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FROM COMMUNITY TOWARD STATE IN THE NORTHWEST TERRITORY:
(1787-1803)

City University of New York

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FROM COMMUNITY TOWARD STATE
IN THE NORTHWEST TERRITORY
(1787-1803)

by

EDWARD BELLER

A dissertation submitted to the Graduate Faculty
in Sociology in partial fulfillment of the requirements
for the Degree of Doctor of Philosophy, The City
University of New York.

1983

This manuscript has been read and accepted for the Graduate Faculty of Sociology in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

29 Sep 83
date

George Fischer
Chairman of Examining Committee

Sept 23 1983
date

Boyd D. ...
Executive Officer

Professor George Fischer

Professor Sidney Aronson

Professor Emile Oestereicher
Supervisory Committee

The City University of New York

Abstract

FROM COMMUNITY TOWARD STATE IN
THE NORTHWEST TERRITORY
(1787-1803)

by

Edward Beller

Adviser: Professor George Fischer

This study addresses the sociological problem of state and community. It contrasts a centralized, coercive structure with spontaneity and voluntary co-operation. Focusing on an early American frontier, the movement from a society corresponding closely to the concept of community to one where elements of the state emerged and began to predominate is described. The social factors which fostered this movement are analyzed as is the effect of the emergence of the state on community as the basis for social life.

The first chapter defines the concepts of community and state. A composite portrait of the earliest social life of the settlements of the Northwest Territory is then presented. This social life at first conformed closely to the theoretical outlines of the concept of community.

Chapters Two through Five consist of case studies of nine squatter settlements and three settlements founded on

legally recognized property rights. Using several empirical indicators of the appearance of the state, it becomes clear that as the settlements matured the centralized, minority controlled, and coercive state gained ascendancy over the diffuse, voluntary, spontaneous, and co-operative community. It appears that the major social factor fostering this development was the presence of a landlord-speculator class which needed legal sanction and military protection for its holdings and supported a policy of indefinite encroachment on Indian land. Forms of political organization corresponding to the concept of the state developed as this class sought to protect its interests and ensure its control.

The emergence of the state culminates with the appearance of elaborate rituals and symbols. In Chapter Six an analogy is drawn between this final aspect of the state and the sacred as defined by Emile Durkheim in The Elementary Forms of the Religious Life. Both suggest society's collective will, authority, intelligence, and unity. Both are sharply divorced from the prosaic routines of everyday life. It is likely that the state, a form of social-political organization which arose to protect the interests of a dominant class, is shielded from rational criticism by impressive symbolic trappings of objectivity and social unity.

ACKNOWLEDGMENTS

The members of my dissertation committee--Professors Fischer, Aronson, and Oestereicher--deserve my special thanks for their diligence, patience, encouragement, support, and instruction.

I would also like to thank Ms. Marian Smith, the secretary of the Sociology Department, for her efficiency, attention to administrative detail, and genuine concern.

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Chapter I

INTRODUCTION; THE PROBLEM OF STATE VERSUS COMMUNITY

This study addresses the sociological problem of state and community. Social theorists have often opposed these two concepts, contrasting a centralized, coercive structure with spontaneity and voluntary co-operation. Our contribution will be to focus on a specific case study in historical sociology but to do so within the framework of sociological theory as it pertains to state and community.

The case study, then, starts and ends with the theoretical problem chosen; a centralized, coercive state versus a voluntarily cooperating community. Therefore, it is best described as a theoretically oriented social history. It attempts to combine historical narrative with a continually emphasized theoretical problem.

We will consider a case where community clearly predominated at first, at least locally, but where the state began to emerge and gain ascendancy. We find this case on the early American frontier--specifically, that part of the Northwest Territory that in time became Ohio.

One important qualification must be made here. The state already existed in well developed form on the

national scale and in the eastern regions from which came the settlers of the Northwest Territory. It is reasonable to assume that the settlers expected to establish institutions similiar to those they had already experienced. Indeed, the political development of the region was to a great degree determined in advance by its Territorial status under the Northwest Ordinance in 1787. Thus we cannot claim to trace the development of the state, in a generic sense, from conditions of pure community. All we attempt is to trace the state's development under very specific historical conditions; where community predominated, locally, within the early settlements of the Northwest Territory. On the strength of this special case, an initial predominance of community in one part of a modern society, we hope to clarify important aspects of state versus community as a theoretical problem and to use these two theoretical constructs to make a coherent sociological analysis of an empirical process of social change.

To repeat, we are dealing with the juxtaposition of two theoretical constructs; community and state. However, social change is a gradually unfolding process and society is a combination of many events and processes. There are never the same clear cut oppositions and distinctions in actual society and in the actual process of social change as between two theoretical constructs.

Thus the empirical elements associated with the theoretical constructs of community and state never exist in pure and undiluted form in any actual social situation. But it is our contention that these constructs may be used to help describe and document a specific process of social change. This change involved the movement from a social situation in which the elements of one theoretical construct (community) predominated toward a situation where the elements of the other theoretical construct (state) began to appear and gain central importance.

