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# A chapter in the history of Orange County, Virginia

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Bibliography

## A CHAPTER IN THE HISTORY OF ORANGE COUNTY, VIRGINIA

### I.

#### ORANGE COUNTY IN 1753

In 1753 Orange County could hardly have still been called a frontier region, but its society remained like that of the more exposed communities to the West for some time. It was neither overpopulated nor was the land intensively cultivated. The flora and fauna had hardly been affected, and wolves frequently howling at night reminded the inhabitants that the job of taming their environment was yet unfinished. These wolves were sufficiently destructive to demand bounties, and many farmers, planters and gentlemen eked out their income by presenting the head of a wolf to the sheriff, who paid a hundred pounds of tobacco for the trophy.

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<sup>1</sup>  
1-Orange County Virginia Order Book 1747-54, 512. (Hereafter cited as Orange Orders.)

The citizenry had not had time to acquire much veneer, either. That same year Daniel McClayland found it necessary to go to court to have it recorded that he had had a portion of his ear bitten off as a result of a disagreement with an acquaintance. He wished to make the manner of his loss a matter of record, so that he would not be taken for a criminal whose ear had been cropped to warn honest men of his nature.<sup>2</sup> Hostile Indians, though, were no longer a threat. Many of the adults could remember fighting them when the area was first penetrated, but the Five Nations had given up their questionable title by treaty, and lesser tribes had been driven back across the mountains.<sup>3</sup> Those that were left could not be considered a threat except to the pigpen or the chicken house. The last organized group of which there is any record in Orange County was the unfortunate handful of Sapony Indians, who were haled into court on a charge of hog stealing and woods-burning. Some planters supplied bond for this sorry band, and they moved out of the County.<sup>4</sup> The planters were supposedly moved by pity, but they probably exacted from the Indians a promise to depart as a part of the bargain.

2. Ibid., 406.

3. Douglas S. Freeman, George Washington I., 90. Also Irving Brant, James Madison I., 409n.

4. Orange Orders, 1747-54, 10.

The land itself was for the most part still the wilderness that John Fontaine described in his Journal on the trek of the Knights of the Golden Horseshoe. That was only thirty-seven years earlier. On September 1, 1716, the band of explorers and land speculators traveled over "a very pleasant plain which is where Rappahannock River forks."<sup>5</sup> This was the junction of the Robertson and Rapidan Rivers. Fontaine was favorably impressed; he noted, "I saw there the largest timber, the finest and deepest mould, and the best grass that I ever did see."<sup>6</sup> Traveling on the Orange side of the Rapidan, they killed three bears during the day and several deer. The wilderness struck back, though, in the form of hornets, which held them up for some while.

In 1753 this "largest timber" was hardly touched by the inhabitants. Virgin forests of giant oaks, hickories, poplars and chestnuts covered all but a small portion of the land. The man-made erosion and waste that had just begun was evidenced in a few abandoned tobacco fields, where red-bud, dogwood, pine, locust and cedar vied with less desirable sumac and sassafras to reclaim the waste.

The relief of the county was dominated by the Southwest or Little Mountains, which ran from the Albemarle

5, John Fontaine, "Journal" in Memoirs of a Huguenot Family, p. 264.

6. Ibid.

line to the Courthouse, losing the magnitude necessary to the appellation of mountain but continuing to furnish the rolling panorama that remains the greatest charm of the area. These hills, rising to the height of approximately 1,000 feet, are the divide between the North Anna and the Rapidan Rivers, which are today the north and south boundaries of the County. It was still in 1753 a very large area, including most of the present Counties of Madison and Green in its settled portion.

To people this extensive area, there were only 1,551<sup>7</sup> titheable persons. This includes all of the white men over 16 years old and all slaves, men and women, who had reached that age.<sup>8</sup> Using Lt.-Governor Dinwiddie's rule of multiplying the titheables by four to find the total population,<sup>9</sup> this meant that there were approximately 6,200 inhabitants, most of whom were in the portion of the county which is still included in Orange. Assuming that the races were about equally divided, as they were in 1785 when the first census was taken,<sup>10</sup> about 3,100 whites and the same number of Negroes made up the population.

These men were part of the western movement.

Some were sons of the Knights of the Golden Horseshoe, for

7. Orange Orders, 1747-54, 512.

8. W. W. Hening, Statutes At Large VI., 40-41.

9. Freeman, George Washington I., 185.

10. U. S. Dept. of Commerce, The First American Census, p. 145.

several of those men had acquired extensive grants of land along their route. James Taylor had patented the largest area of any landholder in the County,<sup>11</sup> and James Robinson<sup>12</sup> and very probably the Todd who was with Spotswood had<sup>13</sup> received considerable acreages. Many had come west from the Northern Neck, staying south of the Fairfax proprietorship. Taylors, Barbers (sic), Beals, Moores, and innumerable others of the Orange County pioneer names can be found in the Court records of Richmond County in the earlier years and in the North Farnham Parish Register. Others had arrived from Hanover and Caroline.

The local government that these people set up was identical to that of the counties from which they had come. The magistrates made up the governing body, and they included almost all of the larger landholders of the County. Those who lived nearest to the Courthouse usually carried the burdens of the job. In 1753 the active Magistrates were Thomas Chew, Benjamin Cave, Joseph Thomas, William Taliaferro, Francis Moore, Alexander Waugh, James Madison Sr., and Charles<sup>14</sup> Curtis. Thomas Chew had been High Sheriff in 1742 when it had been found necessary to burn the Negress Eve for poisoning her master.<sup>15</sup> His execution of another court order in

11. Irving Brant, James Madison, the Virginia Revolutionist, p.25

12. Ibid., 24.

13. Ibid., 25.

14. Orange Orders 1747-54, 394, 429, 512.

15. Orange Orders, 1747-54, 10.

which a Negro's head was staked aloft on a pole for the same offense <sup>16</sup> would seem to indicate considerable slave unrest, making such extreme measures necessary. Benjamin Cave kept Ordinary at his house, <sup>17</sup> besides running his farm operations. All of the rest of the Magistrates were landholders and gentlemen farmers who depended chiefly on the staple tobacco for their cash income and, indeed, for currency.

The orders of this august group and of the colonial authorities were carried out by the High Sheriff of his Deputy. Taverner Beal and his assistant, Urial Mallory, held these positions. <sup>18</sup> The Sheriff was well paid but had responsibilities and troubles enough to earn his fees. Although the job had lost much of its prestige in the older counties, in Orange it continued to attract strong men of the community for many years to come.

The military organization was also quite important and was to become more so in a year. John Baylor, Esq., was the head man of the local militia with the title of Lieutenant of the County, and Mongo Roy, Colonel, was second in command. <sup>19</sup>

The domain over which these men ruled was not too large, but the transportation problem gave it added breadth. The roads were few and poor and were inadequately tended. Every

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16. Ibid., 1742-47, 297.

17. Ibid., 1747-54, 372.

18. Ibid., 440.

19. Ibid.

man was expected to help in the maintenance of the roads which passed near his property, and an overseer was appointed for each section of every road. This thankless job usually lasted for only a year or two, before another got the responsibility. But the frequent records of overseers being hauled into Court for neglect of duty tells a story of inattention and lack of cooperation which was one of the chief problems of the local farmers. The difficulty of getting produce to the market was great.

