary Quarterly,

14 John Stanhope to the Council of Trade and Plantations, October 18,
1714, Locke MSS., d7, f. 13, Bodleian Library, C.R.P.; Richard L.
Morton, Colonial Virginia, (2 vols.; Chapel Hill, 1960), Vol. I:
The Tidewater Period, 1607-1710, 352-353; Flippin, The Royal
Government in Virginia, 37-42; Oliver Morton Dickerson, American
Colonial Government 1696-1765 (Cleveland, 1912), 24-25; T.K.
Steine, Politics of Colonial Policy: The Board of Trade in
The Board's opportunity to initiate reform in Virginia came in 1698, when it had to prepare a set of instructions for the newly-appointed governor of the colony, Colonel Francis Nicholson. The change of governors had been precipitated by Edmund Andros' unfortunate clash with a powerful faction in the colony headed by the cantankerous James Blair. This group had specifically requested the appointment of Nicholson, so the Board had reason to hope that he might be able to work effectively with those men whose cooperation he would need if reform were to become a reality.

Governor Nicholson was no stranger to Virginia, having served there as lieutenant-governor from 1690 to 1692. In the course of his long and varied career, he was a "soldier, a courier, [and] an occasional envoy" in Morocco from 1680 to 1684, a regimental captain, council member and lieutenant-governor under Andros in the Dominion of New England (1685-1688), governor of Maryland (1694-1698), military governor of Nova Scotia (1713-1714), and governor of South Carolina (1720-1728). A man of considerable ability, Nicholson often revealed a violent temper. Despite this shortcoming, he was "almost the only Englishman of his time who might be called a professional colonial governor."


The composition of the council with which Nicholson had to deal altered several times during his term of office. In alphabetical order, the councillors who served during those years were as follows:

John Armistead . . . . according to Nicholson's instructions, one of the original members.

William Bassett . . . . appointed in 1702 upon the suggestion of Nicholson; continued through governor's term; gave tacit approval to petition against Nicholson.

James Blair . . . . . . appointed in 1703; continued through governor's term; signed petition against Nicholson.

William Byrd I . . . . member of original council; died in December 1704; gave tacit approval to the petition against Nicholson.

William Byrd II . . . . succeeded his father; continued through governor's term.

Robert Carter . . . . . appointed in December, 1699; continued through governor's term; signed petition against Nicholson.

John Custis . . . . . . appointed in December, 1699; continued through governor's term; signed petition against Nicholson.

Dudley Diggs . . . . . replaced Charles Scarburgh, February 1703/04; continued through governor's term.

Henry Duke . . . . . appointed in 1702; continued through governor's term.

Benjamin Harrison . . member of original council; continued through governor's term; signed petition against Nicholson.

Edward Hill . . . . . member of original council; remained at least until 1703.

Edmund Jenings . . . . . member of original council; continued through governor's term; actively supported Nicholson.

Richard Johnson . . . . . member of original council; date of departure unknown.

Richard Lee . . . . . member of original council; asked to be removed in October, 1699.

John Lewis . . . . . appointed in 1704; continued through governor's term.

John Lightfoot . . . . . member of original council; continued through governor's term; signed petition against Nicholson.

Philip Ludwell . . . . . suggested by Nicholson in 1699 and 1700; continued through governor's term; signed petition against Nicholson.

Matthew Page . . . . . member of original council; died in 1703; signed petition against Nicholson.

Daniel Parke . . . . . member of original council; in England from 1697.

Robert Quary . . . . . surveyor general of the colonies; appointed in 1703; resided in Pennsylvania.

Charles Scarburgh . . . . . member of original council; died in 1703.

John Smith . . . . . appointed in 1703 to succeed Page; continued through governor's term.

Ralph Worsley . . . . . member of original council; died in 1701.

The social, economic, and political structure in Virginia thus ensured that the gentlemen of the council would be among those most
affected by an attempt at reform. They were men of position, wealth
and influence; their willingness to initiate reforms designed to curb
these privileges was Nicholson's chief problem as he began his
governorship.
CHAPTER II
DISTURBING NEWS FROM VIRGINIA

The natural obstacle of distance had long prevented English officials from acquiring much firsthand knowledge of the American colonies. Only as the seventeenth century drew to a close did a more thorough acquaintance with colonial affairs begin to emerge. Unfortunately the information now reaching the mother country was often quite disturbing. Nowhere was this more true than in the Board of Trade's investigation into conditions in Virginia. Pertinent information in this regard was supplied by Edward Chilton, a lawyer and trustee of the College of William and Mary; Edward Randolph, Surveyor General of Customs in the colonies; Henry Hartwell, a member of Virginia's Council of State; and James Blair, Commissary of the Bishop of London and president of the College of William and Mary.


50 "Queries put to Henry Hartwell," August 30, 1697, Locke MSS, a30, f. 59, Bodleian Library, C.R.F.
Blair's complaints were heard by John Locke, a working member of the Board of Trade and a man of considerable experience in colonial affairs. Ostensibly in London on college business, Blair was actually engaged in one of the many intrigues which made him a thorn in the side of every Virginia governor for half a century; this time (1696) he sought the removal of Sir Edmund Andros from the colony's executive office. He took advantage of his visit to reveal numerous irregularities in the province and offer possible remedies for them. The result of the discussions between Locke and Blair was a report on many aspects of Virginia's economic and political life. Soon thereafter the Commissary joined Chilton and Hartwell in yet another account of the colony's difficulties.

One of the most vexing problems to be faced in Virginia, the Board was told, was underpopulation. Since white women and boys under sixteen years of age were not included in the census returns, the exact number of inhabitants in the colony cannot be determined. One estimate reaching the Board in 1697 placed the number of adult males and Negro


52 Locke and Blair, "Some of the Chief Grievances of the present constitution of Virginia . . . ," Locke MSS, e9, passim, Bodleian Library, C.R.P.

53 Hartwell, et al., The Present State of Virginia, passim.
women at a figure under twenty thousand. For an area the size of Virginia this was indeed a poor showing, and the Board's members had every reason to be perplexed. The province was repeatedly praised by contemporaries for its many natural advantages such as its fertile soil, healthful climate, abundant resources, and commodious rivers.

One Virginian declared that it was "extremely to be lamented, that such a vast Tract of Land, so Pleasant, so Fruitful, so Healthy, so Capable of all sorts of Improvement, for the Support and Encouragement of the Inhabitants . . . should be almost wholly rude, and uncultivated for want of People."

As far as Henry Hartwell was concerned, the reasons for Virginia's small population were the "engrossment of great tracts of land, and the want of towns." A similar assessment was made in the report by Hartwell, Blair and Chilton. And in the account written by Blair, allegedly under Locke's direction, it was stated that the "ancient Encouragement of 50 Acres per poll" had been "strangely perverted, and frustrated" by various illegal schemes and by the failure of the first

58 Hartwell et al., The Present State of Virginia, 4-19.
settlers to "seat that Country in Townshippes as in New England ... ."

Edward Randolph ignored the lack of organized settlement as a possible cause of underpopulation. As he saw it:

the chief and only reason is that the inhabitants have been and still are discouraged and hindered from planting tobacco in that colony and servants are not willing to go there as formerly because members of Council and others who make an interest in the Government have from time to time procured grants of very large tracts of land, so that for many years there has been no wasteland to be taken by those who bring with them servants, or by servants who have served their time.

He declared that many planters in the colony held from "twenty to thirty thousand acres of land apiece ... ." Hartwell's reference to some holdings as large as fifty or sixty thousand acres were even more alarming.


Though the rent roll of 1704 would seem to prove that these figures had been greatly exaggerated, they naturally attracted the attention of the authorities at home. The law specified that fifty acres be granted for each person imported into the colony. The population remained small, yet thousands of acres had been patented. If theory and practice had been one, this situation could not have existed.