In this introductory chapter, we first abstract the main elements of the two concepts from the writings of prominent social and political theorists. Next we draw a composite portrait of the early social life of the settlements northwest of the Ohio River. Here we consider at some length how closely that social life corresponded to the prevailing conceptualization of community. The following chapters attempt to describe the shift of local predominance from community to state and to identify the social factors that led to this change. We will also consider the effect on community life of the emergence and increasing importance of the state.

In the squatter settlements discussed in chapter

two the state appears in very primitive and elementary form. It is more apparent in the settlements founded on legal rights of property described in chapters three through five. In chapter six, we consider the final stage in this local shift toward the state. This stage we link to political ritual and symbol, imposing public buildings and public squares, and the state's association with the sacred.

At each step, in sum, we are interested in the movement from face to face living and working together to the beginnings of domination over social life by the impersonal and coercive forms of the state. This process is never complete. Even in our own time community plays an important role. Still, modern times have meant the growth of social life to the point where it cannot be surveyed and known by any one individual. Even though community continues to exist, it does so as a weakened component within this larger social life.

Thus the problem of state versus community is of central importance. Today we see much interest in the possibilities for neighborhood and community life. In and out of social science, writers oppose local decision making and action to a highly centralized state. For example, in the September-October 1979 issue of Social Policy Harry Boyte describes the nation wide rise

of neighborhood improvement and autonomy movements in the 1970's. In a March 1979 article in The New Yorker Richard J. Barnet discusses how the type of energy neighborhoods choose (or have forced upon them by corporate and government decisions) will affect the ability of those residues of community to govern themselves.¹

If our case study of western settlements can clarify the longstanding theoretical opposition of state and community, we may facilitate this important discussion in our own time and place.

The State

A consideration of the literature on political authority yields the following elements as comprising the concept of the state.

The state represents the will to coerce and dominate impersonally over a clearly defined territory whereas behavior in community is for the most part local, "face to face," voluntary and stems from various internally felt needs--subsistence production, mutual protection, the expression of sexuality and the rearing of children, the simple pleasure of sociability.

The state, furthermore, is thought to be the final source of order and authority within a given territory, has the right to apply legitimate force over the population of that territory, to decide who can or cannot reside within

its territory, to deal with hostile and/or vulnerable outsiders and apply force against them, and claims to represent the will and moral weight of the entire social formation. As such it demands and receives a certain quasi-religious reverence.²

Of course, the state is not a distinct and self-contained entity. It has to be considered as a theoretical construct designed to isolate certain tendencies in political authority that may or may not exist fully at any given moment. Where a centralized and hierarchal organization of political authority clearly controls a sizeable population and territory, uses legitimate force to maintain that control, attacks outsiders and defends the territory against their attacks, and where a whole array of rituals and symbols are employed to impress and frighten it is clear that those tendencies exist fully. By the same token, that is when it is most justified to speak of the state in terms of opposing it to community.

The Concept of Community

So far we have used the word "community" without careful definition. With usage ranging widely, from residential neighborhoods to shared work, roots, or values, these overlapping and even clashing meanings seriously confuse our use of the term. Most pertinent here, of course,

is the usage of community that denotes a type of social organization that occurs optimally far, in the sociological sense, from the state and similiar formal structures. The concept of community has a long intellectual history and it cannot be our purposes to trace that history. A set of reference notes do show how social and political theorists differing as widely as Marx and MacIver and including such writers as Paine, Rousseau, Tonnies, Maine, Redfield, Laski, Hinsley as well as the Anarchists have contributed to its development and opposed it to the concept of the state. In the field of sociology, this theme often involves analysis of traditional societies, folk cultures, or societies where *Gemeinschaft* (community) predominates over *Gesellschaft* (society). Sociologists stress whether or how early pure community gives way to modern--rational, bureaucratic societies with highly elaborated political structures.

If the state is defined as a formal structure of command representing the final source of order and authority for, and maintaining the right of legitimate coercion over, the inhabitants of a given territory, then the theoretical construct of community contains many elements that are opposite. The following is a general outline of the relevant conceptualization drawn from classical political and social theory, the Marxists and Anarchists, and academic sociology. From these sources we can identify

eight possible elements in the concept of community. These elements, we should stress, lead to confusion when and if users of the term fail to make clear which elements get pride of place and which may be left out altogether. Here, the reader will see, we specify that all of these elements seem to fit our use of the term community:

1. Unity of Feeling, Internal Motivation to Participate.

In community there is a unity of feeling brought about by shared life experiences. The motivation to participate in the life of a community springs spontaneously and naturally from within the individual and is the expression of certain common human needs; recognition, affection, a sense of social context, belonging and purpose.³

2. Clearly Understood Conventions and Norms. Although the will to engage in community and to behave in a specific manner within it does not stem from external coercion, behavior is often patterned and conventional in conformity with certain clearly understood norms. The individual follows these norms, not because he or she fears specific punishment, but because of an internalized desire for acceptance and recognition by the community.⁴

3. The Family. The family is the central form for organizing community. It does much to define the relationships, rules and obligations of the members of the community to each other.⁵