In 1753 the road system was still growing rapidly, for in that year the Magistrates ordered the Dundee Road to be cleared to Swift Run Road; and a road was cleared from Tomahawk Creek to the old road from Raccoon Ford to Fredericksburg. To guide the traveler through this growing network, citizens were ordered to put up direction posts at a cost to the County of 50 pounds of tobacco for each. For such posts were included in the accounts of the 1753 levy.<sup>21</sup>

The total levy was 13,183 pounds of tobacco, of which the King's Attorney, Thomas Rogers, got 2,080 pounds; the Clerk of the Court and the Sheriff got 1,248 pounds each; two Deputy Sheriffs split 3,024 pounds; and the Gaoler received 1,487. The rest went to the erecting of direction posts, bounties for wolves, and tobacco field inspectors. The total was divided by the num-

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20. Ibid., 372.

21. Ibid., 512.

ber of titheables, and the result, 8 pounds of tobacco per pole, was assessed.<sup>22</sup>

The Courthouse, which was the command post of the County, was quite new. A new County, Culpeper, had been formed from Orange in 1748, and the Court was moved from Raccoon Ford which was now on the perimeter. Land just east of Baylor's Mountain was purchased from Timothy Crssthwaite to build a new courthouse.<sup>23</sup> This was completed in 1752. The brick church, largest in the three-church Parish of St. Thomas,<sup>24</sup> was just three miles southeast of this Courthouse.

The Parish was of primary importance in the life of the citizen. Not only did the Parish officials execute orders of the Court, but they had actual authority over the morals and behavior of the parishioners. The Vestrymen were selected from the most substantial men available, and there is much conformity between the lists of the Magistrates and those of the Vestrymen. At this time both groups were commissioned by the Governor, though usually on the recommendations of the incumbents.

The Vestrymen appointed the Church Wardens, who did most of the "leg work" for them. Typical of the work of these officials is their action in accusing one Andrew Mamer of

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22. Ibid.

23. Ibid., 72.

24. G. M. Brydon, Episcopal Churches and Sites of Churches in the Diocese of Virginia, 72.

"ill usage" of a mulatto servant girl before the County Court.<sup>25</sup> The Court ordered the girl brought in for inspection<sup>26</sup> but judged her not misused and dismissed the accused. The Wardens also bound out orphans children and aged people, who became wards of the Parish.

The County Court, however, was the most important and most versatile group in the County. Originally a commission acting with the authority delegated by the Council at Jamestown, the necessities of geography had resulted in its evolution to a court of wide powers. It was a court of record, a probate, court, an orphans' court, the administrative agency of the County; in addition, when a case involving a slave was concerned, the Governor usually commissioned it to act as a court of Oyer and Terminer.<sup>27</sup> Its activities ran the gamut of life in the County. Besides setting the levy, usually done at the November Court, it ordered the number of titheables taken and excused "ancient and infirm" men from the levy. Masters were excused from the levy on old and useless slaves. Apprentices were protected from unfair masters. Men were fined for not attending church or for selling liquor without a license. They were licensed to keep an ordinary or to build and operate a mill. Road overseers were appointed and occasionally reprimanded, and bridges were kept

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25. Orange Orders, 1747-54, 429.

26. Ibid., 436.

27. Freeman, Washington I, 175.

in good repair. Farmers had their livestock earmark recorded. There was an annual Court "for proof of public claims and for receiving and certifying propositions and grievances". Most of the action of these courts was to certify the action of citizens for "taking up" run-away slaves and servants. In 1754 nine of these run-away slaves and five truant servants were caught. <sup>28</sup> By far the most time-consuming duty of the commissioners was in acting on cases of debt, with cases of slander, trespass, assault and battery and simple trespass also quite common.

The Magistrate or Commissioner was almost always a layman. To guide him in his various activities, he was furnished books on the law and on the magisterial duties; but generally he depended on common sense and his knowledge of the principles and issues at stake. Although the law undoubtedly took some abuse on occasion, this was not necessarily accompanied by injustice.

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28. Orange Orders, 1754-63, 36.

## II

## THE MIGRATION OF A FAMILY

The year 1753 is used as a starting point for this narrative, although the changes in the period were slow and hard to identify even over decades. This is the story of the transition of a community from a frontier region into a static society. For the purposes of the story the life of one man, Francis Cowherd, will be used as a skeleton. He was an Indian fighter, a Revolutionary soldier, a gentleman farmer and land speculator, and a County official who held at some time almost every position the County offered. He therefore provided a good illustration of life in Orange County; many others would serve as well.

James Coward arrived in Virginia in the early years of the eighteenth century. In 1705 he received certificates for 150 acres of land, for importation of three persons in the colony, himself and two others.<sup>29</sup> He settled in Richmond County, purchasing land on Totuskey Creek.<sup>30</sup> In 1708 he was licensed

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29. Richmond County Virginia Order Book IV, 15.

30. Richmond County Virginia Deed Book I, 229.

to keep an ordinary there.<sup>31</sup> Later he was gobbled up by the march of the land-hungry and started west. He patented land in Western Spotsylvania on what was to become Negro Run in Orange County.<sup>32</sup> He purchased and rented other land, but at no time were his holdings extensive, and he is designated a planter in the Spotsylvania records. In 1734 Orange County was formed from Spotsylvania, and James lived in the new unit. He was appointed overseer of a section of one of its few roads at the first meeting of the new County Commissioners at Mr. Robinson's house.<sup>33</sup> In the meantime he had married and acquired a family, which included at least three sons, Jonathan, James Jr., and Reuben, and one daughter, Elizabeth. Jonathan was born in 1727.<sup>34</sup>

In the game of "grab" which was the skill most needed to succeed in those days Jonathan was to enjoy moderate success. He helped his cause by marrying the daughter of Francis Kirtly, a man of considerable property who was one of the original Vestrymen of St. George Parish in the new County of Culpeper.<sup>35</sup> His father gave him 100 acres of land the same year, 1751. The deed records the sale for "five shillings and fatherly love".<sup>36</sup> There were ultimately eleven children from this marriage.<sup>37</sup> Francis,

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31. Richmond Orders, IV, 394.  
 32. Orange County Virginia Deed Book, XVI, 63.  
 33. Orange Orders, I, 8.  
 34. Cowherd Family Bible.  
 35. R.T. Green Notes on Culpeper County Virginia, 6.  
 36. Orange County Deeds XII, 18.  
 37. Cowherd Bible.

second child and the eldest son, was born on January 9, 1753.<sup>38</sup>

In the decade that followed, the major outside interest of the settlers of the Piedmont section was the French and Indian War. When the call for the militia came through, many men of Orange found themselves obliged to leave the relative security of their homes to defend the West from the enemy. Some may have solved their difficulty as John Petty did -- by getting his indentured servant, John Allan, to serve for him. Allan was paid five pounds, fifteen shillings, for his inconvenience.<sup>39</sup> Francis Cowherd's uncle James became an ensign under Colonel Bouquet<sup>40</sup> and stayed with him after the end of the war to mop up the Indian unrest. In 1764 Bouquet led a small force to the forks of the Muskingum, which brought about the final surrender of the Delawares and the Shawnees, and recovered all the white prisoners in Indian hands.<sup>41</sup> In 1767 The Virginia House of Burgesses, acting on the recommendation of Mr. Bland's Committee of Propositions and Grievances, awarded Thomas Buford, John Field, Hankerton Reed, James Cowherd, Thomas Chizem, Isaac Cox and Philip Barber, "officers who served as volunteers from this Colony under Colonel Bouquet---", forty pounds each for "gallant behavior on the said expedition."<sup>42</sup> At least two of

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38. Ibid.

