

Chapter 7

Post-Revolutionary State-Land Disposal

During and after the Revolution, most of the original states passed legislation validating land titles acquired under the colonial regime, whether in the form of grants made by the colonial companies, or under "head-rights" and other methods, or in the nature of crown grants. However, there was still within the claimed territories of the new states considerable areas of unsettled or untenanted land—some, of course, still held by the aborigines—to which the states laid claim as successors of the British Crown.

By the end of the Revolutionary hostilities, all the states were in a bankrupt condition. Their paper currencies were almost worthless and their other forms of indebtedness were at a tremendous discount. Partly to recoup their finances, and partly to create taxable resources, as well as to compensate their soldiers, the states, on the whole, proceeded to dispose of these lands. The scramble to distribute these vacant areas, as well as the eagerness of speculators to purchase them, along with the consequential wastes, fraud, and corruption, forms one of the tragic episodes in the early critical period of our national history.

The Disposal of New York State Lands

New York was one of the states which possessed a vast area of unallotted crown lands. At the end of the Revolutionary War, settlements in New York State were concentrated for the most part along the Hudson Valley, but pioneers had already moved westward along the Mohawk River as far as the German Flats. Here the sturdy Herkimer and

his fellow Germans beat back Major St. Leger and his Indian and Tory allies, thus making possible the victory of Saratoga. Beyond these regions, to the west and north, was wilderness. Much of the territory was occupied by the Six Nations of Iroquois Indians. Their jurisdiction of the area had been studiously guarded by Sir William Johnson, the British Indian agent, who did not neglect, however, to pre-empt for himself large tracts as "gifts" from his Indian friends. But the once powerful Six Nations had been decimated and scattered by General Sullivan's expedition and could no longer give any substantial opposition to the oncoming white settler. Though they still were nominally considered owners of the territory, they occupied only small sections of it. Thus the danger of savage warfare, which had retarded the settling of the land, was removed.

But the pre-emption of the unsettled region west of the Mohawk Valley was still in dispute. Both Massachusetts and Connecticut claimed it and contested the right of New York State to take ownership or jurisdiction over it. The fact that the Indians were considered to have legal title to it was not much of an obstacle. A few barrels of rum and a supply of shawls, blankets, and trinkets could buy them off.

The Continental Congress, the only cementing force during the Revolution that held the separate colonies together, was anxious to have the dispute settled. It succeeded in having the sister states, New York and Massachusetts, negotiate a peaceful settlement. On December 16, 1786, New York, in return for political authority over the territory, ceded to Massachusetts the pre-emption right to "all that part of the state lying west of a line beginning at a point in the north line of Pennsylvania, eighty-two miles west of the northeast corner of the state, and running from thence due north through Seneca Lake to Lake Ontario." Within this vast domain, comprising more than six million acres, New York reserved for itself the ownership right of merely a strip of land one mile wide along the Niagara River.¹

¹In the agreement Massachusetts was also granted 230,000 acres lying along the Susquehanna River, between the Oswego and Chenango rivers. This tract, which became known as the "Boston Ten Towns," was sold by Massachusetts to Samuel Brown and associates of Stockbridge, Mass., in November 1787. Several of the purchasers moved to the region and settled on the land, but the

The Phelps and Gorham Purchase

Massachusetts thus became the possessor—subject to the extinguishment of the Indian title—of a vast western empire, for which she had no earthly need, and which she would gladly dispose of at a price. Impoverished by the war, and with her treasury scrip passing current at about 30 per cent of the par value, the state, in April 1788, eagerly accepted an offer of two of her prominent citizens, Nathaniel Gorham and Oliver Phelps, to purchase the entire tract, payable in Massachusetts “consolidated scrip” in three annual installments. In July 1788, Phelps and Gorham, “by treaty” at Canandaigua, “purchased” from the Indians the easterly portion comprising about 2,600,000 acres, or slightly more than one third of the total region. The owners, by making a payment for this section, obtained title to it. It thus became known as the Phelps and Gorham Purchase.

The Phelps and Gorham Purchase did not pass without rivalry and opposition. Previous to the cession of the territory to Massachusetts, a group of prominent New York land-grabbers formed the New York Genesee Land Company. Among the promoters were John Livingston, Peter Schuyler, Dr. Caleb Benton, Robert Troup, and other wealthy landowners and politicians. They claimed to have leased from the Indians the Massachusetts territory for 999 years at an annual rental of \$2,000 in Spanish dollars. In February 1788, just two months before Phelps and Gorham extinguished the Indian title, Benson and Livingston petitioned the New York legislature to recognize the lease. This petition, however, was pre-emptorily rejected, and its validity was denied by Massachusetts.