Examples of the methods used by planters to circumvent restrictions were amply provided by the gentlemen questioned. False surveys were said to have been made whereby a surplus of land would fall to men who had no legal claim to it. Land was also acquired by the purchase of headrights from the secretary of the colony for sums of from one to five shillings. Ship masters had perfected a technique of claiming rights to land by registering a claim for fifty acres each time they journeyed to the colony although they were entitled to no further claims after their first voyage. Negro servants had been placed upon the land as a means of staking a claim, but slaves were in no sense the owners of

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63 Westenbaker, The Planters of Colonial Virginia, 41-55, 183-245. This rent roll was the most comprehensive compilation to date, but there was still considerable acreage which remained unlisted for one reason or another. For a discussion of the shortcomings of the 1704 rent roll see Voorhis, "The Land Grant Policy of Colonial Virginia," 69-73, 182.

64 Hartwell et al., The Present State of Virginia, op. cit., 17-18; Locke and Blair, "Some of the Chief Grievances of the present constitution of Virginia," Locke MSS, e9, ff. 3-4, Bodleian Library, C.R.P.
the land procured through their person. The disclosure of these malpractices demonstrated how the old system of headrights, originally intended as a means of attracting adventurers to Virginia, was instead achieving the opposite effect.

These revelations had a definite effect upon the members of the Board of Trade. In November 1697 that body replied to an inquiry of the Lord Justices concerning the settlement of disbanded soldiers. It recommended that only skilled craftsmen be sent to Virginia, since anyone dependent upon the land for his livelihood would be seriously handicapped. The Board explained that "owing to irregularities which have long been practiced in engrossing all the lands that lie conveniently for trade, any land now falling to the share of a person arriving there would be of small advantage to him."

Important as it was, the acquisition of land was only one aspect of a complex problem. Having established their claims at the secretary's office, planters were obliged to fulfill certain additional requirements. The Board might have been content to overlook the other irregularities had these obligations been met, since the revenue from the collection of quit-rents for patented land might have seemed sufficient to the royal advisors. However, despite the testimony of

Governor Andros, the Board was persuaded that all the potential revenue from the quit-rents was not forthcoming. The letter of the law, the Board was told, had been flaunted with respect to collection of the quit-rents and the seating and planting of land, with a resulting loss of Crown revenue.

Disregard for the law in these matters was deeply rooted in Virginia. In 1647 the general assembly declared that because of the "great neglect in the payment of quit rents," all delinquents would be "destroyed" upon the lands, and proper legal action taken. Still, concealment of land to evade the tax persisted. This evasion prompted Nicholson, during his term as lieutenant-governor, to instruct the sheriffs to work for the completion of a perfect rent roll. "to the demand of every person their Patents and Evidences."

In July, 1697, Andros wrote to the Board that the reports of large tracts of land taken up by some planters were true. However, as far as he was able to discover, this was all done within the bounds of the ancient custom of headrights. Even if the encroachment of land were taking place, he added, the Crown was left at no "particular disadvantage" as long as it received the revenue from the quit-rents. Andros to the Council of Trade and Plantations, July, 1697, C.S.P.C., 1696-1697, No. 1130, p. 590.

Hening, Statutes at Large, I, 351.

During this same period Nicholson made the first attempt by a
royal governor to sue a planter for the Crown's revenue. While small
parcels of land had been re-granted at every Court term for failure by
the patentee to comply with the seating requirements, no grants had "at
any time been seized to the King's use for [non-payment] of quit-rents."
Had Nicholson succeeded in enforcing the penalties of the quit-rent law,
a significant precedent might have been set. As it was, the incoming
governor, Edmund Andros, preferred to avoid trouble and thus did not
meddle in land distribution or quit-rent collection.

The occasional prosecution of seating violations did not eliminate
abuses. In his report Randolph had complained that planters would "cut
down a few trees and make thereof a hut, covering it with bark, and
turn two or three hogs into the woods." This, he charged, was felt to
satisfy the seating requirement. To fulfill their obligation to "plant"
the land, many would "fell twenty or thirty trees and put a little

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70 This case was brought against one Lawrence Smith. When Nichol-
son was called from Virginia in 1693 the case was compounded,
and was, therefore, never completed. "Representation of Edward
Randolph," August 31, 1696, G.S.P.C. 1696-1697, No. 176, p. 90;
"A series of questions put to Edward Randolph . . . ,"
October, 1696, G.S.P.C. 1696-1697, No. 354, p. 188.

71 "A Series of questions put to Edward Randolph . . . ," October,
1696, G.S.P.C. 1696-1697, No. 354, p. 188.

72 Voorhis, "Crown Versus Council . . . ," 503; Stephen Saunders
Webb, "William Blathwayt, Imperial Fixer: Muddling Through to
Empire, 1689-1717," William and Mary Quarterly, 3d Series, XXVI
(July, 1969), 399-401.
Indian corn in the ground among them as they lie and sometimes make a
beginning to serve it, but take no care of their crop, nor make any
further use of the land." Randolph, once again exaggerating the situ-
ation, estimated that some five million acres of land had been granted
in Virginia, and that for every 125 acres thus granted, only one had
actually been cultivated.

There was an important connection between seating requirements
and collection of quit-rents. According to law, a sheriff who dis-
covered concealment of land by a planter should "distraint" the property
found on that land. However, if the title-holder failed to build
upon the property, nothing could be claimed for the Crown in lieu of
the tax. There was virtually no recourse for a sheriff when, as often
happened, the delinquent taxpayer resided abroad or in another county.
Had the requirements of the law been met in regard to seating and

73 "Representation of Edward Randolph . . . ," August 31, 1696,
C.S.F.C. 1696-1697, No. 176, p. 89.
74 "A Series of questions put to Edward Randolph . . . ;" October,
1696, C.S.F.C. 1696-1697, No. 154, p. 188.
75 The Oxford English Dictionary defines "distraint" in its now
obsolete legal sense, as: "To constrain or force (a person) by
the seizure and detention of a chattel or thing, to perform some
obligation (as to pay money owed by him . . . ); to punish by
such seizure and detention for the non-performance of such
obligation."
76 "Representations of Edward Randolph . . . ," August 31, 1696,
planting the land, therefore, the collection of quit-rents might have been much less difficult. Since thousands of acres lacked any sign of ownership, it was virtually impossible to compel full payment of the tax; evasion was too easy.

The planters did not receive sole blame for this state of affairs. On the contrary, the Board was informed that royal appointees had often contrived to better their own position at the expense of the Crown. The sheriffs were considered to be especially vulnerable to the lure of increased property and prosperity. Often they simply feared risking the wrath of the powerful planters in their counties. Hartwell declared that there were some planters "by whom the Sheriffs were so overawed that they take their accounts as they themselves would have it."

Finally, the Board was told of improper dealings in the sale of quit-rent tobacco. The auditor was empowered to dispose of the tobacco collected from the planters in payment of the tax. Over the years it developed that he did this by giving preference to the governor and any member of the council who expressed an interest in the tobacco of a particular county. This practice violated the governors' repeated instruction that a public sale be held. In his testimony to Locke,

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Blair declared that the council "may well be supposed to sell good bar-
gains to themselves to the King's great Damage."

The ninety years since Virginia's founding had, according to Blair, Hartwell and Randolph, seen the growth of many practices repugnant to the authorities at home. The picture drawn for the Board was neither unbiased nor without exaggeration, but the Board, so far removed from the scene, could not fully appreciate this fact. Contradictory evi-
dence was sparse, leaving the Board little choice but to rely upon those who knew the situation first-hand. Virginia's failure to satisfy the expectations of the English authorities was the only certainty.

During its first century, Virginia had changed greatly. The mean dwellings of the first Jamestown settlement had been replaced by more imposing residences. Men of substance were a small minority in the colony, but they were the influential segment of society. They had acquired both land and power in an economy where the two were nearly

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78 Hartwell et al., The Present State of Virginia, 57; Hartwell to Popple, September 13, 1697, C.S.P.C., 1696-1697, No. 1320 II, p. 606; Locke and Blair, "Some of the Chief Grievances of the present constitution of Virginia . . . ," Locke MSS., 69, f. 37, Bodleian Library, C.R.P.