4. Voluntary Association, Flexible Authority

Structure. Individuals come together for such purposes as protection, production, and the handling of various emergencies on a voluntary basis. These associations are temporary. They last as long as the tasks demand and then disband. There is no formal structure of authority within them. Those most adept at the particular task direct the others for as long as it is necessary for the association to remain intact.⁶

5. Simple, Subsistence Economy and Community Based

Concept of Property. The form of economy most conducive to the existence of community is quite simple. There is no well defined class structure, dominant class, or division of labor. Production is rudimentary, yielding only a small surplus, if any, for exchange. Each family is in possession of its own instruments of production and is generally self-subsistent. Often the ultimate right to property resides in the community itself with the individual or family granted rights of use only by virtue of being a member of the community. In any case, the concept of property is based around use, labor, and community approval.⁷

6. Non-Codified Law and Authority. Authority and

law are not codified. The submission to authority is based on feelings of loyalty, love, friendship, family obligation, or, on occasion, the recognition of superior competence.⁸ The settlement of disputes and the direction

of community affairs are often the responsibility of an informal council of heads of families or elders. Their decisions are based on tradition and common sense "fairness" as defined by the norms of the community, not on formal written law.⁹

7. Public Opinion as Regulator of Behavior. Active public opinion and general censure, rather than formal procedures of apprehension, conviction, and punishment discourage improper or deviant behavior.¹⁰

8. A Community Ethos. The last element of community, and one that is implied in all the others, is an ethos, a mode of feeling and thought, that supports community as a highly valued context for social life.

The Social Life of the Early Northwest Territory

Our next task will be to draw a composite portrait of the social life of the early settlements northwest of the Ohio River. Thus we will be able to see how closely they approximated to the concept of community as outlined above.

Although the main body of this study will concentrate on three settlements (Marietta, Cincinnati, Chillicothe) in the section of the Northwest Territory that became Ohio in 1803, our general portrait of social life in frontier settlements will include elements from other areas

and times.

Specifically, the settlements we will use for this task are Vincennes (founded in 1765), Marietta (1788), Cincinnati (1788), North Bend (1788), Columbia (1788), Chillicothe (1796), Alexandria (1799), Greenfield (1802), Portsmouth (1803), and Cadiz (1804).

General statements made by local historians about early settlement in the following counties have also been included; Hamilton County, Ohio (1790), Ross County, Ohio (1798), Scioto County, Ohio (1803), Dearborn County, Indiana (1803), Harrison County, Ohio (1813), and Ohio County, Indiana (1844).

In addition, we have considered descriptions of pioneer life for whole regions: western Virginia and Pennsylvania (1763-83), southwest Pennsylvania (1781-88), the Northwest Territory (1787-1840), the Indiana Territory (1800-1905), and the Illinois Territory (1806-18).

This approach can be justified by both expediency and a reasonable expectation of accuracy. It is expedient because no one settlement has left a complete picture. It can be expected to produce a broadly accurate result because of the similar conditions that each band of settlers faced no matter where in the area northwest of the Ohio River they happened to be--an unbroken wilderness occasionally hostile natives, no established institutions, and the pressing need to begin subsistence production.

Secondary sources consulted were general and local histories of the region by both modern and nineteenth century authors, articles in scholarly journals, unpublished dissertations, and miscellaneous newspaper clippings, pamphlets, and magazine articles.

The primary sources included journals of settlers, official records of the governments of the early settlements, the Territorial government, and of the Federal government, the papers and correspondence of prominent frontiersmen, travel accounts, and newspapers of the period.

This material was found in the Local History and Genealogy Department of the New York Public Library, the Library of the New York Historical Society, the central branch of the Cincinnati Public Library, the collection of the American Antiquarian Society in Worcester, Massachusetts, the National Archives in Washington D.C., the county court houses in Marietta, Cincinnati, Chillicothe, and Portsmouth Ohio, the Library of the Campus Martius Museum in Marietta, the Library of the Ohio Historical Society in Columbus, Ohio, and the Dawes Memorial Library at Marietta College.

All references to the community life of the early settlements of the Northwest Territory in this material are included in the section that follows.

In order to deal systematically with the material below section headings will indicate which elements of the concept of community are being considered. In order to avoid undue repetition more than one element of community will sometimes be treated under one heading. This seems necessary when it is remembered that a single empirical act might very well combine several elements of the concept of community which is, after all, an abstraction derived from the observation of ongoing social processes.

The Family, Internal Motivation to
Participate in Community, Voluntary
Associations, Clearly Understood
Conventions and Norms

There is very little material on the role of the family in the social life of the early western settlements. We do know, however, that families living in the same coastal area or belonging to the same church congregation often set out together for a common frontier destination. Thus the earliest division of labor on the frontier was of the simple kind typical of the family -- that based on age and sex. The ethos of mutual aid inherent in the family was readily transferred to the wilderness where harsh conditions made isolation dangerous and impractical.¹¹

The most typical mode of transportation to the Ohio frontier was navigating a wide, flat bottomed boat or

"ark" down the Ohio River. Several families would pool their resources to purchase such a boat and stock it with provisions, usually at Pittsburgh. They then shared chores and provisions on the journey. It was common for six or seven of these arks to be tied together to form a kind of floating village or caravan.¹²