The promoters, however, would not be downed. They employed agents to go about the state, lavishing presents on politicians and on the Indians to win their favor. They even suggested the formation of a separate state. For this, one of the members was jailed on a charge of treason. Livingston and his associates proposed a settlement by presenting a proposition that New York obtain a direct conveyance of all Indian lands in the state, and that the Genesee Company be rewarded

bulk of it got into the hands of William Bingham, the wealthy Philadelphia merchant, of whom we shall hear more later.

by a grant of one million acres. Since Massachusetts had already been granted this pre-emption right, the proposition had to be rejected. However, in 1793 the New York legislature passed an act for the relief of the Genesee Company by conveying to its members certain lands in the northern part of the state, known as the Old Military Tract, but there is no record that the land was ever claimed or a patent to it granted.

Phelps and Gorham were unable to make the required payments to Massachusetts within the required two years and surrendered the unpre-empted portion of their purchase. Robert Morris, the financier and the leading land speculator of the post-Revolutionary period, who was suspected of being an associate of the Massachusetts promoters, stepped into the breach and purchased the unpaid-for portion. This area became known as the Genesee Country.

Morris also bought from Phelps and Gorham 1,200,000 acres for £30,000 in Massachusetts currency, which he resold to Sir William Pulteney and two associates for twice that sum. This section became known as the Pulteney Purchase. It figured as a "land company," exercising strong-arm, high-pressure salesmanship for several decades of New York history. Later Morris succeeded in selling the westerly portion of his vast Genesee tract to a group of Dutchmen who formed themselves into the Holland Land Company, chartered in Holland. It took almost a half century for these Dutchmen to dispose of their holdings at retail. To recount the history of this distributing process would require a volume in itself. In fact, a detailed history of the Holland Land Company, published by the Buffalo Historical Society, appeared in 1924 under the authorship of Paul Demund Evans.

The Dutch financiers thought they had made a good bargain in purchasing one half of western New York. Through the enthusiasm of their agent, Théophile Cazenove, they added to their New York holdings about one million acres of additional land located in Pennsylvania. These, as we shall see later, came largely from Judge James Wilson, a leading lawyer of the day and later a United States Supreme Court Justice, who, in his eagerness to corner the Pennsylvania land warrants granted to Revolutionary soldiers, "bit off more than he could chew."

The Dutch and the Pulteney purchases in New York were remarkable

because at the time the New York laws prohibited alien ownership of lands. But in 1798, largely through Aaron Burr's influence, the statute was amended so as to give the Dutch and English owners legal title to their Genesee lands.²

The Wadsworths, Lords of the Genesee

Before they gave up part of their purchase of New York wild lands, Phelps and Gorham succeeded in selling to General Jeremiah Wadsworth, the wealthy capitalist of Hartford, Connecticut, about 30,000 acres bordering on the Genesee River. Oliver Phelps, who acted as agent in the transaction, had this area surveyed. To him may be ascribed credit for first employing the method of laying out the lands in rectangular townships of six miles square (later adopted by the federal government), though most authorities ascribe the inauguration of the system to Thomas Jefferson.³ However, it may be stated authoritatively that it originated in New England during the colonial era, though the six-mile-square unit was not always adhered to there.

The Wadsworth purchase is distinctive in that it was held largely intact by the original purchasers and their heirs for generations. Its chief place of settlement, called by the Indians "Big Tree," but later known as Genesee, is located not far from the present site of Rochester. Jeremiah Wadsworth conveyed some of the land to his young cousins, James and William Wadsworth, and appointed them his land agents. The tract comprised one of the choice sections of the Phelps and Gorham purchase and was considered the most valuable. It was acquired

²It took some time for Robert Morris to extinguish the Indian title to the Genesee lands. The delay was attributed to the Indian wars in Ohio. Finally, in 1787, Thomas Morris, eldest son of Robert Morris, with the aid of the Wadsworths of Genesee, who had purchased a large tract from Phelps and Gorham, gathered the Indians together at the Wadsworth homestead at Big Tree, near the present site of Rochester. Here also assembled representatives of the United States Government, of New York, and of Massachusetts, together with agents of the Holland Land Company. Robert Morris himself could not be present, since at the time he was in a debtor's prison in Philadelphia. The Indians balked at his absence and insisted on dealing only with "the white man with the big belly," but through persuasion and a diligent supply of whiskey, blankets, and feminine trinkets—and promises never fulfilled—the Indians were finally induced to sell their lands for \$100,000.