39. Orange Orders VI, 242.

40. W.W. Scott, History of Orange County Virginia, 59.

41. Dictionary of American Biography II, 481.

42. H. R. McIlwaine, Journals of the House of Burgesses of Virginia, VI, 88.

these men besides Cowherd were probably from Orange County.

## III

## ORANGE BETWEEN WARS

Except for the absence of some of its young men, the community life went along about as usual. There was no let-up in the record of petty crimes brought to court. The Grand Juries of Freeholders, from which ordinary-keepers, constables, highway overseers and owners and occupiers of mills were excluded, presented petty thieves, road overseers for negligence and quite a number of morals cases. John Billups was fined ten pounds "current money" for selling liquor without a license, and Berryman Davis got half of the fine for informing.<sup>43</sup> Reuben and Peter Lantor, who were free mulattoes, were charged with assault and robbery, and the Court examined them and sent Peter to Williamsburg to stand trial before the General Court.<sup>44</sup> In 1755 John Christopher was committed to the stocks for ten minutes for "misbehavior in open court" or contempt.<sup>45</sup> A few

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43. Orange Orders, VI, 19.

44. Ibid., 178.

45. Ibid., 185.

months later he lost a case in slander and was fined fifty  
 shillings. <sup>46</sup> James Madison, Sr., was the High Sheriff that year; <sup>47</sup>  
 his son and manesake was just four years old. The Court read-  
 justed the ceiling prices on cider purchased in ordinaries to  
 twelvecence a quart for English cider and sixpence for Virginia  
 cider. <sup>48</sup> A provocative case in the records lists the indictment  
 of John Simpson, John Booth, Elizabeth Hoaks and Susanna Bates  
 for assault and battery. No details are given, but the men were  
 discharged and Elizabeth and Susanna were found guilty and fined  
 or allowed an alternate of taking fifteen lashes on their bare  
 backs. <sup>49</sup>

If a slave was involved in a case, it was apt to go  
 considerably harder on him. The first time he was convicted  
 of a petty crime, he was allowed benefit of clergy and his life  
 was spared. Frequently he was burned on the hand, and always  
 he was whipped. For subsequent crimes he could expect the gal-  
 lows. Freemen who were accused of more serious crimes were sent  
 to Williamsburg, as Berryman Davis was in 1758, for shooting  
 and killing a man named Wisdom. <sup>50</sup> In a seemingly serious case  
 rape, the accused was adjudged not guilty, except of a "mis-  
 demeanor". <sup>51</sup> Most of the other morals cases were dismissed, but

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46. Ibid., 253.

47. Ibid., 192.

48., Ibid., 214.

49. Ibid., 238, 274.

50. Ibid., 448.

51. Ibid., 537.

any woman who had a "base born child" could expect a fine of fifty shillings or twenty lashings.

In the first decade of his life Francis Cowherd lost both of his grandfathers. James Coward dies in 1756. His son, Jonathan, seems to have been the chief beneficiary of the rather small estate, appraised at 98 pounds, 18 shillings. It included one slave, eight head of cattle, three horses, two guns and a pistol, books and a slate, and considerable furniture. <sup>52</sup> He died as James Coward, although his sons had already changed their name to Cowhard and were soon to become Cowherds. This was relatively common, due partially to the lack of spelling rules and partially to the whims of those involved. During the same period Barbers were becoming Barbours, and the Beals added an "e" to become Beales.

The other grandfather, Francis Kirtly, died in 1763. He was a man of considerable property by standards of his neighbors. Sixteen slaves, fourteen horses, twenty-three cattle, twenty-five sheep, sixteen hogs and forty-three pigs were included in his inventory, along with much furniture and household equipment. <sup>53</sup> The evaluation put on these properties is quite similar to that found on other appraisals. The adult slaves were generally worth forty pounds, although one, probably because of great skill in some field, was listed at sixty

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52. Orange County Virginia Will Book II, 90.

53. Culpeper County Virginia Will Book A, 326.

pounds. The best horse was worth twelve pounds, The 23 head of cattle were adjudged worth only 28 pounds, 15 shillings.<sup>54</sup> And all 25 sheep were worth only six pounds, five. This was in current money and is a fairly good index for measuring its value. It should be remembered that cattle and sheep were quite scrubby in Virginia at this date. Robert Bakewell's experiments in animal husbandry in England were not yet effective in the Colonies.

Kirtly's property and land in Culpeper and Orange, as far west as Swift Run Gap, was left to his wife and five children.<sup>55</sup> The inheritance was enough to cause Jonathan to move to Culpeper for several years and to buy more property in that County.

Through this period Orange was continuing to grow. In 1763 the number of titheables was 1,783,<sup>56</sup> an increase of 232 in ten years. Four years later it was 1,837.<sup>57</sup> In the earlier year the total levy was only 8,915 pounds of tobacco, or five pounds of tobacco per poll;<sup>58</sup> whereas in 1767 it totaled 31,431 pounds of tobacco, or about 17 pounds per head.<sup>59</sup> This was not the general trend, however, but a normally erratic fluctuation. The next year the levy per poll was back down

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54. Ibid.

55. Ibid., 327.

56. Orange Orders VI, 686.

57. Ibid. VII, 366.

58. Ibid., VII, 686.

59. Ibid., VII, 366.

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to eight pounds of the staple. The value of tobacco was not stable but generally ran at about twopence a pound. Sometimes it went as high as 5½d, and at the other extreme was almost valueless.<sup>61</sup> The Piedmont area was still on this fluctuating tobacco standard, although the depreciating Virginia currency was not uncommon. Counterfeiting was something of a problem, and in September of 1763 the Orange Court sent Charles Whitaker and William Stevens to Williamsburg to stand trial for "counterfeiting and uttering bills of credit of this dominion." They had been caught with 100 pounds, ten shillings, of bad money.<sup>62</sup>

For further consideration of the purchasing power of colonial money, the Ordinary rates are informative. This was a pre-Revolutionary price control, in which the County Courts set the maximum prices for the wares and services of the Ordinary people. In 1766 the Orange Court ordered that a hot meal or "diet" should bring one shilling and that a "cold diet" was worth sixpence. "Lodging with clean sheets" was worth sixpence also, as were stabling for one night with fodder and pasturage for 24 hours. The major part of the inkeeper's inventory, though, was alcoholic. Good rum or peach brandy sold for eight shillings per gallon, with whiskey and apple brandy two shillings cheaper. Beer brought a shilling a quart, and "good Virginia cyder" sixpence a quart. Wines were relatively expensive at

60. Ibid., VII, 462.

61. Curtis P. Nettels, A History of American Colonial Life, 597.

62. Orange Orders, VII, 34.

three shillings per quart for madeira and four shillings for  
 63  
 white wine, sack or claret.

These ordinaries were among the main sources of entertainment available to the people. There were fox hunts, match shootings and private dances, but the ordinary was always open, furnishing companionship, drink and, if the frequent presentiments of the Grand Jury are to be trusted, considerable opportunity to gamble. Gambling debts, incidentally, were recognized by law, for in 1768 Thomas Buford won a case for  
 64  
 a gambling debt.