When the settlers arrived they would begin the initial land clearing, planting of the first crop, and building of cabins and barns. Some land was cleared and reserved for common use.¹³ Joseph Barker, one of the pioneer settlers of Marietta, Ohio remarks: "A large number associated to go to work and inclose a large field on the Plain and each one to occupy in proportion to the labour he put in."¹⁴

The first crop, and many thereafter, were harvested by the common labor of the settlers.¹⁵

If the new settlement came under Indian attack the settlers built a crude fortified structure or "blockhouse." The entire settlement then resided in the blockhouse. All of the farming was done in teams, some men working the land while others acted as sentries. Of course, the produce of the land was shared.¹⁶

Along the frontier areas of Virginia and Pennsylvania during the 1770's there existed a kind of military confederation of such camps or blockhouses. There was a hierarchy of officers ("only nominally such") who could

advise but not command. The punishment for not joining this informal military structure was "public odium." This must have been effective enough since dissent was almost non-existent.¹⁷

Even before the settler families emerged from the blockhouse to occupy their own lands, certain forms of further voluntary association began. The settlers protected their livestock and crops by forming mutual insurance associations. Each family agreed to replenish an accidental loss that occurred to a member family from its own stocks.

The settlers formed committees that offered rewards for Indian scalps, "right ear appendant." The hiring of a teacher or minister required a donation of a part of each family's crop.¹⁸

If the region did not supply an important product, salt for instance, each family would donate a local product, perhaps fur pelt or corn. This product would then be taken to the nearest frontier store and bartered for the scarce one which was then distributed among the families in proportion to their original donation.¹⁹

Groups of men hunted together, sometimes occupying the same camp site for several weeks. This hunting party would have a loose hierarchy of command based on prowess and woodsmanship.²⁰ Definite rules of the hunt were established. For example, the man who drew first blood

was entitled to the skin of the game. Each man instrumental in the kill got some less valuable portion.²¹ However, if an individual happened to make an unusually large kill, it was customary for him to invite his neighbors to share the meat.²²

Long after the settlement was firmly established, there were quilting bees, log rollings, corn huskings, common plantings, harvestings, and the co-operative building of houses, barns, and fences. Clothing was washed co-operatively by groups of women. Settlers very often banded together to build, maintain, and use a mill.²³

Various emergencies, too, called for co-operative action. In 1790 a flood did considerable damage in Marietta. The following is a contemporary account of the joint action taken: "Friday 26 February 1790 about nine or ten o'clock Colonel Sproat comes and rallies all hands to clear the roads of the drifted timber and mend the bridges that the flood had unsettled and thrown up some of the timber. I assisted to mend the bridge near our house."²⁴

In 1791 Marietta suffered a severe rain storm that weakened all the roofs in the community: "All hands were set to work to cover the roofs with mud."²⁵

Indian depredations, from horse theft to scalping, caused the settlers to organize spontaneous riding

parties. Again, an event in Marietta will serve as an example. The following action was taken in response to a horse theft: "A party was soon assembled from Campus Martius and the Point. Those who attended Public preaching were required by Law to Carry their Arms-it was about the middle of the forenoon Service-the Young men jumped to their Arms, left the meeting and were immediately in persuit of the Indians."²⁶

In Vincennes, a town in the central section of the Northwest Territory and eventually in the state of Indiana, any damage done to the fences that enclosed the town commons were repaired by groups of citizens acting communally.²⁷ Sickness, the fear of epidemics of such diseases as small pox and cholera, and fire were yet other emergencies that led to co-operative action.²⁸

Newcomers lived temporarily with an established settler. They were fed and shown the best land "buys" available. In return for this hospitality the new family was expected to share in the farm and domestic labors of the host family and participate in whatever community wide efforts took place.²⁹ After a time the neighborhood would gather to clear the land, plant the crop and build a house and barn for the new family who then provided meat and whiskey for all when the job was done.³⁰ Since there were few inns, even travelers were boarded gratis or for very trifling sums.³¹

Non-Codified Law and Public
Opinion as a Regulator of Behavior

Settlers handled much of their civil and even criminal problems outside of the structure of formal Territorial law begun in 1788. The Supreme Court of the Territory, the Territorial Circuit Courts staffed by the three Supreme Court Justices, the county courts of common pleas (property matters) and the county courts of quarter sessions of the peace (criminal and civil complaints) were the main agencies of legal administration. Law was promulgated by the Territorial Legislature which from 1788 to 1799 was comprised of the Governor and three Supreme Court Justices and from 1799 to 1803 of elected representatives from each county.³²

This governing apparatus was, at first, not able to exercise much authority. The Territory was simply too large and uncivilized making communication and travelling both difficult and dangerous. The Circuit Court and the Supreme Court held their sessions infrequently, sometimes missing an entire year. In June, 1795 the Supreme Court of the Territory had its sessions officially limited to two.³³

For the citizen in search of justice, the cost of presenting himself before a session of the Territorial Circuit Court, including lost work time, transportation, room and board, and court costs could be as high as \$900.