79 One staunch defense of the planters was made by an anonymous author, thought to be Robert Beverley, but this appeared too late—1701—to influence the Board in its preparation of Nicholson's instructions. Wright, An Essay, passim.
synonymous. That the power gained through ownership of land should be used to acquire more acreage was only natural. Similarly, it was predictable that the smaller landholders should strive to increase their claims.

Such was the situation facing the Board of Trade—a dilemma based on the holding of the greatest amount of land at the least possible expense.
CHAPTER III

REFORM PROGRAM INITIATED

Everyone who reported to the Board of Trade in 1696 and 1697 accepted the prevailing doctrine of royal supremacy in England's overseas possessions. They wished, though not always for disinterested reasons, to maintain the Crown's authority in Virginia on as stable a base as possible. The interests of both Crown and colony, they felt, demanded immediate steps toward rectifying the existing situation. Randolph, Blair and Hartwell took advantage of their knowledge of Virginia to suggest possible reforms to the Board, while Governor Andros answered its inquiries with proposals for new land regulations.

A most articulate advocate of reform, Edward Randolph recommended that three steps be taken to bring Virginia's land policy more closely into line with its original purposes. He suggested that a survey of each of the twenty-three counties be made to determine the exact amount of land claimed by individual planters. Afterwards, the royal authorities could demand "all arrears of quit-rents due for these lands, & the claimers thereof be made by law to pay them." Several benefits would result from these first two measures, Randolph explained. Forcing the

80 Blair, for example, charged that the Council of State had become subservient to the governor's wishes. This not only disrupted the balance of power, but also hindered Blair in his dispute with Andros over matters relating to the College. Hartwell et al., The Present State of Virginia, 24.

owners to pay their quit-rents would, of course, raise a considerable sum for the Crown. If some landholders refused to pay, their land, perhaps totalling 100,000 acres, would revert to the Crown, and the sale of this forfeited property would attract new immigrants to the colony. Thus, the royal treasury would receive additional funds, while the influx of new settlers would relieve Virginia's manpower shortage and assure a continued revenue.

As a guide for future grants, Randolph proposed that no more than 500 acres be given to any one person. Presumably this would increase the number of planters by making more land available for settlement. And smaller holdings would mean that the planters would "through necessity . . . rent themselves in a far nearer neighborhood than formerly and thereby be better enabled to secure their country, families and plantations from spoil and rapine; and many thousand hogheads of tobacco more than formerly will be made in the Colony."

The Board members inquired how Randolph would initiate reform, and his response was not calculated to please Virginia's more influential gentlemen. The best place to begin, he declared, was in the


83 "Representation of Edward Randolph . . . .", op. cit., 90.

colony's council chamber, for members of the council held land in most of the counties for which no quit-rents had ever been returned. The collection of arrears in quit-rents by some disinterested party would not a substantial revenue for the Crown.

Though not greatly concerned by the engrossment of large quantities of land, Governor Andros put forward a plan very similar to the one outlined by Randolph. He admitted the value of imposing limits upon the amount of acreage an individual might patent; faced with restrictions, the planters would be obliged to "complete their claim" regardless of how many persons they imported. In the long run, he felt, a "more regular planting and thicker seating of unappropriated lands" would result. Andros suggested 400 acres per planter as a reasonable limit.

For his part, Henry Hartwell stressed the sale of quit-rents once they had been duly gathered. He viewed the private sale of the quit-rent tobacco as detrimental to the Crown's interest, since the council-lors seldom paid as much for the commodity as it would bring on the open market. Accordingly, he recommended that future sales be made "by public outcry after public notice."

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In the opinion of Blair, the abuses in the colony were "soe long standing, and . . . soe deeply rooted, that it [would] be a very hard matter to contrive any remedy for them." The movement of settlement in Virginia beyond the Tidewater into the Piedmont signaled to Blair the end of land as an inducement for adventurers to settle in the colony. Yet despite abundant evidence that the headright system had failed, he did not advocate its abolition. Rather than experiment with a new and untried policy, he chose to work within the framework of the old system. As an initial step, Blair proposed withholding land grants from persons not intending to settle in Virginia.

The Commissary declared that the best way to deal with the large tracts of land already patented was to require county surveys as suggested by Randolph. Only then, he felt, would it be possible to instruct local officials to collect all the arrears in quit-rents. Repeating Randolph's assertion that many would forfeit their patents rather than pay "the utmost penny of Quit-rents," Blair urged that all forfeited land be disposed of "according to the former method of Land never taken up or lapses."

As a means of reducing some of the larger claims, Blair suggested the resurrection of an old seating requirement that had long been

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88 Locke and Blair, "Some of the Chief Grievances of the present constitution of Virginia . . . ," Locke MSS, c9, ff. 8-9, Bodleian Library, C.R.P.
89 "Some of the Chief Grievances . . . ," op. cit.
disregarded. According to a law passed in 1664, anyone holding land on the frontier was obliged to keep four able hands on his property to defend it against Indians. Since few planters would be able to meet this provision, many acres of land would revert to the Crown for resale.

Lastly, Blair recommended that the general assembly in Virginia enact legislation requiring those who had already taken up land "to make a plantation within 3 years upon every 500 acres of it." He made no mention of Randolph's and Andros' suggestions regarding the limitation of new claims, and paid little attention to reforming quit-rent collections or the sale of the quit-rent tobacco.

The Board of Trade could not long postpone the task of assessing the various proposals. Governor Andros had outlived his usefulness in the colony, and his replacement, Francis Nicholson, had to be provided with a set of instructions. It remained, therefore, for the Board to decide how far they should go toward altering the status quo in Virginia, while determining which, if any, of the many recommendations should be incorporated in the instructions. Any change was bound to meet with opposition from powerful groups within the colony. As Virginia

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90 Locke and Blair, "Some of the Chief Grievances . . . ." op. cit., f. 9; this suggestion was not included in Nicholson's instructions, and apparently was ignored in the colony as well. In 1704 the House of Burgesses repealed the 1664 act as "unpracticable." H. R. McIlwain and John P. Kennedy, eds., Journal of the House of Burgesses of Virginia, 1702/03-1705, (Richmond, 1912-13), pp. 57-58, 67-68, 70. (Hereafter cited as J.H.B.).

91 Locke and Blair, "Some of the Chief Grievances of the present constitution of Virginia . . . ." Locke MSS, e9, f. 9, Bodleian Library, C.R.P.
Virginia had grown, her settlers had acquired an independent, even defiant, frame of mind, and while the theory that colonies exist to serve the needs of the mother country might have been official policy in England, the colonists' interests were more immediate and personal. Faced with the realisation that its regulations were being consciously violated, the Board of Trade had to attempt to achieve some degree of harmony between royal theory and colonial practice.

Repeatedly the Board had been told that the efficient collection of the quit-rents would result in a substantial alteration of land ownership in Virginia. Thus the Board was being advised to work within the existing framework. However much the law had been flaunted by the Virginia planters, it would have been useless, or highly difficult, to attempt to remedy what had become established fact. Only the quit-rent law seemed to offer an avenue of reform. Whether the tax was paid or whether the delinquent planter forfeited his land, the royal treasury and the royal prerogatives would benefit. The Crown, therefore, would be forced to settle for reform based on practical rather than theoretical considerations. Past claims would have to be allowed, but these would be made as profitable to the Crown as possible. At the same time, the Board would attempt to ensure the regulation of future claims.