Another social gathering which included all freemen of the neighborhood was the church service. There were three churches in St. Thomas Parish. The oldest one was erected between 1723 and 1725 and was situated farther west than the two later churches. These probably were both built between 1750 and 1758. One, the Pine Stake Church, was near the old Courthouse site at Raccoon Ford. The other, called the Middle or  
 65  
 Brick Church, was three miles southeast of the new Courthouse. The Parish Register and Vestry Books have been lost, but the order books record the commissioning of the Vestrymen until about 1774. They included Alexander Waugh, Richard Beale, Francis Moore, Richard Thomas, George Taylor, Benjamin Cave,

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63. Ibid., VII, 261-2.

64. Ibid., VII, 51.

65. Brydon, op. cit.

James Madison, Sr., Zachary and Erasmus Taylor, Richard Barbour, and Roland Thomas during this period. <sup>66</sup> Mingo Marshall served as a rector from 1745 until his death in 1758. <sup>67</sup> It is illustrative of the economic difficulties of the colonial clergy that his children became wards of the Parish at his death. <sup>68</sup> James Marye, Jr., served from 1761 till 1768, and Thomas Martin followed for one year. John Barnett and John Wingate <sup>69</sup> both served between 1769 and 1778, and the latter was in office at the outbreak of the Revolution.

The rare number of presentments for non-attendance at church in the Orange County records attests to the faithfulness of the congregation. This was not necessarily due to the excellence of the message that was to be had, but might rather be credited to the pleasure of visiting in Sunday finery with neighbors and relatives. The Church was an effective message center for gossip and news, and so was doubly beloved. It was also the only permissible activity for the day of rest. The Ordinary keeper, who tried to take advantage of the modernistic trend of that time, could expect to get haled to court, as were Elijah Morton and George Smith, who "suffered the Sabbath to be broken and other disorderly doings in their ordinaries." <sup>70</sup>

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66. Orange Orders, VI, 203, 316, 533, 538, 552, 630, 658.  
 67. Collections of the Protestant Episcopal Historical Society, p. 110.  
 68. Orange Orders, VI, 556.  
 69. Collections of the Protestant Episcopal Historical Society, p. 110.  
 70. Orange Orders, VI., 440/

The religious situation was approaching a crisis in Virginia. In spite of the dignity of its Vestry, St. Thomas' was not apparently a religious community. James Madison, Jr., 22 years old, fresh out of Princeton and practically isolated from any other who had realized equal advantages, was highly critical. In a letter to one of his college friends, he wrote as follows: "Poverty and luxury prevail among all sorts; pride, ignorance and knavery among the priesthood, and vice and levity among the laity. This is bad enough, but it is not the worst I have to tell you. That diabolical, hell-conceived principle of persecution rages among some and to their eternal infamy, the clergy can furnish their quota of imps for such business."<sup>71</sup> The "diabolical principle" was quite moderate in Orange. In 1768 the Court bound a group of Anabaptists to good behavior at the rate of 50 pounds each.<sup>72</sup> In the following year a grand jury presented Andrew Tribble and Thomas Master "for Preaching the Gospel from place to place Contrary to Law and Without License";<sup>73</sup> they were later excused. In 1773 Joseph Spencer, a Baptist, was made to give bond against his preaching and teaching without a license.<sup>74</sup> This appears to exhaust the record of persecution in Orange County.

Religious unrest was not the only disquieting fac-

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71. Brant, James Madison, the Virginia Revolutionist, p.128

72. Orange Orders, VII, 514.

73. Ibid. VIII, 1.

74. Ibid. VIII, 357.

tor on the scene. The Quebec Act that slammed the door on continuing prosperity for the great land speculators of Virginia was also anathema to the landholders of Orange. Many of them had patented land far to the west, and some had secured rights in the closed area for service against the French and Indians. The decline of the plantation system, which was felt relatively early in the upper Piedmont section where plantation economy was quite impractical, left the leaders of the community the prospect of slowly losing their wealth or of maintaining it by land operations. When Lord Dunmore chose to ignore the Act and promote the westward expansion by sending an expedition against the Shawnees, quite a few men of Orange County volunteered.

Francis Cowherd was one of these volunteers. His father had purchased 800 acres of land a few miles southwest of Orange Courthouse in 1770. This was adjacent to the tract of Johnny Scott, Militia Captain and County Commissioner for the three years past. This put his major farming operation in Orange County, although his legal domicile at the time was in Culpeper.

When Colonel John Field, of the latter County, called for volunteers, young Francis answered. Neither the march through

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75. Scott, History of Orange County Virginia, pp. 58, 59.

76. Orange, Deed Book, XV, 312.

the unsettled wilderness and mountains to the Kanawha and Ohio Rivers, nor the Battle of Point Pleasant, at which Andrew Lewis signally defeated the Shawnees, is pertinent to the story of Orange except for their effect upon the reputation of the participants. The reports of the battle are confused and contradictory. One report states that the presence of Indians was first discovered by two men named Coward and Clay. Clay was killed, but Coward escaped to give the alarm.<sup>77</sup> Although conflicting reports are numerous and the name Coward in this one report is given the original spelling, back in Orange amidst companions of the event Francis Cowherd was given and accepted credit for having<sup>78</sup> made the first contact with the enemy.

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77 A. S. Withers, Chronicles of Border Warfare, p. 210.

78 Scott, History of Orange County Virginia, p. 61.

## IV.

## A HOME FRONT IN THE REVOLUTION

The Indian warfare was excellent training for the forthcoming trials of the Revolution, which was already upon Virginia. On December 22, 1774, almost before the Indian fighters could have been mustered out, the people of Orange elected a County Committee in accordance with Article 11 of the Continental Association. It consisted of the James Madisons, Jr. and Sr.; James Taylor, William and Thomas Bell, Thomas Barbour, Zachariah Burnley, Rowland Thomas, William and Francis Moore, Johnny Scott, James Walker, William Pannill, Lawrence Taliaferro, and Vivian Daniel.<sup>79</sup> For almost two years, until the Virginia Constitution was adopted, these men virtually ruled the County.

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79. John H. Gwathmey, Twelve Virginia Counties, p. 283.

One of the most important jobs of this particular committee of safety was its action against the Reverend Wingate. This good clergyman, in common with many of his fellows, held to his oath to the King. Having the power of the pulpit behind him, he had to be silenced. The Committee investigated and found him in possession of five Tory pamphlets. He was "published" in the Virginia Gazette as an enemy of the liberties of America, and his pulpit became untenable.<sup>80</sup> So strong was the feeling against him that even young James Madison, who had been decrying the local persecution two years earlier, hinted at the suitability of a tar-and-feathers treatment for the deposed rector.<sup>81</sup>

As a result of Wingate's stand, which must be adjudged courageous, no Anglican minister served St. Thomas Parish for twenty years thereafter, and the Church suffered irreparable loss.<sup>82</sup> In 1776 the Virginia Constitution was adopted, and Mason's Bill of Rights opened the door for all dissenters. Within weeks Elijah Craig, a "dissenting Baptist", was licensed to marry persons by the Orange County Court.<sup>83</sup> He was joined within a year by Aaron Bledsoe, Joseph Craig, and a man named Sanders.

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80. Brant, James Madison, the Virginia Revolutionist, p. 162.