³See Payson Jackson Treat, *The National Land System*, p. 180.

by Jeremiah Wadsworth at \$1.00 per acre. Today the lands are valued at several hundred times this price. Despite repeated early attempts of the Wadsworths, both in this country and also abroad, to dispose of parts of their lands, they achieved little success in their efforts, owing to the rivalry and competition of other American land-disposing agents. Because of this lack of success, the Wadsworths decided to follow the practice of leasing the lands to tenants. This plan proved profitable and, in time, they added additional tracts to their original holdings. In this way the Wadsworths became the "Lords of Genesee."⁴

The Ogden and Macomb Purchases

In addition to the lands taken over as confiscated properties from the Loyalists, New York State, at the end of the Revolutionary War, became the owner of vast unpatented domains lying north of the upper reaches of the Hudson River and westward to the section ceded to Massachusetts. Along with the other colonies which had struggled for seven years against the mother country, the state government had become impoverished. Cash funds were urgently needed. So when peace returned, the plan of raising money by the sale of the crown lands was favorably received. The state legislature on May 5, 1785, passed "an act for the speedy sale of the unappropriated Lands of the State." It empowered a State Land Commission to dispose of any unsold lands as it might deem proper. This gave a wonderful opportunity to the growing tribe of land speculators of the period.

The first public offerings of the state land commissioners were two ranges of townships on the St. Lawrence River, around the present site of Ogdensburg. The auction commenced on July 10, 1787, for disposal of small tracts in the area, but possibly by collusion with the commissioners no bids were received for these. Moreover, it was agreed by the group that sought to acquire the land that a successful bidder of any tract would immediately convey his purchase to Alexander Macomb, who was designated the agent of the conspiring land jobbers who sought to purchase the entire area intact.

⁴For an illuminating picture of the extensive Wadsworth landholdings, see Neil Adams McNall, *The First Half Century of Wadsworth Tenancy*, and the same author's *An Agricultural History of the Genesee Valley, 1790—1860*.

The plan was successful. For £3,200 Samuel Ogden, in association with Macomb, obtained the entire area, which became known as the Ogden Purchase. The group subsequently divided the acreage among themselves.

Following the Ogden deal, the New York land commissioners passed out to bidders for nominal payments other tracts in the same region. By 1792, for a sum of about \$1,500,000, they disposed of 5,542,173 acres. Alexander Macomb, pioneer New York land plunger, a friend of Governor George Clinton and one of the appointed land commissioners, bid for an immense tract of 3,635,200 acres at eightpence per acre, payable in six annual installments, and got it. His acquisition is still designated in deeds as Macomb's Great Purchase. It now comprises most of St. Lawrence, Jefferson, and Franklin counties and constitutes the heart of New York's wonderful Adirondack Reserve, which the state of New York has bought and is buying back from private owners at heavy cost.

In bidding for the tract, Macomb was acting in conjunction with other capitalists. His silent partners appear to have been William Constable and Daniel McCormick, wealthy New York merchants. In fact, there are letters of Constable which show the purchase was planned by him, and his name appears in connection with the earliest resales of the acreage. Shortly after the purchase, when Macomb became bankrupt and was forced into a debtor's prison, he conveyed his interests to Constable and McCormick. Another land-jobber who was also interested in the deal was Jonathan Dayton, who was a partner of John Cleves Symmes in the purchase of Ohio land. Dayton has a township named for him in the Macomb Purchase.⁵

The sales of this and other big chunks of New York State at prices per acre of less than a loaf of bread did not pass without protest even in those early days. Cries of treason and fraud arose. One Dr. Josiah Pomeroy made oath that it was a scheme to annex New York to Canada. Handbills protesting the land-grabs were publicly distributed. Governor George Clinton, who was chairman of the State Land Commission, was bitterly attacked and threatened with impeachment. Aaron Burr, the state's attorney general, also one of the land commissioners,

⁵See Alfred Lee Donaldson, *History of the Adirondacks*, Vol. I, p. 66.

likewise had to endure much political criticism. But at the urging of Malancthon Smith, one of the land-jobbers of the period, who was a member of the New York legislature, this body did "highly approve the conduct of the Commissioners of the land office in the judicious sales by them."

In addition to the Ogden and the Macomb purchases, the state of New York, during the decade between 1790 and 1800, disposed of other sections of its public domain. Following this period, however, the political outcry against land-jobbers put an end to the whole disposal of large tracts. Subsequent sales were on a much smaller scale. The list of bidders and purchasers could have made up a social register of the time. There were the Cuttings, the Lows, the Roosevelts, the Ludlows, the Fenimore Coopers, the Watkinses, and the Livingstons—names which survive not only in their descendants but in the names of the townships, villages, and cities comprised in the areas of their purchases. The abundance of wild land both within and without New York State made it difficult for these speculators to profit immediately from their acquisitions, and a number forfeited their acreages for non-payment of taxes. When the land speculation fever died down at the turn of the nineteenth century, New York capitalists turned to trading, banking, and shipping as more steady sources of wealth and income.