When one considers that skilled workmen could expect \$12 per month in wages and that a substantial house could be leased for \$36 per year, it becomes clear that this was a prohibitive cost for the typical settler. Even after this expense and the arduous trip, there could be no guarantee that judges, jurors, witnesses, and other parties to the case would appear.³⁴

In any case, one of the simplest and most basic necessities for the administration of formal law was often unavailable; printed copies of the statutes in effect. In 1790 Governor Saint Clair complained that Territorial laws could not be disseminated, even to Supreme Court justices and local justices of the peace, because the Territory did not own a functioning printing press.³⁵

Thus, Theodore C. Pease, a student of the earliest laws of the Northwest Territory, has said: "The legislation of the Northwest Territory can be picked full of defects, but it is a question whether the scattered communities for which it was meant would not generally have governed themselves in about the way they actually did whatever the legislation provided for them."³⁶

The situation of the county level courts was not different. The counties in the Northwest Territory were immense, commonly covering areas more than twice the size of Massachusetts. In 1788 Saint Clair County, for example,

consisted of the area that is now the state of Illinois. Again, settlers were discouraged by high fees, the difficulty and expense of travelling to distant county seats, and the lack of assurance that other parties to the case would appear.³⁷

Under these circumstances it is not surprising that many communities functioned adequately for several years before the official organization of county government and county courts. Even after these courts were established there is ample evidence that they were but little used, especially during the earliest Territorial period (1787-95).

It was common for both civil and criminal matters to end in default, one or both parties not appearing. Approximately one half of the scheduled meetings of the Quarter Sessions Courts in the Territory (1787-95) adjourned because there was no business to conduct or because there was not a sufficient number of justices present.³⁸

In Washington County there were 37 meetings of the County Court of Quarter Sessions between 1787 and 1795. Eighteen of these met and adjourned because there was no business to conduct. Four adjourned because there were not enough justices present. In these 8 years there were but 11 cases that required hearing evidence, keeping trial notes, and rendering a decision.³⁹

Joseph Barker, a prominent Washington County landowner and Quarter Sessions Justice, had this to say about the activities of the courts there between 1790 and 1795. "Where there is little property, little law is required. I do not recollect of any Civil suit being commenced during the War (Indian wars, approximately 1790-1795) Nor but one Criminal Action."⁴⁰

In that section of the Territory that became Illinois the towns of Cahokia and Kaskaskia maintained the old French courts established before the American revolution. However, they were infrequently used. The situation did not change much with the official establishment of county courts in 1790. In Saint Clair county with its county seat in Cahokia, there was no business before the Court of Quarter Sessions between 1790 and 1792. A historian of this court notes that lack of business remained a common circumstance until statehood for Illinois (1818) and beyond.⁴¹

In 1790 at Vincennes a General Joseph Hamtramck reported that the fees at court sessions were so high that people very rarely resorted to them. A committee of the United States House of Representatives reporting on the Territorial division bill of 1800 noted that in the three westernmost counties in the Territory (Knox, Randolph, and Saint Clair) only one court session dealing with criminal offenses had been held in the five previous years. As late as 1802 in Randolph County with its seat at Kaskaskia, three of

the four sessions of the Quarter Sessions Court adjourned because there was nothing to do.⁴²

In 1793, Secretary of the Territory Sargent complained about the behavior of the people of Cincinnati and the administration of law there:

Licentiousness is their characteristic and the magistrate who shall dare to enforce the Laws which are adopted will of Course become the Object of their highest displeasure--under this, which seems a pretty general Impression here, you cannot expect the due Exertion of the magistrates.... Candidly I believe they will at all events go with the multitude even to do Evil.⁴³

It is hard to determine whether licentiousness was really as rampant in Cincinnati as the Puritan New Englander Sargent thought or whether the settlement simply functioned without concern for formal procedures. In either case we can assume that the courts were not used very much.

The possibility that formal procedures of apprehension, trial, and punishment were not strictly followed in criminal matters is made more likely when we consider that until 1798 not one county in the entire Territory maintained a secure jail.⁴⁴

Along with these indications that the formal legal apparatus of the time was infrequently used, historians point out that extra-legal, community-based methods of social control were common.⁴⁵ By informal or community-based government we mean the authority wielded by these men who assumed the responsibilities of directing the

affairs of their communities without official appointment by Territorial authority under the Ordinance of 1787. Formal government was the authority wielded by duly appointed officers of the Northwest Territory which, in turn, derived its authority from the Federal government in New York and Philadelphia.

Decisions about errant behavior would sometimes be made according to Scripture by the informal congregations that met in private homes before the establishment of regular churches or simply by a hastily convened jury of the neighborhood. Public disapproval was, in itself, a severe sanction. Offenders might have to submit, for a time, to a derogatory name or epithet or be deprived of mutual aid. Other punishments inflicted by unofficial courts were whippings, the pillory and stocks (always in a conspicuous public location), and even banishment.