81. Ibid., 164.

82. Ibid., 295.

83. Orange County Virginia Minute Book II., 151. (Hereafter referred to as Orange Minutes.)

84. Ibid., 153.

85. Ibid., 151.

In the meantime active war had come to Virginia. The Culpeper Minutemen, including many residents of Orange, joined in the expedition against Dunmore that culminated in the Battle of Great Bridge. Ambrose Madison, brother of James, Jr., and Johnny Scott, of the Committee of Safety for Orange, were both officers in the organization,<sup>86</sup> and many of their neighbors were equally anxious to have a showdown with the King's Governor. By the time they returned, recruiting and organization were well under way. Orange furnished the patriot cause with six field grade officers, 33 captains, 43 lieutenants, 25 ensigns and an unrecorded number of troops.<sup>87</sup> In the earlier organization the officers were expected to enlist what men they could to fill the complement. The Second Virginia Regiment was recruited largely from Orange and the surrounding counties, and Francis Cowherd became a part of it. He was commissioned Ensign of the Sixth Company on its organization May 7, 1776.<sup>88</sup> Francis Taylor was its Captain, and William Taylor and Benjamin Porter were its Lieutenants. Each of these officers recruited a number of men. Francis Taylor enlisted twenty-seven, Benjamin Porter added sixteen, William Taylor twenty-three more, and Cowherd brought in

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86. Gwathmey, op. cit., p. 284; Brant, op. cit., p. 211.

87. Gwathmey, op. cit., pp. 436, 437.

88. National Archives, Washington, D. C.

89  
 nine. The field officers of the Second at its birth were Colonel William Woodford who had led the Culpeper Minute Battalion to Norfolk, Lieutenant Colonel Charles Scott, and Major Alexander Spotswood.<sup>90</sup>

There was a period of inaction following the formation of the unit, but two days after Christmas in 1776 the Second and Seventh Virginia Regiments were ordered North to be armed at Head of Elk and to join General Washington immediately.<sup>91</sup> The Second Virginia saw service at Brandywine and Germantown,<sup>92</sup> and casualties and promotions changed commissioned personnel very rapidly. By March 1, 1777, Major Spotswood had become Col. Spotswood, Richard Parker had joined the outfit as Lt.-Col., Ambrose Master was Paymaster, and Robert Bell, Quartermaster.<sup>93</sup> Cowherd had been promoted to Second Lieutenant on September 1, 1776, and to First Lieutenant in June, 1777.<sup>94</sup>

Serving in this Army was no way to get rich. In the Congressional reorganization of the Army in May, 1778, pay for Continental Troops was specified. Colonels received 75 dollars a month, captains 40 dollars, lieutenants 26 and 2/3 dollars, sergeants ten dollars, and privates six and 2/3 dollars.<sup>95</sup>

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89. Scott, op. cit. pp. 252, 253.

90. Peter Force, American Archives, III, 360.

91. Ibid., VI, 1612.

92. Joseph a Waddell, Annals of Augusta Co. from 1726 to 1871, p.179.

93. Virginia Historical Magazine VI, 124.

94. National Archives, Washington, D. C.

95. W.R. Saffell, Records of the Revolutionary War, p. 376.

The table of organization for a battallion of infantry called for 477 privates, 54 non-coms, 18 "drum and fifes", and 21<sup>96</sup> commissioned officers, in nine companies.

In 1779 the Second was sent south to meet the threat of invasion in South Carolina. A part of the small army under General Lincoln, it was trapped with him in Charleston Harbor and, after withstanding a siege which lasted for days and cost many lives including that of Richard Parker, by this time a Colonel,<sup>97</sup> it surrendered to the British Force on May 12, 1780. Captain Cowherd was exchanged on February 29, 1781,<sup>98</sup> and re-<sup>99</sup>turned to the Second, where he was made Adjutant.

Back in Orange there were complications, also. Thomas Barbour and James Taylor, delegates to the Virginia Legislature, marched off to war in 1776, and it was necessary to have an elec-<sup>100</sup>tion to fill their places. William Moore and James Madison, Jr., whose health precluded military service, were elected to<sup>101</sup> replace them. Then when the July Court met, it was necessary for all of the magistrates to take a new oath, repudiating George III and acknowledging the sovereignty of the Continen-<sup>102</sup>tal Congress. This Court was not too disorganized to find

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96. Ibid., 377.  
 97. Ibid., p. 273.  
 98. National Archives, Washington, D. C.  
 99. Saffell, op. cit., p. 415.  
 100. Brant, James Madison, the Virginia Revolutionist, p. 198.  
 101. Ibid.  
 102. Orange Orders, VIII., 35.

Hamshire, one of Charles Porter's slaves, guilty of running away and lying out. They had him nailed to the pillory by the ears for half an hour, and then his right ear was cut off.<sup>103</sup>

In the elections of 1777 James Madison, Jr., was defeated by Charles Porter for the State Legislature. He had ignored an old Virginia custom of dispensing free liquor for all voters and so was rejected by a thirsty electorate.<sup>104</sup> His friends in the Legislature toyed with the idea of unseating Porter on a charge of bribing the voters, but abandoned the project since, if free drinks constituted bribery, new elections would have had to be held all over the State. The next year James was victorious, probably after conforming to the traditional requirements of the constituency.<sup>105</sup>

In 1777 the Draft Act made all single men of the Militia of 18 years of age or more subject to a year's active service unless they could hire a substitute. Each county was given a quota to fill, and the eligibles were then treated to a lottery to determine who would go.<sup>106</sup> The Orange quota of 23 for 1778 was met by drafting 22 and accepting one volunteer.<sup>107</sup> The County met every requisition throughout the War.<sup>108</sup>

In 1781 war came nearer to Orange than it had before,

103. Ibid., 357.  
 104. Brant, op. cit., p. 306.  
 105. Ibid., 308.  
 106. Ibid., 323.  
 107. Ibid., 324.  
 108. Ibid.

with the arrival of the Marquis de Lafayette, seeking a rendezvous with Wayne prior to his return to Yorktown. The County filled up with troops, and the people were made acquainted with the ways of troops away from home. Of course it brought a fine market right to the farm, and a great volume of supplies was requisitioned or impressed by the Military. The Minutes of the Court have about forty pages of claims for impressed property which it certified. Beef, bacon, oats, wheat, brandy, guns, horses, corn and fodder, salt, meal, sheep and pork were some of the items listed. Men were credited for the rent of wagon and teams, for pasturing cattle for the Continental Army and for feeding the soldiers.

Beef was by far the most frequent item. Jonathan Cowherd who had been serving as Collector of the Specific Tax furnished 1,185 pounds of beef, and others contributed even more. Jonathan also had a claim certified for 30 "diets" for a body of dragoons. James Madison, Sr., was one of the largest suppliers of beef, with over 3,000 pounds to his credit. He also seems to have entertained a body of Orange Militia rather royally with bacon, hay and 21½ gallons of whiskey, which was certified at 5 shillings a gallon.

Poor Charles Porter, lately a legislator, had his

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109. Orange Minutes II, 172-217.

110. Ibid., 187.

111. Ibid., 200.

home requisitioned for headquarters and was reluctant host<sup>112</sup> to what must have seemed the entire Continental Army. They used his fence rails for firewood, and they pastured his farm far beyond its capacity. The Court recognized the expense of the honor and allowed him credit for 1,600 fence rails and considerable damage to his farms.<sup>113</sup> Following the departure of the troops, there was quite possibly a temporary drought in Orange, because the ordinary keepers and other citizens furnished 127 gallons of brandy and over 100 gallons of whiskey.<sup>114</sup>

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112. Scott, op. cit., p. 66.  
113. Orange Minutes II., 191.  
114. Ibid., 202.