Speculation in Pennsylvania and Virginia Land Warrants

Like New York, after the Revolution, Pennsylvania, Virginia, Massachusetts, and some of the other states possessed vast areas of unappropriated land. As was the common practice then, much of this was set aside for the Revolutionary soldiers. These soldiers in most cases were not granted deeds to specific plots but were given negotiable warrants entitling them to a definite acreage of land to be selected by them. These warrants were eagerly bought up by speculators, the detested land-jobbers of the period, and in some cases, particularly in Pennsylvania, the possession of transferred land warrants formed the basis for large concentrations of landownership.

Philadelphia appears to have been the center of the land-warrant business. The large land acquisitions of Robert Morris, John Nicholson,

James Wilson, William Bingham, and Timothy Pickering arose through wholesale and retail purchases of warrants. They did not limit themselves to Pennsylvania acreage but also acquired soldier warrants for tracts in Virginia and elsewhere. These land-hungry individuals, living far from the regions which they endeavored to acquire and exploit, employed local agents, called "discoverers," to select and survey lands purchased by means of the military warrants. Naturally this "absentee" system fostered fraud, villainy, and deceit. As stated by Timothy Dwight, in speaking of the gamble in Virginia military warrants, "several patents were often placed, successively, on the same tracts. These patents were sold again in other States. . . . When the purchaser went to look for his land, he found it already occupied . . . and himself the purchaser of a mere bit of paper."⁶

The Georgia "Yazoo" Lands

The young colony of Georgia, at the southern end of the colonial union, had performed its share in bringing about political independence, and following the Revolution, like its sister states, laid claim to the immense territory extending as far west as the Mississippi River. South Carolina, however, contended that part of this area was within its original charter limits, while the new federal authority maintained it was part of the national domain obtained directly from the British Crown. It was also claimed by Spain as part of Louisiana, ceded to that nation by the French.

While these competing and conflicting claims were being debated, the Chickasaws, Choctaws, Cherokees, and Creeks roved over the region at will. It was in their possession, and few whites dared to invade their ancient hunting grounds. Over these tribes the new United States Government established a protectorate and forbade any state or individual to deal with them directly or take action to dispossess them. In view of these difficulties, the impoverished state of Georgia was quite ready to accept any financial consideration for her doubtful claim and sought to dispose of the land at the earliest opportunity.

Nor were eager purchasers lacking! Despite its primeval condition

⁶See Timothy Dwight, *Travels*, Vol. I, p. 220.

and the fierce savage tribes, the territory had distinct commercial advantages. It bordered on the Mississippi River, which afforded a means of intercourse between the interior settlements and the Gulf of Mexico. It contained a number of navigable streams emptying into the Mississippi, and therefore gave accessibility to trade and barter, a prime factor in creating land values. One of these streams was the Yazoo River. For some reason or other, the name "Yazoo" was applied to the entire area now comprising Alabama and Mississippi.

An unprincipled character styling himself Thomas Washington, but whose real name was Walsh (he was later hanged at Charleston for counterfeiting South Carolina debt certificates), formed a "land association" called the South Carolina Yazoo Company. He and his associates, on November 20, 1789, presented an elaborate petition to the Georgia legislature urging confirmation of a grant of land. Another "land association," the Virginia Yazoo Company, in which Patrick Henry is reputed to have been the moving spirit, also made a bid for a slice of the region. A Tennessee Yazoo Company and a Georgia Yazoo Company were also formed for the purpose. The outcome was separate grants without much debate to three of these companies, by an act of the Georgia legislature, sanctioned by the governor on December 21, 1789. The act disposed of more than 25,000,000 acres, and the total compensation to Georgia was to be slightly more than \$200,000.

However, not long after the act was passed, a hue and cry of fraud arose in Georgia, and a new legislature that convened repudiated the grants in an elaborate ceremony. In the meantime, President Washington was much disturbed by the transaction, and Jefferson, as Secretary of State, issued a proclamation denouncing it on August 25, 1790. The companies finally lost the grants through failure to meet the payments. The Georgia legislature then proceeded on January 7, 1795, to resell the Yazoo lands, this time some 30,000,000 acres of American soil, comprising the bulk of the states of Alabama and Mississippi, for the munificent price of about one and a half cents per acre.