Clearly, physical coercion was sometimes an element of this informal, community-based justice. The difference between physical coercion as administered by community and that administered by the state is the informal, spontaneous, non-codified nature of the proceedings and the merely temporary aspect of the former's tribunals as opposed to the state's permanent, formal, coercive authority over a clearly defined territory and population. Community-based justice has, in other contexts, been referred to as "lynch law." It is beyond the scope of this study to inquire

which form of physical coercion leads to more undeserved human suffering. Community tribunals, doubtless, are often hasty. However, they are incapable, by definition, of international violence and sustained internal persecution utilizing the highest technology available. And although we cannot go so far as to say that the subject of community methods of justice submits to his punishment voluntarily, there is evidence to show that if he perceives himself as a member of the community, he perceives undergoing punishment as the one way to regain lost status, and thus is at least willing to accept it as necessary. Indeed, the coercive element in community has its roots in the individual's internalized desire to participate and be accepted in community life, therefore making him vulnerable to sanctions of exclusion and/or loss of status.⁴⁶ On the other hand, the coercive authority of the state is formalized and distant and can be used against those who have no sympathy with its goals or policies, no desire to be included within its boundaries, or, possibly, even knowledge of its existence.

Following are several examples of such informal, community-based justice. In 1790 a Cincinnati man missed a barrel of flour and suspected that it was stolen. A group of trusted neighbors began to systematically search the houses in the vicinity. At one house they were refused admission, whereupon they entered forcibly and found the flour. After a

brief trial the proprietor of the last house was found guilty of theft by a jury of the neighbors and a whipping administered.⁴⁷

In the same year and again at Cincinnati a complaint was made to an informally elected (not appointed by Governor Saint Clair since the county courts had not yet been organized) justice of the peace against one Patrick Grimes for stealing cucumbers from the garden of one of his neighbors. The man was apprehended and a jury summoned. After hearing the evidence the jury rendered a verdict of guilty. The punishment was 29 lashes.⁴⁸

In 1796, before the organization of county courts in Chillicothe, a town in the central section of what was to become Ohio, a man by the name of Brannon and his wife were brought to trial before another informally elected and unofficial magistrate and a neighborhood jury. The offense was the theft of a greatcoat, shirt, and handkerchief. They were found guilty. Mrs. Brannon was made to lead her husband through the town on horseback, announcing at every cabin that here was Brannon, the perpetrator of the greatcoat, shirt, and handkerchief theft.⁴⁹

In 1797 at Chillicothe a man called McMurdy lost a horse collar. He found it in the possession of a certain plowman. Again, an unofficial magistrate was summoned, a "court" held under a tree, the horse collar duly identified as being that of Mr. McMurdy, and the plowman whipped.⁵⁰

When Thomas Worthington, later to become an important public figure in the Territory and eventually in the state of Ohio, arrived in Chillicothe (1797) he found no magistrate, or at least no officially appointed magistrate. He also found a generally law abiding community that seemed to function well without the benefit of formal government.⁵¹

Even after the establishment of formal local governments there was acknowledgement by officials of community-based methods of self-regulation. Throughout the Territorial period (1787-1848) individual justices of the peace or several justices at meetings of the Quarter Sessions Courts would commonly refer cases to arbitration by an informal panel of the community.⁵² In 1800 Governor of the Indiana Territory William Henry Harrison requested the citizens of Vincennes to aid in the enforcement of the law. He wanted them to discourage and even arrest drunkards, disorderly persons, and those who sold liquor on Sundays and in other ways violated the Sabbath.⁵³

The settlements of the early frontier were capable of formulating and enforcing certain basic regulations and laws without benefit of formal government. In Vincennes there were communally enforced regulations regarding the care of the town commons and the fences that enclosed it. The townsfolk of Detroit regulated tavernkeepers, liquor sellers, animal trespass, and various fire hazards. There

were also measures requiring general participation in extinguishing fires.⁵⁴

The citizens of Chillicothe met in the town square in 1797 to formulate rules and regulations regarding merchants who sold liquor to Indians. It was decided that they must escort the Indians from the town and be sure that they caused no disturbance. The penalty for disregarding this rule (applied at least once) was to have one's stock spilled in the streets.⁵⁵

There seems to be conflicting evidence regarding the nature and amount of crime on the frontier northwest of the Ohio River. We have mentioned that in 1797 Chillicothe seemed very "law abiding" to the newly arrived Virginian, Thomas Worthington. But writers of the Works Progress Administration note that at this time gambling, cock fighting, "loose" women, and a generally riotous atmosphere prevailed in the town because of the disbanding of General Anthony Wayne's victorious army.⁵⁶

We have seen that in 1793 Secretary Sargent thought the people of Cincinnati extremely "licentious" and in 1800 Governor of the Indiana Territory Harrison felt he needed the aid of ordinary citizens to quell general disorder and disrespect for law in Vincennes.⁵⁷

Somewhat later, Jacob Bradbury, while passing through the state of Ohio in 1815 noted that there was little crime and that few residents bothered themselves with locks and

closed doors. The jails, such as they were, were empty. But Chester J. Attig, a student of the early institutions of the Northwest Territory (1787-1802), reports that assault, deuling, armed robbery, and murder were common.⁵⁸

Of course, it is impossible to determine now what behavior was specifically meant by the words "licentious" or "law abiding" when employed by a strict Puritan from New England and an aristocratic Virginian respectively. It is no less difficult to deal with the problem that much crime and disorderly behavior never came to the attention of official agencies but was handled in other ways.