## V.

## SETTLING DOWN TO INDEPENDENCE

A few weeks later the fighting war was over, and soldiers began to trickle home. But in many cases they stayed for only a short time. The war and George Rogers Clark had pushed the frontier far to the West, and rich, new land awaited venturers beyond the mountains. The Continental Congress had passed legislation whereby its soldiers were to be given land in this wonderful domain, and many of these soldiers had gotten from their military training a wanderlust and wider conception of the opportunities that lay beyond the mountains. Then too, the older counties were beginning to seem crowded to young men who had grown up in a spacious period when land had seemed almost inexhaustable. Finally, many of the returning soldiers had reached adulthood in the Army

and had handled jobs of considerable responsibility; their father's homes were no longer adequate for them.

And so began an exodus that was to last for a hundred years or more. Orange County furnished its share of these pioneers. The land grants in Kentucky are filled with names of ex-soldiers from the County. Jonathan and James Cowherd, younger brothers of Francis, received their soldier grants and left for the new country. In Jefferson and Nelson Counties, both to be part of a new state in less than a decade, they took up land in tracts of several thousands of acres. Jonathan, Jr., received 1,500 acres in 1783 and 3,000 more two years later.<sup>115</sup>

Locating on Pitman Creek on the Jefferson-Madison County line, he had Taylors, Barbours, Beales and Chews all around him.<sup>116</sup> One Orange emigrant, Col. Richard Taylor, was held up for a year by the birth of son Zachary, later to be President of the United States.

This exodus had not depopulated Orange. Census was taken for the first time in 1785 by the Magistrates and their appointees. The County numbered 2,743 men and boys, 2,693 females, and 4,421 slaves. There were 64 free Negroes and mulattoes at the time. This gave Orange

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115 Williard R. Jillson, The Kentucky Land Grants, p. 40.

116 Ibid.

a population total of 9,921;<sup>117</sup> it included, however, the area of much of Madison and Green Counties which were not yet formed. The list of taxable property in that year showed 2,517 horses and 5,882 cattle; there were 605 dwelling houses recorded and 1,792 outhouses, which included slave quarters, barns, stables, smoke-houses and the like.<sup>118</sup> The Census figures may be compared with the number of titheables counted in 1774, which was 2,217.<sup>119</sup> Using Dinwiddie's multiplier of four, this would have meant there were 8,908 people living in the County. This indicates a net gain of about 200 persons each year, which is the approximate rate of increase for the years just preceding the Revolution. Governor Dinwiddie's multiplier for finding total population proved quite reliable for Orange County.

With his return from the Army Francis Cowherd began to participate in the life of the community. In the reorganization of the Militia in 1783 he had been appointed recruiting officer for Orange, Louisa and Spotsylvania,<sup>120</sup> and at the organization of the Orange Militia in 1785 he was sworn in as major, a job he shared with

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117 Department of Commerce, The First American Census, p. 91.

118 Orange Minutes, III., 171.

119 Orange Orders, VIII., 357.

120 Document F, MS in Virginia State Library.

121  
 William White. These two and three Senior Magistrates  
 comprised a Board which met in July and proceeded to lay  
 off the County in districts for companies. The companies  
 were numbered by lot and officers recommended for them,  
 according to the Act of the Assembly. In the same year  
 he accepted an appointment as Deputy Sheriff, and two years  
 later he and Ambrose Madison became commissioners to take  
 the list of taxable property.

In the meantime he was becoming a man of property.  
 He and his father purchased slightly over 1,000 acres of  
 land from the James Madisons, Jr. and Sr. Jonathan paid  
 400 pounds current for 733 acres, while Francis paid the  
 same for only 281 acres, most of which was mountainous.  
 The larger tract had probably been farmed fairly heavily.  
 Two years later, for 55 pounds, Francis added 55 acres  
 contiguous to the first tract. This and other transactions  
 in the period show a wide variation in land values, although  
 four dollars, or one pound in Virginia currency, per acre  
 seems to be an average level which became fairly general  
 in the years that followed.

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121. Orange Minutes, II., 318.  
 122. Ibid., 320.  
 123. Ibid., 316.  
 124. Ibid., 313.  
 125. Orange Deeds, XVIII., 323.  
 126. Ibid., 443.

Major Cowherd needed the land, for on August 13, 1787, he married Lucy Scott.<sup>127</sup> Lucy was a neighbor, daughter of Johnny Scott, recently a member of the local Committee of Safety and long a Magistrate of the County. To house his bride, Cowherd built a new house in an oak grove on a small hill at the south foot of Merry's Mountain. The original part, built for only two with the idea of later expansion, was quite small. It measured about twenty feet by thirty feet with a half-storey above lighted by two dormer windows. A large room, entrance hall, and a small room made up the lower floor, while the upstairs was partitioned almost in half. The framework was of massive old timbers, joined by wooden pegs, and has easily withstood the rigors of the years. A natural rock fireplace supplied the heat. As became a rising young man, he had well-milled weatherboarding for the siding. Out in the yard, the kitchen and weaving room marked one corner of the homestead lot, and the smoke-house stood at another corner. The ice house was important, too, and a pond was made at the foot of the hill so that ice might be handy in the winter.

This was a very dry year, 1787, which James Madison, writing to Jefferson, described as unprecedented.

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127. Orange County, Virginia, Marriage Register, I., 20.

Tobacco and wheat did well, but corn was "in general alarmingly short. In Orange I find there will be scarcely subsistence for the inhabitants." <sup>128</sup> The next year, though, was a good one, and all crops did well except for wheat, <sup>129</sup> which was attacked by the Hessian Fly.

No matter how the farming went, business of the government went on, and it was a fascinating business. Francis Cowherd spent a great deal of time at the Courthouse both before and after his wedding. There he joined the Burnleys, Daniels, Johnsons, Madisons, Moores, Scotts and Taylors, who also gave much of their time to public affairs. The duties of Deputy Sheriff took him around much of the County, and it is doubtful that it was always convenient to return home by nightfall on some of the longer trips. On April 19, 1786, he was held at Colonel Burnley's by rain which lasted for three days. William Madison, James Taylor and Francis Taylor were also there, and they whiled away the time by playing at whist. Francis Taylor, excellent diarist but poor card player, furnished most of the money for the game, losing 16 pounds to Cowherd and smaller sums <sup>130</sup> to the others. A few days later they were all at the

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128. Gailliard Hunt, The Writings of James Madison, V., 39.

129. Ibid., 243.

130. Entry of April 22, 1786, Diary of Francis Taylor, MS in Virginia State Library (hereafter cited as Taylor Diary).

Courthouse, voting for neighbor James Madison, candidate  
<sup>131</sup>  
 for delegate to the 1786 Assembly. He won easily.

Mr. Madison had his enemies, though. They were in high places in Richmond, and they feared him because of his effective efforts toward giving the national government greater power. In 1788 Madison was opposed by Monroe, and the state had been re-districted, putting Orange with seven other counties, six of which were supposedly opposed to the Federal ideas. Galliard Hunt saw in this the first attempt at gerrymandering, but, if it was, it was unsuccessful.  
<sup>132</sup>  
 Monroe ran a poor second.

As to the local opposition to the proposed better union, it was not impressive. Francis Taylor, cousin to James Madison and brother of the Clerk of Orange Court, kept a diary for twelve years, starting in 1786. On October 27, 1787, he wrote, "Heard of opposition in Assembly to new federal constitution." He didn't understand it,  
<sup>133</sup>  
 for in Orange only the "ignorant" opposed it. Much of this enlightenment in the County must be accredited to a favorite son. Madison was related to most of the County's leaders, and he entertained quite frequently when at home. In this way he kept his neighbors informed and gave them

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131. Ibid., Entry of April 27, 1786.