During the course of its deliberations, the Board was torn by a difference of opinion between two of its most illustrious members—John Locke and William Blathwayt. While the testimony of Randolph, Hartwell, Chilton and Blair had convinced Locke of the need for reform
in Virginia, Blathwayt, a more conservative thinker and a friend of
Andros, remained unpersuaded. Despite this opposition from a man "more
involved in English colonial administration" than any other of his time,
Locke prevailed with the result that several proposals for initiating
reform were included in Nicholson's instructions. In a letter to the
Lord Justices the Board explained the alterations, declaring:

It is notorious that there are great arrears
in quit-rents due to the King from Virginia,
owing partly to the great tracts of land taken
up by particular persons, but not cultivated.
We have required of the Governor an account
of all these arrears, and have added a pro-
position for a new method of taking up land,
to be maturely considered of and for the
Governor to report if it shall be adopted.

The Board's new land policy had a double purpose. On the one hand,
the system was intended to preclude the granting of land to those who
would not make effective use of it, while on the other it was to be a
means of increasing the trade and revenue of the empire. Accordingly,
the mere importation of persons was no longer to be sufficient for the acquisition of land, although it would still affect the granting of claims; actual cultivation was to assume much greater significance. Taking Locke's advice, the Board proposed that 100 acres be given to anyone who would "sit down and plant on any vacant piece of land." A like measure would be authorized for each "laboring person" which the planter brought to his land within three years from the date of the patent. Failing this requirement, the landholder would be liable to an annual payment of ten shillings for "every hundred acres continued in his patent more than the bands or tithables that he has upon it, or surrender the same . . . at his own choice." If the number of bands was increased, however, the patentee would be given another 100 acres for each additional person.

Enactment of a new land act would not in itself solve the problem of obtaining the revenue due on past claims. In order that these past grants might become more profitable to the mother country, the Board urged the compilation of a rent roll for the colony which would list:

1. The names of those in arrears in the payment of quit-rents.
2. The sums owed by these landholders.
3. The number of acres on which the tax was due.
4. The length of time for which the quit-rents were owed.

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95 Labaree, Royal Instructions, II, 588-589.
5. The number of people (with their names) who held in excess of 20,000 acres of land.

6. The title through which so much land had been acquired.

7. The amount of land above 20,000 acres which each person held.

Once gathered, these facts were to be forwarded to the Board and the Treasury officials in England.

It occurred to the Board that the actual collection of the quit-rents might be improved by restoring the system of checks and balances between the auditor and receiver of the colony. Nicholson was, therefore, instructed to investigate the "incongruous" situation by which William Byrd occupied both positions and report his findings. Also, heeding Hartwell's plea for the public sale of quit-rent tobacco, the Board ordered the governor to arrange for sale "openly by inch of candle to the highest bidder in the respective county courts," stipulating that "due notice be given of the time and place of any such intended sale in such manner as may make it most publicly known to all people a competent while beforehand."

Such was the method by which Francis Nicholson was instructed to reform the granting of land and collection of quit-rents in Virginia. The Board of Trade had devised the measures which it felt were necessary to effect a change, and the Council of State and House of Burgesses

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97 Labaree, Royal Instructions, II, 554; Executive Letter Book, f. 19.
were to "maturely" consider its suggestions. The most striking change
was in the proposed land act, but each measure pointed to one ultimate
goal: an increase in the revenue collected for the Crown in the Old
Dominion.
CHAPTER IV
ROYAL THEORY MEETS COLONIAL REALITY

When Francis Nicholson returned to Virginia in 1698 to begin his second term as governor of the colony, he was not the same man who had left six years earlier. The intervening years had wrought changes which were not in the least desirable. His temper had become his master, and his ability to deal effectively with people had all but disappeared. This was more regrettable because Nicholson had been sent to Virginia with a mission, and the persons whose cooperation he would most need were those whom he would most antagonize by his erratic behavior.

Soon after his arrival in the colony, the new governor presented several of his instructions to the council. That body, acting in its executive capacity, ordered that those instructions concerning the granting of land be published at the next General Court, those calling for a survey of the colony be referred to a "fuller Councill" for consideration, and those relating to quit-rents, land, salaries, and the office of receiver be sent to the auditor, William Byrd, "that he may give his answer to the next Councill." Thus the procedures necessary for the reforms outlined by the Board of Trade were set in motion.

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December 10, 1698, E.J.C., I, 400.
Before the revenue from quit-rents could be improved, the acreage claimed by each planter in the colony had to be determined. Though several orders for the compilation of an exact rent roll in Virginia had been given over the years, none had ever been completed. Aware of the need for such an accounting, the officials in England, along with the new governor, strongly urged that immediate action be taken. Their speed was not overwhelming, but the council and auditor did act, and eventually the rent roll was compiled.

In June 1699, Auditor Byrd was directed by the council to determine the best means of procuring an exact rent roll and of obtaining full payment of the quit-rent tax, following which he would report his findings to the Committee to Revise the Laws. Nicholson informed the Board of this action, and was commended by its members for having started Virginia on the way to reform. The latter had also been encouraged by the news that the General Court had ruled that land claims made through the person of Negro slaves would not be considered "good and Legall." By the Court's decision, only the "importation of his Majesty's Christian Subjects" would be cause for the granting of land.

99 December 23, 1682, E.J.C., I, 32; October 26, 1691, E.J.C., I, 202; July 4, 1692, E.J.C., I, 261.
100 June 22, 1699, E.J.C., I, 460-461.
101 Nicholson to the Council of Trade and Plantations, July 1, 1699, C.O. 5/1310, ff. 4-9, P.R.O., C.R.P.
The Committee to Revise the Laws was ordered in August 1699 to decide upon the best means of obtaining a rent roll. Apparently little was done, since the council reminded its members of their assignment months later. At that time it was also noted that Mr. Byrd had declared that the taking of a rent roll should be postponed until the colony's records had been relocated in the College of William and Mary.

The concern of the home government was displayed by William Blathwayt, Auditor General of the colonies, in June 1704 when he added a marginal note to the instructions sent to William Byrd the previous year. In this addendum he urged the compilation of a rent roll in order that the quit-rents might begin to return "what is rightfully due to her Majesty . . ." A year later, before news of the completed rent roll reached England, Blathwayt reported to Treasurer Godolphin on the quit-rent situation in Virginia and outlined his own suggestions for the taking of a "perfect" rent roll. His plan called for:

1. Examination of all patents granted in the colony to establish the present holders.

2. Comparison of these findings with the last rent rolls submitted by the sheriffs.

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103 August 9, 1699, E.J.C., II, 6.
104 September 4, 1700, E.J.C., II, 107.
105 William Blathwayt to William Byrd, June 16, 1704. A marginal note added to instructions sent by Blathwayt on April 19, 1703. C.T.B., XVIII, 244, and XIX, 278.
3. Instruction of the sheriffs to report all instances of suspected fraud or tax evasion.

4. Granting of rewards to the sheriffs upon the discovery of irregularities.

5. Surveying of all suspicious claims.

All expenses under this plan would be met from the quit-rent revenues.

No action was taken in the colony until August 9, 1704, at which time Auditor Byrd declared that plans for the rent roll could not be implemented until the "warrants for collecting the Quitt-rents" were signed. This accomplished, the county sheriffs could be notified to prepare a rent roll for their respective districts. Upon receipt of this information, the council ordered Byrd to arrive at a "Scheme" for the taking of a rent roll to be given to the sheriffs at the proper time.

Nothing was said to indicate why the rent roll had not been compiled during the preceding years; however, Byrd himself was not the most enthusiastic supporter of the reform measures. He maintained that during his tenure as auditor he had made every effort to ensure the keeping of accurate records. Understandably he resented any implication to the contrary, but his attitude was undoubtedly influenced by the fact that he was one of the few planters who actually claimed over 20,000 acres of land in Virginia.

106 Blathwayt to Godolphin, March 28, 1705, G.T.B., XIX, 555-57.
107 August 9, 1704, E.J.C., II, 379.
Whatever his reasons, Byrd felt obliged to state in October 1703, that he had used the "utmost diligence" in ordering the sheriffs to keep a rent roll. Though he admitted persistent abuses, he claimed that these would not be eliminated by such expensive measures as individual county surveys. In all Virginia's counties, he declared, "Swamps, Marsh and barren lands not yet taken up or possessed by any Tenant..." prevented the sheriffs from recording their findings in a more precise manner.