However, one fact seems clear, whether the denizens of the Northwest Territory were boisterous, disorderly, and criminal or quiet, peaceful, and law abiding (the truth probably lies somewhere between these extremes), the early regulation of the frontier settlements was left much with informal processes outside of the aegis of government.

Simple, Subsistence Economy

A crude, subsistence level, agricultural economy prevailed in the Northwest Territory. If exchange existed at all it involved some basic manufacture, produced as a subsidiary domestic activity, and agricultural staples. Price fluctuations and crises were not the results of changes in currency value and buying power but stemmed from such "natural" causes as Indian wars, transportation difficulties,

crop failure, droughts, flooding, and the drawing of laborers and craftsmen away from an area by large land openings elsewhere.⁵⁹

Max Weber has noted that mutual assistance as a social form commonly occurs in just such an economy. Mutual assistance becomes a form of labor exchange--the bartering of labor time rather than of products.⁶⁰ When one settler aided another he expected that the favor would be returned. According to Moady C. Boatright, the settler "helped his neighbor with his cattle because he needed his neighbor's help. He nursed his sick neighbor because he himself might need nursing."⁶¹

Clearly, the difficulties of clearing, planting, and harvesting in a wilderness with crude, often homemade implements made subsistence level farming inevitable. Even if there was a surplus product to be sold few settlers could have afforded to buy it. Most had exhausted their means in payment for their land.⁶²

Furthermore, for those many settlers who only rented land from large holders, any small surplus they might produce was taken as rent in kind. Indeed, many tenant farmers produced no surplus at all and so they paid their rent in labor services, usually clearing and fencing land for the owner.⁶³

There are many indications that a crude subsistence economy lasted well beyond the period of initial settlement

(1785-87). Among these indications is the acceptance of commodities rather than money as payment for debts. In 1792 a law regulating fees for public servants in the Territory stipulated that one quart of Indian corn was to be considered as one cent. In Marietta, the first legal settlement in the Territory (1788), farm provisions were used as currency until at least 1795.⁶⁴

In 1799 advertisements printed in the Western Spy, a Cincinnati newspaper, indicate that there had been some progress toward simple manufacture by that time but that the direct exchange of commodities, rather than the use of money, was still common. "Clean wheat, rye, bar-iron, copper stills, cows less than seven years old," "deerskins and country linen" would be accepted in payment for various goods and land.⁶⁵

At approximately the same time (1799) several large trading companies operated in Marietta and Cincinnati. They provided the settlers with certain manufactured goods (usually obtained in Pittsburgh, Philadelphia, or Baltimore) in exchange for farm produce. Still, many settlers could produce no surplus and so labor services to the firm such as cleaning, packing, and unloading were accepted as payment.⁶⁶ Between 1800 and 1805 Indiana and Illinois Territory farmers often complained that since they could not raise a surplus crop they would never be able to obtain the cash to pay for their land.⁶⁷

In 1801 Thomas Worthington accepted one hundred bushels of corn as one year's rent for 22 acres of land near the Scioto River in what was to become Ohio. In 1803 Governor Saint Clair remarked, in the course of his address to Ohio's constitutional convention that met in March of that year, that there was little movable property and trade in the Territory.⁶⁸

Charles A. Hanna tells us that in 1806 (three years after Ohio statehood), settlers worked their land on a subsistence basis. In Greenfield, Ohio (a town in Highland County, founded in 1802), teachers and ministers were paid in farm commodities until the mid-1830s.⁶⁹

Community Ethos and Community-Based Concept of Property

The owners and renters of small plots seem to have developed a distinct ethos stressing the obligations of mutual aid and a concept of property based on useful labor and community approval rather than formal-legal title.

For example, in 1792 Marietta area settlers forced to take shelter from marauding Indians in Fort Washington were incensed when the United States Army refused to share its provisions with them in typical frontier style.⁷⁰

Petitions from squatter communities in the Northwest Territory received by the United States Congress in 1796, 1801, 1806, 1808, 1812 claimed that the labor necessary to clear, fence, cultivate and defend the land they occupied

entitled them to first rights of purchase or "pre-emption." The petitioners said that their claims should take precedence over those of speculative buyers who did not intend to occupy and work the land.⁷¹

A report of the United States Congressional Committee on Public Lands issued in 1806 (but dealing with a problem of 10 years duration) stated that there was \$2,094,305 due on Ohio land. The members of the committee complained that this debt could not be collected by selling land in default since no one would buy his neighbor's land and outsiders feared harassment from the community.⁷²

In a different time and place historian Edward Countryman has identified a "moral economy" of the agricultural poor that differed from the ethos of unlimited accumulation of the land merchant speculators. Tenant farmers in the northeast, especially in the Hudson Valley and in northeastern New York, would, between 1764 and the time of the Revolution, harass and even forcibly evict new occupants who replaced a family in debt to a speculator. These areas also experienced land riots led by debt-ridden tenants against speculative holders.⁷³

A reluctance to participate in formally organized, government sponsored projects by a population which so often joined together voluntarily would be yet another indication of the existence of a special community ethos. Thus it is significant that the pioneer spurned government

organizations, especially the military. (There was resistance to militia service in the older states, too. But we are not claiming that a strong community ethos was peculiar to the Northwest Territory. On the contrary, whenever state-organized activity is opposed by a population that often combines voluntarily this would seem to indicate an attachment to the values of community).⁷⁴

As we have already noted, the frontier farmer would help to erect a fortified blockhouse, live in it with his and as many as ten other families, share chores and provisions, and fight fiercely to defend his family, property and community when Indians attacked.⁷⁵ But when forced to become a member of the government organized militia and carry out government-sponsored campaigns against the Indians, his performance was anything but heroic.