132. Hunt, op. cit., V., 314n.

133. Taylor Diary, Entry of October 27, 1787.

a sense of participation. Francis Cowherd was often at  
his table in these days.<sup>134</sup>

Besides politics there were many other pastimes and means of entertainment. The tavern was still available. Benjamin Hansford at the Courthouse was highly popular. There you could play at fives or loo. Occasionally there was a barbecue there or a shooting match or both. Dances were frequently given in the private homes, and many of the young ladies of the community were schooled in the dance. In 1790 a large ball was held in honor of George Washington's birthday.<sup>135</sup> Cook fights were fairly common, and as yet invoked no disgust or pity. Fox hunts brought groups together, or the more solitary hunter could easily fill his bag with a variety of game. Grouse, called pheasants by the Virginians, were fairly common, and quail were sufficiently abundant to be hunted in the summer. Wild pigeons still flew in great hordes, and geese and ducks were not rare.

Fredericksburg and Richmond were the nearest markets of any size, and many luxuries had to be bought from one of these towns. Some of the people would go all the way to Fredericksburg for the races, as James

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134. Irving Brant, James Madison, The Nationalist 1780-1787, p. 307; Taylor Diary, Entry of April 30, 1791.  
135. Taylor Diary, Entry of February 11, 1790.

136

Taylor did in 1786. Many undoubtedly brought back needed items to their friends and neighbors--items like the castile soap which Francis Cowherd brought back from Richmond to Francis Taylor, who had for a while been his company commander at the start of the Revolution.

137

Besides the pleasures there were still some hazards connected with life in Orange County. Perhaps the greatest of these perils was medicine as it was practiced. Anyone becoming ill could expect to be either bled or purged, or probably both. There was at least one doctor in Orange -- Dr. Charles Taylor; but medical science had not yet advanced in Virginia to the point of satisfying the citizen or even the good doctor's own kinsmen. Most men prescribed for their own families, bleeding them or furnishing home remedies. If one's own prescription failed, he was liable to take a neighbor's advice, as did George Taylor, suffering from "the Stone and Gravel". He tried Johnny Scott's prescription of "a strong decoction of the herb arsesment."<sup>138</sup> It didn't work. For the more serious and dreaded diseases, of which small pox and whooping cough were most frequent, and for the malaria that was fairly prevalent, nothing usually worked.

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136. Ibid., Entry of June 5, 1786.  
 137. Ibid., Entry of October 20, 1787.  
 138. Ibid., Entry of October 1, 1787.

Enough citizens survived both disease and treatment to continue sending a steady stream of men to Kentucky and to slowly increase the local population. The number of titheables grew from 2,496 in 1786 to 2,871 in 1788 and 3,108 in 1793.<sup>139</sup> Francis and Lucy Cowherd were contributing to the increase, for in the first two years of their marriage they had two sons. In addition, they gave a home to John Hargo, an orphan bound out by the overseers of the Middle District in which they lived.<sup>140</sup>

The County stayed busy. An extra Company of Militia was formed, besides a "Horse Company" which had been added since the Militia organization in 1783. And the Court had to adjust new authorities and rules that were changing quite rapidly. It found time, though, to record "an instrument of writing from Ann Barksdale to emancipate four slaves..."<sup>141</sup> It also noted the appointment of Francis Cowherd as Coroner in the "room" of Johnny Scott who resigned. Scott, who was his father-in-law, went security for him to the extent of \$10,000.00.<sup>142</sup>

One of the new situations faced by the County officials was the revenue tax passed by the fall session

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139. Orange Minutes, IV., 171, 435.  
 140. Ibid., II., 471.  
 141. Ibid., II., 421.  
 142. Ibid., II., 422.  
 143. Ibid., II., 337, 342.

of the 1792 Assembly. It specified a tax on land at the rate of five shillings per hundred pounds' value.<sup>144</sup> In Orange this generally amounted to three shillings per hundred acres, giving the land as assessed value of about three dollars an acre. Slaves over twelve years old were taxed, too, at one shilling, eightpence, a head; and horses, mares, and colts carried an impost of fourpence each.<sup>145</sup> These taxes were of concern to Francis, not only because he was an assessor but also because he was rapidly expanding his holdings. In 1791 he purchased 441 acres from Henry Fleet for five hundred pounds.<sup>146</sup> This was situated close to the Courthouse. In 1794 his father Jonathan turned over the 733-acre tract that he had purchased from James Madison ten years earlier to Francis and his brother Coleby, each of whom paid five shillings for the approximate 366 acres.<sup>147</sup> In 1796 Francis bought 112 acres from another neighbor,<sup>148</sup> Reuben Boston, which brought his total acreage, excluding military claims, to 1,254 acres in Orange County.

Land ownership carried worries other than taxes. In the original settlement the surveying instruments and possibly the skill of the surveyors had left some discrepancies between the deed descriptions and the plots described.

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144. Samuel Shepherd, Statutes At Large, I., 37.  
 145. Orange Minutes, III., 169.  
 146. Orange Deeds, II., 54.  
 147. Ibid., XX., 278.  
 148. Ibid., XXI., 142.

The older residents of the community recognized the boundaries of their own property and of others. But newcomers into the community were outraging many of the citizens by having new surveys made that left men acres poorer than they had thought themselves. Some were even having surveys made and taking up land which legally had never been owned but which might split a man's property in two. Complaints of such practices in Orange began as early as 1784 in the form of petitions to the General Assembly to take some step to confirm men in ownership of lands which they had long considered their own. <sup>149</sup> These complaints were fairly general, and in the early 1790's the Assembly got around to doing something about them. All lands were to be processioned; that is, surveyed, and, where discrepancy existed, it was to be adjusted by parties involved and the processioners, who were to be qualified persons appointed by the magistrates. <sup>150</sup> This was done in 1795 in Orange. The County was divided into a large number of districts, and responsible men who knew the area were assigned to make the adjustments in each district. Jonathan Cowherd, though 68 years old, was still active as an overseer of the poor and probably as a vestryman, and he was made one of the processioners. <sup>151</sup>

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149. Orange County Petition, dated November 4, 1784. MS in Virginia State Library.
150. Shepherd, Statutes At Large, I., 75.
151. Orange Minutes, III., 104.

At this time Francis was sitting on the County Court, having qualified as a magistrate in 1792.<sup>152</sup> He was also one of twelve people in the County to whom Francis Taylor sold, for three dollars per year, subscriptions to <sup>153</sup>The National Intelligencer, leading newspaper of the country and the best available source of national and international news. Thirty-nine years old, with respectable wealth, and an acknowledged leader in the community, Cowherd was but one example of the influence of the frontier and cheap land upon society. His grandfather James had landed in the country with little besides his brain and energy, and he, Francis, had become a "gentleman" and a County leader.

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152. Ibid., 174.