The solution to the problem of fraud, the auditor continued, lay in the appointment of "good diligent men" as sheriffs. Once this step was taken, the faithfulness of those selected could be ensured by such incentives as the granting of "half the quitrents of any land that hath been taken up any considerable time [the] first year they bring them in...," and the extension of the term of office beyond one year for those who performed well. In addition, Byrd urged that an exact account of all recent grants be given the auditor so that he might hold the sheriffs responsible for at least that much.

Byrd's submissions, however well intentioned, did not constitute a plan for the taking of a rent roll as outlined in Nicholson's instructions. Such a plan was finally introduced in the council on October 26, 1704. Acknowledging concealment of large amounts of land, Byrd asserted that:

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108 William Byrd to Governor Nicholson, October 21, 1703, C.O. 5/1913, f. 228, P.R.O., C.R.F.
109 Byrd to Nicholson, op. cit.
the surest way to obtain such a Rent roll...

... is that the Sheriffs may be empowered and required in their Commission... to administer an Oath to every Freeholder in his Bailywick to acquaint him with a full and true account of what lands he holds...
in the said County...

... which the Sheriffs must be obliged to enter and to return...
on his Oath to the Auditor... in April Court.

In cases where the sheriff found the "pretended Proprietors" living in some other county or in England, he was to inquire into the matter, and when no "Person nor effects" could be found on the land, he was to place the claimant's name at the bottom of his roll.

The necessity of having reliable men in the office of sheriff was again emphasized by the auditor. Likewise, he recommended that any who might fail to "make Return of their Rent roll in April Court on their Oaths" should be prosecuted by the attorney general. The suggestion that half the year's quit-rents be awarded for the reporting of delinquent cases was repeated.

These proposals were approved by the governor and council, which thereupon ordered the preparation of a warrant outlining the terms proposed. It was agreed that encouragements should be granted to the sheriffs on a more generous basis than had been suggested by Byrd—any discovery of a delinquent claim would be rewarded with the "whole Quit rents" for that year.

110 October 26, 1704, E.J.C., II, 401.
111 E.J.C., op. cit., 402.
112 E.J.C., op. cit.
At last the groundwork for an accurate rent roll had been laid, and the result was the first complete list of the landholdings in Virginia. But this long-awaited roll failed to reveal the numerous outrageously extensive holdings which Hartwell and Randolph had predicted. No one, according to this list, owned more than 30,000 acres, and only a few (among them Eyrd and Burwell) owned more than 20,000. Still, there were large holdings, and their extent was now a matter of record.

To govern the distribution of future land claims, the Board of Trade had initially urged the passage of an act limiting the amount of acreage a planter might acquire. No such act was passed during Nicholson's stay in Virginia; indeed, the governor did not see fit to pursue the Board's plan at all, preferring instead to make the accumulation of revenue through the proper collection of the quit-rents his main objective. The futility of attempting to curb the appetite of land-hungry planters was, most likely, all too apparent. The councillors and other

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113 The Northern Neck, a proprietorship of the Fairfax family, was excepted. This grant was made in 1674 by Charles II. The land and consequent quit-rent funds were controlled by the family, not the Crown.

114 See Wertenbaker, Planters of Colonial Virginia, especially rent roll appended, 185-247. See also Voorhis, "Land Grant Policy of Colonial Virginia," 63-72, 182 for discussion of accuracy of the 1704 roll.

115 Had the rent roll been taken a few years earlier, the huge holdings described by Hartwell and the others might have been in evidence. According to Susie Ams such holdings had existed, but toward the end of the seventeenth century the large estates began to disappear as planters divided them among their heirs or sold sections for profit. Studies of the Virginia Eastern Shore, 25-27.
successful planters had no choice but to acknowledge the Crown's right to the quit-rent; they had all paid at least a part of what they owed. Faced with two very difficult tasks, and knowing the character of the men with whom he had to deal, Nicholson believed that improved collection of the tax held more promise than asking planters to restrict their future land speculation. Furthermore, it will be shown that fluctuations within the economy of the colony as England drifted in and out of war would make the quit-rent collection the most logical avenue of reform.

To this end, Nicholson supported two practices certain to meet with the Board's disapproval. Hoping to put an end to the sale of fraudulent headrights, Nicholson called for the legalization of treasury rights; that is, anyone:

paying five shillings Sterling to Mr. Auditor for the use of his Majesty shall have the same liberty to take up and patent fifty acres of land which [he] would otherwise have had for the Importation of his Majesty's Subjects into this Dominion. 116

This practice had been condemned by Hartwell, Blair, and Chilton as one of the illegal means of obtaining land in Virginia.117 Now it was to be used as a temporary means of preventing fraudulent claims and acquiring additional revenue until some kind of land regulation could be enacted.

117 Hartwell et al., The Present State of Virginia, 17-18; Locke and Blair, "Some of the Chief Grievances of the present constitution of Virginia . . .," Locke MSS, e9, ff. 3-4, Bodleian Library, C.R.P.
Nicholson's second departure from the Board's plan was on the question of the sale of quit-rent tobacco. Concerned by the loss of revenue from this source, due to irregularities in its sale, the Board had instructed him to make future sales public. Accordingly, the governor in council directed in 1699 that Auditor Byrd so advise the county sheriffs. Shortly after these orders were given, however, the council, with Nicholson's approval, declared that anyone willing to contract privately for the quit-rents of a particular county might negotiate such a sale without the auditor "Exposing" the quit-rents to public bidding. Thus the instructions of the Board were set aside for an arrangement which both the governor and council considered less prejudicial to both the revenue of the Crown and the interests of the planters. But the Board was not easily persuaded of its error in judgment, and it persisted in ordering the public sale of quit-rent tobacco until 1707, when private sales were sanctioned. The council, equally intractable, repeated its call for private sale whenever such was possible.

The procedure followed in private sales was outlined shortly after the death of William Byrd I, when the Clerk of the Court was ordered to

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118 August 6, 1699, E.J.C., II, 8.
119 October 19, 1699, E.J.C., II, 12.
120 Council Journal for 1700, C.O. 5/1316, ff. 292-93, P.R.O., C.R.P.
121 Labarre, Royal Instructions, II, 554.
122 November 14, 1700, E.J.C., II, pp. 114-15; August 23, 1702, E.J.C., II, p. 270; October 18, 1705, E.J.C., III, 42.
deal with "any Gentlemen that are desirous to purchase the Quitrent of such Counties as are yet unsold and . . . informs his Excellency of the highest offer . . . and receive his Excellency's directions whether to accept of the same, or to sell it by inch of Candle." Philip Ludwell, John Lightfoot, William Basset, Ethelred Taylor, William Randolph, and Richard Bland each submitted claims for tobacco which they declared had been promised to them by Byrd, and each received what he desired.

Governor Nicholson was able to agree with the council that the interests of the Crown would be better served if his instructions regarding the sale of quit-rent tobacco were ignored. The councillors would likewise benefit since they were able to order that any among them who were "desirous to purchase the same . . . shall have the Preference before any other." At least in this instance they found nothing to dispute.

One of the most delicate matters with which Nicholson was instructed to deal was the separation of the offices of receiver and auditor. The Board of Trade had been advised that the holding of these two positions by one man—William Byrd—was detrimental to the King's interests, and it had instructed Nicholson to investigate the situation and report his findings. Byrd was one of the richest and most influential men in the colony; questioning his integrity, as such an investigation at least implied, was bound to result in ill-feeling, not only from Byrd and his son, but from every Virginia gentleman.
Not one to worry about hurt feelings, Nicholson told the Board in July 1699 that the two posts should be separated "so that one may receive and pay all H. M. Revenues and the other audit his accounts in general and others in particular . . ." He added that the individuals holding these offices should be required to live near the seat of government. Byrd kept all the records at his home where, Nicholson felt, they were "in more danger" than if housed in a public building with "all the chief records of the country." The governor also urged that the receiver and auditor be required to give bond in England, whereas Byrd at this time had done so only in Virginia.