When the Georgia folk began to realize the rotten deal put over by their legislators, a new howl of protest arose. There was indignation from the mountains to the sea. A new legislature, which met in Janu-

ary 1796, after three weeks' debate denounced the sale of the Yazoo territory as unconstitutional and void. Their next move was to cede the whole region to the United States, receiving for it \$1,250,000. Five million acres of the cession were set aside to satisfy claims arising under the Georgia sales.

Although subsequent to the repudiation Georgia officials offered to refund the payments made by the land companies, few took advantage of the offer. Instead, they continued to subdivide their areas and sell their share certificates. One company established a sales office in Boston that did a "land-office" business. For years after the cession of the territory to the federal government, the "scrip" holders of the Yazoo companies petitioned Congress for reimbursement. Their claims were finally brought for adjudication to the United States Supreme Court, which on March 16, 1810, in the case of *Fletcher vs. Peck*, by a judgment read by Chief Justice John Marshall, held the sales by the Georgia legislature to be a contract which could not be invalidated by subsequent legislation. Four years after the decision, Congress finally agreed to a settlement of the Yazoo claims. In 1815 the Secretary of the Treasury reported payments for the purchase aggregated \$4,282,151.12, represented by a new but reliable kind of Federal "Mississippi scrip." Thus the curtain was rung down on one of the most infamous scrambles by reputable citizens for land and its value increment in the history of the nation.⁷

Massachusetts and the Maine Lands

Massachusetts, after the Revolution, had ownership and jurisdiction of the vast area of what is now the state of Maine. Aside from a few grants already mentioned (see p. 70), the territory was unappropriated. There were, however, a number of squatters in the region, who were left undisturbed, and a few townships had been taken up by town proprietors and other purchasers. The Massachusetts Court was anxious to have settlers in the "Maine District" as a means of raising the value of the land they were trying to market. The Maine lands were

⁷For a detailed and authentic account of the Yazoo land frauds, see Charles Homer Haskins, *The Yazoo Land Companies*, American Historical Association, *Papers*, Vol. V, 1891, pp. 61-103.

therefore offered for sale by the state, in large and small tracts. Space does not permit giving details of these transactions.

However, there is one large grant which deserves being mentioned. This was a purchase by General Henry Knox, Washington's first Secretary of War. Knox, a Massachusetts citizen, had as a partner William Duer of New York, who, as we shall see later, was involved in Ohio land schemes. After the purchase both Knox and Duer became pressed for funds, and in their distress, for a mere pittance, they transferred to William Bingham of Philadelphia about two million acres located in what is now Knox and Waldo counties, Maine. The region became known as Bingham's Million Acres. The British banking house of Baring became a partner in the deal. Bingham's interest was willed to his five daughters, among whom was the wife of Alexander Baring, the English banker, afterward Lord Ashburton. The territory was held intact until around 1830, when it was offered for sale, and initiated a wild speculation in Maine timber lands, in which fraud and corruption played a prominent part.⁸

Summary

The foregoing brief account of land disposal by the separate states following the Revolution indicates the persistence of the confusion in land transactions, inherited from the colonial period. The colonial land systems, as we have seen, both fostered and hindered actual land settlement and use. The disposal of large tracts to individual absentee owners, whose only interests were pecuniary gain and a desire to get the advantages of the unearned increment, may have induced a more rapid settlement in some areas than a system of small allotments, but it created a series of economic maladjustments which caused political disturbances at a future period and led to inequitable social conditions.

Though many of the celebrated land jobbers of the period, chief among them Robert Morris and his associates, failed to realize gains from their vast land acquisitions, there was a widespread realization that land values were bound to rise with the growth of the country. The

⁸For an authentic statement of the interest of Baring in Maine lands, see Ralph W. Hiddy, *The House of Baring in American Trade and Finance*.

chief mistake made by the speculators was that they anticipated a more rapid rise than actually could occur, in view of the tremendous regions of vacant lands awaiting settlement. Another mistake was that they borrowed to make their purchases, and thus soon became "land-poor." Their lands lying unused were subject to taxation and, when not sold or rented, became a drain on the income of the possessors. If they could have held out, they would ultimately have been, in most cases, the gainers through the unearned increment. But liquid wealth at the time was limited. Actual cash money was scarce. The exaggerated "credit economy" could not continue unabated through the ages. Thus, in most cases, land transactions based on credit failed to yield benefits to the purchasers, owners, or the public. Land speculation, however, continued to be a fascinating lure, as it had been in colonial times and in the post-Revolutionary period. Whether it is an element in the nation's progress is a debatable question.