153. Taylor Diary, Entry of May 28, 1792.

## VI.

## ORANGE COUNTY REACHES MATURITY

The personnel of the Orange County Court was changing quite rapidly by now. Death and resignations had removed many of the very old magistrates who had served for long terms. By 1799 there were only four justices senior to Francis Cowherd. The list included Thomas Barbour, Benjamin Johnson, Isaac Davis, Jr., William White, Cowherd, Thomas Ellis, May Burton, Jr., John Moore, John Scott, Charles Urquhart, Belfield Cave, John Spotswood, Jr., John Henshaw, William Parrott, and Thomas Rowe.<sup>154</sup> The problems that these men dealt with were not greatly altered from those of previous courts. Cases in debt still predominated. Trespass decreased after the processioning of the land. But slander was still common. The nature of the presentments of the grand jury was also

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154. Orange Minutes, IV, flyleaf.

unchanged. Acting as a Court of Oyer and Terminer in 1797, the Court tried two slaves, Will and Doll, for "preparing and exhibiting medicine with the intent to be administered to Thomas Davis." In a day when every man had his own concoction of herbs and weeds, the benefit of which he was anxious to bestow upon his neighbor, there could only be one verdict. Will and Doll were acquitted.<sup>155</sup> The levy still had to be laid, and now was paid in dollars and cents instead of pounds of tobacco. In 1797 it amounted to \$400.80, which divided by 3340 titheables cost each twelve cents.<sup>156</sup>

The press of such duties, plus the need of attention of his plantations, caused Francis Cowherd to resign as coroner and Commissioner of Taxables in 1797. From 1790 to 1796 he fathered five daughters; in 1799 he received a third son.<sup>157</sup> The house had to be expanded to shelter this increase, and more candles had to be dipped to light the premises. In 1798 farming was pretty discouraging. Madison wrote to his friend at Monticello, "It is now become certain that not half crops of wheat can be made. Many will not get back more than their seed, and some not even that. We have lately had a severe spell of Northeast rain, which in this neighborhood swept off at least fifteen percent of the cattle;..

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155. Orange Minutes, IV, 1.

156. Ibid., III, 432.

157. Cowherd Family Bible.

We are at present in the midst of a cold N. W. spell, which  
 158.  
 menaces the fruit."

The community life went on in spite of disaster to  
 crop and cattle. Andrew Shepherd, John Lee, James Hawarth,  
 George Massingbird, Robert Wilson, William Alcott, May Bur-  
 ton, Jr., and John Chiles were licensed merchants in the  
 County, and Joseph Wood, May Burton, Jr., and Hay Taliaferro  
 were ordinary keepers. 159 The ordinary license cost \$12.50 a  
 160 year. Rates for these taverns were re-established in 1800  
 in dollars and cents and give a good illustration of money value.  
 Hot meals were now worth 34 cents, and a cold plate 25 cents.  
 Lodging for a night cost ten cents, and for the same price you  
 could get a quart of cider or porter. Whiskey brought \$1.67  
 per gallon, just half the price of the same quantity of rum  
 161  
 or French brandy.

Estates, however, were still appraised in pound,  
 shilling or pence, showing the relative unfamiliarity of ap-  
 praisers with the new currency. The evaluation of estates  
 indicates considerable inflation, when compared with the val-  
 ues of thirty years earlier. Slaves brought top prices of  
 sixty pounds just before the Revolution; in 1800 they were

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158. Hunt, *op. cit.*, VI, 319.

159. Orange Minutes, III, insert, p. 406.

160. Orange Orders, 1806-09. 314.

161. Orange Minutes, IV, 24.

worth as much as 130 pounds. Horses, once quoted at twelve pounds, bought up to 36 pounds. Household furniture was similarly more expensive, and even the humble still had increased in cost to twelve pounds current.

The Country was growing relatively old, and those who might still be listed as the original pioneers were dying off. Captain Johnny Scott, who had been Francis Cowherd's patron as well as his father-in-law, died in 1801. He left personal property to the value of 2,186 pounds, including 23 slaves. One-third of this, after some specific bequests, went to Francis Cowherd.<sup>162</sup> Jonathan Cowherd also died in the early weeks of 1806. He left his property to his ten living children, not forgetting Jonathan, Jr., and James in Kentucky, who received 1,166 acres and 1,000 acres respectively that their father had taken up in the new state. He took great care to provide for his unmarried daughters, Tabitha, aged 30, and Frances, 26. Each of them received six slaves and, with older sister Drusilla, they got all of Jonathan's land except for the Kentucky lands and small grants in Orange. He had previously given land to his four sons, Francis, Coleby, Yelverton and Reuben, who split most of his personal property four ways.<sup>163</sup>

In spite of these deaths the business of the County

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162. Orange Will Book, IV, 177.

163. Ibid., 175.

had to go on, and Francis was rapidly becoming the senior active Magistrate. In 1801 he was one of a committee appointed to have a new office built,<sup>164</sup> and the next year he helped lay off ground for the construction of an entirely new group of public buildings.<sup>165</sup> In 1804 the new buildings were sufficiently complete for him to sell the old Courthouse at the direction of the Court.<sup>166</sup> The new construction raised the County levy for 1804 to \$2,849.28, or 75 cents per poll,<sup>167</sup> which was seven to ten times the normal levy. In the meantime he had re-assumed the duties of Appraiser and Commissioner of Taxables. He was assigned to let the prisoner repairs and to inspect the Clerk's office.<sup>168</sup> In 1805 he presided over Court, which laid the County levy of \$417.23. Ninety-three dollars of this went to William Burrus for repairing the jail and for building stocks and a whipping post.<sup>169</sup>

Burrus must have done an inadequate job, for the next year Francis Cowherd was commissioned Sheriff by Governor Brooke, and one of his first official acts was to object to the sufficiency of the jail. Being Sheriff, he was finally rewarded for his time, since he received ten percent of all tax collections, fees and fines. He also had to furnish bond of \$42,000, which

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164. Orange Minutes, IV, 336, 352.  
 165. Ibid., 351.  
 166. Ibid., 584.  
 167. Ibid., 641.  
 168. Ibid., 144.  
 169. Ibid., 771.

his brother Coleby, Thomas Ellis and John Scott helped him  
 170  
 with. Ten thousand dollars of this bond was for the "true  
 and faithful performance" of the Sheriff's duties. Two thou-  
 sand was for collection of fines and levies. The balance,  
 \$30,000, bound him to the diligent collection of taxes. 171

This latter job was not easy, and he was forced to return long  
 lists of delinquents. The tax on this delinquent land varied  
 from one cent an acre to Robert Oliver's \$16.20 on 19,950  
 172  
 acres.

The Sheriff had to deal with the same crimes and  
 misdemeanors that had worried the County for many years. Men  
 persisted in trying to evade the tax for retailing liquors and  
 in gambling illegally. William Jennings "exhibited" a faro  
 bank in Samuel Burrus' tavern, and both men had to brought to  
 173  
 Court. Other tavern keepers were also frequent violators  
 of the gambling laws.

After two years Thomas Ellis succeeded Cowherd as  
 174  
 Sheriff. For a few more years the "Major". 55 years old in  
 1808, continued to participate in the activities of the County  
 Court; but the job was rapidly becoming a nuisance, no longer  
 carrying the authority and honor that had once gone with it,

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170. Orange Deeds, XXIV, 15.

171. Ibid.

172. Orange Orders, 1806-09, 314, 316.

173. Ibid., 5, 6.

174. Ibid., 310.

and the old-timers dropped out. He did not resign his magistracy until 1825, but for the last fifteen years he acted only for his immediate neighborhood which was some eight miles southeast of the little village that had grown up around the Courthouse.

This marked the end of an era. Now the theater for important leadership on the local level had passed on to the West---Kentucky, Ohio, and beyond. The Piedmont section of Virginia had become quite static, and never again would it be easy for a family to acquire lands, wealth and prestige from a relatively humble start east of the mountains. The effect of the frontier had been quite pronounced, but it was no longer a factor.

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