Blathwayt concurred with Nicholson's last two suggestions, stating that it would be for "His Majesty's Service, that all Publick offices be kept in some publick building, and that attendance be duly given as soon as the said Publick building shall be furnished and fitting accommodations provided for . . ." Governor Nicholson, Blathwayt wrote, deserved the Crown's approbation for "his Care and Conduct in the Dis-charge of his Trust."

No move was made to separate the two offices during William Byrd's lifetime. In May 1704 Byrd's son denied that any complaint had been laid against his father by anyone except Nicholson. The absence of a


"Solemn Audit" since Nicholson had taken office was the only fault one might find with his father's management, and this, the younger Byrd explained, was not due to negligence on the part of the auditor, but rather resulted from the failure of the council to examine the colony's accounts. The auditor's duty, he stated, was to regularly lay the vouchers before the governor, and this had been done. It was the governor's responsibility to summon the council for the examination, and this, Byrd's son declared, Nicholson had failed to do.

Other councillors echoed Byrd's criticisms of Nicholson, but none complained of the auditor's handling of the dual office. The matter came to a head when the death of the senior Byrd created a vacancy in the post of auditor. By this time--December 1704--Nicholson was so deeply embroiled with several members of the council that rather than appoint a successor from their ranks he assumed the various functions himself—a move certain to further strain his relationship with the councillors.

Worried over the home government's reaction to this maneuver, Nicholson voiced his hope that his action would not be viewed with disfavor. When Byrd's successor was finally chosen, the governor added,

he would urge that it be neither Colonel Lightfoot nor Colonel Carter. While the former claimed the position by virtue of his place on the council, Nicholson reported, his services would be worthless because he was a person of "so universal an ill fame." As for Carter, while he did possess sufficient estate to buy the office, his other qualifications rendered him in "no way deserving of that employment."

This controversy continued after Nicholson was recalled; the new governor, Edward Nott, being instructed to look further into the matter. On September 4, 1705 the council considered the problem and decided against separating the two offices. They reasoned that the accounts should be reviewed by someone from within the colony if a proper understanding were to be brought to the task. Also, they asserted, the salary allotted for the posts was insufficient to attract two men of the desired calibre. As long as the auditor was required to bring the records before the council for an open examination, the councillors believed that the Crown's revenue would be secure. William Byrd II was appointed by the council to succeed his father. Governor Nott, yielding to the wishes of the councillors, notified the Board of Trade of their decision.

129 Nicholson to Blathwayt, March 7, 1704/05, Blathwayt Papers, Micro M14, Colonial Williamsburg, Inc.
130 Labaree, Royal Instructions, II, 554.
131 September 4, 1705, E.J.C., III, 29.
CHAPTER V

NICHOLSON'S SUCCESS IN VIRGINIA

Prospects for improving Virginia's revenue were better in 1693 than they had been for some time. The Treaty of Ryswick, signed the previous year, had brought at least a temporary halt to the hostilities between England and France. The pressures of war had been felt throughout the empire, and Virginia was no exception. The dislocation of English markets abroad, as well as the disruption of shipping by French privateers, had resulted in a severe depression in the colony. With the war ended, the Board could anticipate a significant rise in Virginia's economy.

The ordinary expenses of governing Virginia were supposed to be met with the funds collected from a tax of two guineas per hogshead on tobacco exported from the colony. In 1694, however, this ceased to be sufficient for the colony's needs. Expenditures for supplies sent to aid New York, for raising a fort at Jamestown, and for maintaining a "Mann of Warr Sloop" had strained Virginia's resources. William Ralph Davis, The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries (London, 1962), 25, 315-16; Arthur Pierce Middleton, Tobacco Coast (Newport News, 1953), 127, 293-94; John Hemphill, "Virginia and the English Commercial System," (unpublished Ph.D. dissertation, Princeton University, 1964), 5-6.
Byrd, in order that "his Majesty's Service should [not] be neglected or Stand Still," advanced the funds necessary to meet the fiscal emergency. This left the colony heavily indebted to Byrd, who sought to have the loan repaid from the quit-rent funds.

Soon after Nicholson's arrival in Virginia, the council ordered Byrd to "prepare a State of the accounts of the Publick Revenues" to be submitted to the new governor. These accounts were laid before the council in February 1698/99. They showed the colony heavily indebted to Byrd--the warrants for repaying his loans had been authorized but not implemented. A sum of £400 was shown to be due to the Crown from the quit-rents.

Earlier that month the governor had written to the Board concerning the funds available from the tax of two shillings per hogshead, stating:

... I find there is neither money nor tobacco in Bank to pay [the colony's] debts, nor any Act in force by which either of them may be raised. And by reason of the unlucky accident of the General Court-House being burnt last October-Court... it will require about £2000 to make another suitable and convenient. By all accounts you may see under what hard circumstances I enter upon this Government, And in point of the Revenue, when I delivered it up to Sir Edmund [Andros], 'twas much otherways.

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134 Treasury Warrant, November 15, 1698, C.O. 5/1310, ff. 32-32a, P.R.O., C.R.P.
135 December 10, 1698, E.I.G., I, 400.
Having painted this gloomy picture of Virginia's financial situation, Nicholson declared that he had no hope that the two shillings per hogshead and the quit-rents would eliminate the deficit that year.

By January 1700 the Board of Trade was able to inform Nicholson that they were pleased with his "good management of the public money," and were certain that he would be able to keep the colony out of debt while carrying out other projects as well. This endorsement was accepted by the governor, who hastened to declare that he would do his utmost to insure every measure necessary for the improvement of the revenue. "I thank God," he added, "that the quit-rents this year are sold for the full value, excepting one County."

Later that year the House of Burgesses asked the governor to grant the use of quit-rent funds to defray the costs of government not met by the two shillings per hogshead. When Nicholson objected that he was not empowered to authorize such action, the House resolved to petition the Crown directly. In its address the House declared that

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140 December 24, 1700, J.H.B., 235.
141 December 26, 1700, J.H.B., 235.
Virginia was "at this time under very low and needy Circumstances" due to expenses incurred for building a capitol, revising the laws, maintaining soldiers on the frontier, and the proposed construction of a residence for the royal governor.

Matters had improved considerably by 1701, when the governor informed the Board that Virginia was in "peace and quietness." He added that revenue from the two shillings per hogshead as well as from the quit-rents would increase that year, while a plentiful crop in "all kinds of the country's produce" bode well for the future. The benefits of a peacetime economy had finally reached Virginia. With the resumption of normal trade had come a great demand for the colony's tobacco on the foreign market. Spurred on by higher tobacco prices, planters sought additional land for cultivation. The new claims--some 210,377 acres from 1698 to 1701--combined with the inflated prices to increase the quit-rent revenue from £1,161:16:6 to £1,700:11:4 during the same period.

Nicholson's decision to press for quit-rent reform rather than passage of a land act was undoubtedly related to the effects of peace upon the economy. At any given time he would have had difficulty convincing Virginia planters that they should limit their holdings. Now,

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144 William Byrd, Accounts as Solicitor General of the Colonies & Receiver of the Tobacco Tax 1688-1704, Thomas Ryan, ed. (Privately printed from MSS copy, 1913), microfilm from University of Virginia, Charlottesville, passim.
the promise of prosperity after years of war-time depression would cer-
tainly preclude the enactment of such legislation. The mood of both
large and small landholders was one of expansion. Though the flood of
the tobacco market caused by increased production would soon lower
prices, the planters' view was too immediate to be cautious; everyone
wanted a share of the prosperity.

Peace, however, was fleeting. In 1702 England again declared war
on France, and Virginia soon felt the effects of the new conflict.
Reporting to Blathwayt in July 1702, Byrd stated that all the salaries
and contingent charges of government had been paid, but added that they
"could not expect much more than the present balance to support next
years charges . . ." Of the quit-rents he said: "Tho the number of
acres bee much increased, . . . it doth not much advance the revenue
whilst the price of Tobacco is so low . . ." The depression had
already begun.

A few days later Nicholson wrote that while returns from the quit-
rent and the tax of two shillings per hogshead were sufficient at that
time, he feared a halt in shipping which would inevitably cause a
decrease in the colony's revenue. Adding to the pessimism emanating

145 Byrd to Blathwayt, July 18, 1702, Blathwayt Papers, Vol. 13,
No. 5, Colonial Williamsburg Inc., Research Library.

146 Nicholson to Council of Trade and Plantations, July 24, 1702,
C.S.P.C. 1702, No. 793, p. 491; and C.O. 5/1312, ff. 196-198,
P.R.O., C.R.P.
from Virginia, Edmund Jenings expressed his doubts that the revenue would continue to defray "the Established and contingent charges of the Government."

By March 1702/03 the governor was deeply disturbed by Virginia's economic problems. He reported that though the colony's crops were substantially less than the previous year, more than half still awaited shipment to England. Furthermore, he warned, if ships did not arrive soon, the tobacco would spoil, and the planters would be discouraged from producing a new crop.

Though the economic picture in Virginia had altered considerably with the resumption of international hostilities, Nicholson's course regarding quit-rent collection remained a logical one. The drop in tobacco exports would result in a decrease in revenues from the tax of two shillings per hogshead. Since the provincial government depended on this source to meet its costs, Virginia's situation would become desperate unless the quit-rent revenues were maintained at their peacetime level. A land act would do little to help the suffering colony or the royal treasury, while the proper collection of quit-rents might do much.

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147 Jenings to Secretary of State, August 20, 1702, C.O. 5/1339, ff. 70-71, P.R.O., C.R.P.

In his report of March 13, the governor gave the home government something else to consider. Unable to purchase English goods, Nicholson observed, the colonists would be forced to become self-sufficient. Since Virginians were already "great pretenders for liberty and property who will be ready to invent ways and means to live by themselves," the implications of this situation could not be ignored. Indeed the prevalence of manufacturing in the colony had increased tremendously in recent years. Nicholson urged, therefore, that a "General leave be given throughout all England for Ships coming to Virginia and Maryland, and that Merchants . . . be encouraged to send as many as they can both of Ships and goods . . . ."

The war and accompanying depression were to last until the signing of the Treaty of Utrecht in 1713. However, despite the fall of tobacco prices and general hard times, the quit-rent revenue continued to do well in Virginia until the end of Nicholson's term. The effects of the war did not begin to manifest themselves until 1705. As the following chart illustrates, from 1705 until the end of the war the

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Nicholson to Council of Trade and Plantations, March 13, 1702/03, C.O., 5/1339, ff. 7-8, P.R.O., C.R.P.
number of acres claimed increased yearly, while the revenue accruing
from the land failed to keep pace.

<table>
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<tr>
<th>YEAR</th>
<th>ACRES ON TAX ROLL</th>
<th>h</th>
<th>s</th>
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<td>1,181</td>
<td>16</td>
<td>6</td>
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<td>1,757,333</td>
<td>1,175</td>
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<td>1700</td>
<td>2,067,233</td>
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<td>2,129,550</td>
<td>1,174</td>
<td>3</td>
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<td>2,166,232</td>
<td>1,752</td>
<td>3</td>
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<tr>
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<td>2,531,667</td>
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<td>10</td>
<td>83/4</td>
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<td>1,255</td>
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<td>51/2</td>
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<tr>
<td>1714</td>
<td>2,135,762 2/6</td>
<td>2,331</td>
<td>8</td>
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<td>2,136</td>
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<tr>
<td>1717</td>
<td>2,216,831</td>
<td>2,240</td>
<td>16</td>
<td>71/2</td>
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Undoubtedly, the greater vigilance by the sheriffs as well as the
governor’s determination to render the quit-rents a profitable source
of revenue accounted in large measure for the stability of this tax
during Nicholson’s term. These are not measurable commodities, but
under Governor Edward Nott, who had little desire to oppose the council-
ors and other men of influence, as well as under Nott’s successor, the

151 "Increase of the Quit-Rents of Virginia in the years following”
(1664-1703), T1/94, f. 280, P.R.O., C.R.P.; Appendix to Report
to Godolphin by William Blathwayt, March 28, 1705, C.e.E.B., XIX,
556; "Yearly Production of the Quit-Rents with the Number of
Acres paid for in the following Years Exclusive of the Northern
neck Quit Rents,” (1704-1717), C.O. 5/1318, f. 183, P.R.O.,
C.R.P.; Ryan, William Byrd’s Accounts as Solicitor General, passim.
quit-rent revenue declined greatly and was in no way proportionate to the acreage claimed in the colony.

Nicholson's failure to appoint a successor to William Byrd and his assumption of the various duties of auditor had enraged the council. Numerous allegations were hurled against him as a result of this irregular procedure. In the course of answering the charges, Nicholson pointed with pride to his handling of Virginia's revenue:

Without reflection on my predecessors, I believe it will appear on the Journals of the Council from the beginning that I have had more Audits in a year than any of them and that I have . . . used all lawful ways and means for improving her Majesty's Revenue in the several kinds thereof . . . besides the annual Charges and Contingent charges &c., there hath been paid out of . . . two shillings per hogshead Seventeen hundred & odd pounds that was in Arrears . . . and about four or five hundred pounds of extraordinary charges that were not usual before . . .

It was also noted by Nicholson that a sum of £1,946: 2: 6 remained in the two shillings per hogshead, while £5,752: 7: 4 remained in the quit-rent fund. The Board of Trade was reminded that in "most of [his] Predecessors times . . . the Revenue of 2 shillings per hogshead & Port duty &c. did not pay the annual Salary and

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152 September 6, 1705, E.J.C., III, 34-37; Copy of a report made by the Council of Virginia to Governor Bott upon the state of public revenue since the death of Auditor Byrd, undated, C.O. 5/1314, ff. 499-500, P.R.O., C.R.P.

Contingent Charges ..." and recourse to the quit rents had been necessary. Governor Francis Nicholson seemed to feel that he had done his job.

CONCLUSION

In May, 1703, Robert Carter, James Blair, Philip Ludwell, John Lightfoot, Matthew Page, and Benjamin Harrison—all members of Virginia's Council of State—addressed a petition to the Queen charging Nicholson with "arbitrary methods of Government" as well as "vicious and scandalous examples of life." Two other councillors, William Bassett and William Byrd, gave tacit approval to the petition—one of several statements sent to England by Virginians who had been antagonized by the governor. While their plea was ostensibly made in behalf of the Crown's best interests, the petitioners were not without selfish motives. Besides their distaste for the reform program itself, these men nursed personal grudges against the governor which caused them to initiate such a scathing indictment of his conduct.

Robert Carter, one of the wealthiest men in the colony, had been forced in 1699 to relinquish his post as naval officer with its considerable perquisites, in order to accept a seat on the council. Having more recently become resident land agent for the Fairfax family in the Northern Neck, Carter stood to lose a great deal by Nicholson's proposal to return that proprietary area to the Crown's control.

James Blair, the man most responsible for Nicholson's appointment and recall, was disgruntled to find that Nicholson possessed a will as strong as his own. The Commissary did not share the concern of his fellow councillors over the effects of Nicholson's reforms; in fact, it was to his advantage to have those measures implemented, since his salary and appropriations for the College were paid out of the quit-rent funds. Nonetheless, Blair opposed the governor because Nicholson had refused to insist upon the formal investiture of ministers with their rights and privileges—an action which would have lost him the vestries. In addition, Blair did not feel that Nicholson gave sufficient attention to the College of William and Mary and its financial needs.

157 Williams, Political Alignments in Colonial Virginia Politics, 41-43.
158 Williams, op. cit., 45-47; Kamen, "Virginia at the Close of the Seventeenth Century," 152-53; Morton, Colonial Virginia, 377-78.
The break between Nicholson and Benjamin Harrison came in 1702 when the governor halted speculation in the Blackwater Swamp and ordered an investigation into Harrison's dealings in the area. The Assembly had petitioned Nicholson to open the Blackwater region for settlement in 1701. Desiring the additional revenue such a move would create, Nicholson agreed providing that everyone who settled there would be able to defend his claim against Indian attacks. Harrison, one of the chief speculators in the district, was involved in the filing of irregular claims by the surveyors. When Nicholson's attention was brought to these irregularities, he ordered surveyors to refer all future claims of more than 1,000 acres directly to him. This unusual action angered Harrison who, as brother-in-law of Lucy Burwell, object of Nicholson's unrequited love, already had reason to support the governor's removal from Virginia.

Another of the petitioners, Philip Ludwell, had close family ties with both Harrison (his father-in-law) and Blair (his brother-in-law) and would logically take their side in the dispute. Beyond

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160 Intermarriage among the prominent families in Virginia had resulted in close relationships among many of the powerful and wealthy individuals in the colony; Benjamin Harrison's connection with Burwell, Blair and Ludwell being a prime example. An offense against one of the colony's leading citizens would often be avenged by several more. While Nicholson ran into this problem, his numerous disputes and ill-timed moves would probably have alienated many persons even if no family ties had existed.
that, Ludwell was opposed in principle to a strong position for a royal
governor in the colony. He viewed his seat on the council as a means
to check the governor's authority and resented Nicholson's efforts to
achieve the reforms suggested by the Board of Trade.

If Nicholson's critics were rich and prominent, they were not a
majority of the Virginia populace. The bulk of the colony's inhabitants
—including Edmund Jenings, Henry Duke and John Custis of the council—
upheld the governor in his conflict. Indeed, the Grand Jury of
Virginia addressed the Queen to thank her for

our present Governor, whose eminent seal for the
Church, constant loyalty to his Prince and indefatigable care and diligence in all things within
his province for the advantage of your Majesty
and to the satisfaction of all your Majesty's
loyall and dutiful subjects here is very conspicuous.

The House of Burgesses likewise refused to join the councillors
in their condemnation of Governor Nicholson. The council's petition,
alleged by its signers to represent the thinking of all Virginians,
had been sent to England without prior consultation with the House.
This intrusion on its prerogatives was answered by the Burgesses with
a declaration that, in their opinion, Nicholson "had a great respect

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161 Williams, "Political Alignments in Colonial Virginia Politics," 40-41.
162 Williams, op. cit., 68.
163 Address from the Grand Jury of Virginia to the Queen, C.S.P.C.
1702-1703, No. 981vii, p. 591.
for the welfare and prosperity of this country and . . . the better part of her Majesty's good and loyal, subjects [were] not of the same sentiments with that part of the Council which . . . accused [him] of Male-administration."

Each of the burgesses owned land in the colony, though few could rival the claims of the councillors. By virtue of their holdings, these men had every reason to oppose Nicholson's efforts at land and quit-rent reform. While it is possible that the burgesses failed to grasp the implications of the reform measures as clearly as those who sat with the governor on all three levels of government, it is more probable that they were willing to sacrifice their personal interests for the larger issue of House prerogatives at a time when that body was beginning to assert itself.

More difficult to determine are the motives of Custis, Jenings and Duke who, as councillors, were fully aware of the governor's intentions. Only Jenings actively sought to help Nicholson prove his innocence. Cherishing his close ties with the mother country which caused him to look more toward England than Virginia, Jenings was most likely supporting the authority of the Crown. This attitude, combined

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164 May 5, 1705, J.H.R., 107-08.

165 Williams, "Political Alignments in Colonial Virginia Politics," 52-53; Morton, Colonial Virginia, 382-84; Wellwaine and Kennedy, Introduction, J.H.R., 1702/03-1705, xxiv-xxv.
with his aristocratic airs, had already made Jenings unpopular with others of the council. 

Robert Quary, Randolph’s successor as surveyor general, reported that while visiting Virginia in October 1702 he observed that the government was "never in a more happy state than now;" the "few factious persons" who sought to interfere with Nicholson’s work having been exposed as obstructionists. He added that "the Governor’s conduct and justice are so highly approved of, that the whole country doth unanimously and entirely joyn in all things tending to H. M. service, the defense and good of the Province."

However true this might have been, it did not help Nicholson. Given the governmental system in the royal colonies, no amount of popular good-will could bring about basic reforms without the support of the provincial council. The eight men who opposed Nicholson were a majority of that council. Since they were not answerable to an electorate, the councillors did not have to consider public opinion. Even if no Virginian outside the council had been alienated by Nicholson, that body could obstruct or prevent any legislation it did not favor. Having had the misfortune of rendering himself as distasteful to the councillors and other influential gentlemen as the reform program itself, Nicholson should have had no chance for success. Yet, despite

166 Williams, "Political Alignments in Colonial Virginia Politics," 59.
the forces arrayed against him, Governor Nicholson did accomplish the
task most desired by the home government: he brought the colony out
of debt, thus giving much needed revenue to the royal treasury.

The Board of Trade had been informed of the problems plaguing
Virginia: of the sparse population which prevented the full develop-
ment of the colony's potential, of the abuses prevalent in the taking
up and seating of land, of the non-payment of quit-rents, and of the
corrupt practices among the Crown's officials. Each of these involved
both a disregard for royal prerogative and a significant revenue loss
for the Crown.

The advice given the Board offered little hope of restoring the
lost prerogatives. Its members were told to make the most of the
practices that had evolved—to render them as profitable to the Crown
as possible. The abandonment of the headright system does not seem
to have been considered. Nicholson's instructions included several
reforms which the Board of Trade hoped would bring Virginia's land
policy into line with its original purposes, while at the same time
increasing the colony's revenue. The main feature of these instruc-
tions was a new land act designed to insure the peopling of the land
claimed.

Rather than concentrate on land legislation, Nicholson strove to
free Virginia from its state of indebtedness. To accomplish this, the
governor sought to reform the collection of the colony's quit-rents
through the compilation of an accurate rent roll, the efficient gather-
ing of tax payments, the profitable sale of quit-rent tobacco, and the
advantageous use of such practices as the sale of treasury rights. Though not always adhering to the Board's initial design, Nicholson did manage to achieve the most important objective, an increase in Virginia's revenue.

Busy engaged in the waging of a new war with France, the English officials would have preferred not to have been bothered with the personal squabbles which developed during Nicholson's last years in Virginia. Nevertheless, it is unlikely that anyone else could have accomplished more in the way of land and quit-rent reform. The Virginia Council was simply not prepared to give the Board the legislation it had proposed. In 1705, after Nicholson's departure, a land act was passed, but without the provisions suggested by the Board whereby each claimant would receive "acreage in proportion to the size of his family and the number of his labourers." The council had learned how to thwart the home government when it was to their advantage, and, in this instance, it was.

Despite the antagonisms he inspired, Governor Nicholson was able to give the English authorities the revenue they sought. Possibly a more temperate man might have created less bad feeling and might have proved a more elusive and less vulnerable target for the council, but only someone of considerable ability could have equaled Nicholson's successes.

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THESSES AND DISSERTATIONS


VITA

Margaret Portier

Born Margaret Conner in Brooklyn, New York, September 5, 1942.
Graduated from Fontbonne Hall High School, Brooklyn, June, 1959.
Granted Bachelor of Arts in History by Saint Joseph's College for
Women, Brooklyn, June, 1963. M.A. candidate, College of William and
Mary, 1963-64, with a concentration in American History. The course
requirements for this degree have been completed; the thesis is
entitled: "Land and Quit-rent Reform in Virginia During the Administra-
tion of Governor Francis Nicholson, 1698-1705."

From October 1964 to May 1966 the author was employed as a
historian by the Fortress of Louisbourg National Historic Park.