In 1793 Congressman William Findley of Pennsylvania had this to say about western pioneer-soldiers: "I have a high opinion of the backwoods riflemen, but I am confident that we cannot certainly rely upon their turning out as often as they might be wanted."⁷⁶

The militia of the Northwest Territory had more than justified the congressman's doubts. During General Joseph Harmar's unsuccessful expedition of 1790 the militia in its entirety abandoned the field of combat.⁷⁷ An aide-de-camp to General Saint Clair during the latter's equally fateful expedition of 1791-92 noted in his journal:

Sept. 3 (1791)--A number of militia are reported to have deserted already.

Sept. 4--A sergeant and nine of the militia deserted last night.

Sept. 5--An officer from the army arrives in pursuit of deserters. A sergeant and twenty-five deserted on the night of the 3d.⁷⁸

Here is an excerpt of a report sent to the Department of War in October 1791: "With this force General St. Clair continued his march. Six miles in advance of Fort Jefferson, 60 militia men deserted in a body, and a spirit of dissatisfaction was found to be spreading extensively among the troops."⁷⁹

It seems that the Indians could distinguish between the militia and the regulars and preferred to attack the former.⁸⁰ A typical account of the militia's prowess in the field is given by Saint Clair himself in a letter to the Secretary of War dated December 4, 1791:

For on the 4th [November 1791] about half an hour before sunrise, and when the men had been just dismissed from the parade, (for it was a constant practice for to have them all under arms a considerable time before light,) an attack was made upon the militia; those gave way in a very little time, and rushed into camp through Major Butler's batallion, which, together with part of Clark's, they threw into considerable disorder.⁸¹

In the manuscript collection of the Cincinnati Historical Society one may find several more accounts of militia ineptitude.⁸² Among them is this eyewitness report sent to General Anthony Wayne in December 1792: "On the morning of the 6th Inst. [November] the Indians attacked the Militia horse under the Walls of Fort St. Clair--they

were returning from Fort Jefferson after escorting a large quantity of stores which they had safely lodged there. The Indians attacked them a little after daybreak, the Militia gave way and strove to scale the pickets."⁸³

Aside from this lack of ferocity in the field, the soldier-citizen would not maintain regular training discipline nor would he readily accept taxation for militia expenses.⁸⁴

The Territorial road law of 1792 granted the Quarter Sessions Court in each county the right to appoint surveyors and command the labor of every able bodied male above sixteen. Reluctance to abide by this law would seem to be further evidence of a certain aversion to government-organized, as opposed to community-sponsored and voluntary, work projects. (Similar laws existed in the East, and compliance was not good either. But, again, we are not attempting to show that reluctance to participate in government-sponsored work projects by a population which so readily worked together outside of government was unique in the Northwest Territory. In Chapter III we will review the militia and road laws of the settled regions and the level of compliance to them.⁸⁵)

One indication that the settlers did not readily comply would be a continuing increase in the fine levied. In 1792 the penalty for each day of delinquency was 50¢. In 1799 it was raised to 75¢, and by 1802 it had reached \$5.⁸⁶

Next we will consider in some detail the evidence regarding road law compliance in Washington County, the first county in the Territory and in which was located the Territory's first capital, Marietta. Washington County, now in southeastern Ohio, was originally settled by New Englanders, mainly from Massachusetts. The early government was dominated by a large land speculation company (The Ohio Company) founded and owned by aristocratic and wealthy ex-revolutionary officers. The county was long a bastion of Federalism in the Territory.⁸⁷

The administrative apparatus in this county was probably effective and the settlers used to orderly acceptance of the duties imposed by government. Thus, if the road law was hard to enforce there, this, along with the progressive rise in the fine for delinquency, would be strong evidence that it was generally hard to enforce.

Justices of the Court of Quarter Sessions for Washington County and other county officials had problems enforcing directives to the settlers to join in work details even before the passing of the road law in 1792. In May of 1789 the Court found it necessary to warn the inhabitants of township 2 in the 8th range (Congress had divided the land northwest of the Ohio into ranges and townships for the purpose of public sale) that fines would be levied if the birdges and roads were not repaired and cleared.⁸⁸

At a meeting of Ohio Company Agents and Directors in February 1790, Sheriff Ebenezer Sproat said that he had "warned and requested the people on the 'point' to turn out and mend the bridges."⁸⁹ It is probably a safe assumption that the difficulties of those officials charged with enforcing the road law, the supervisors of highway, were related to the recalcitrance of the settlers. Accordingly, in September 1796 the Court enjoined the constables in each township to notify the supervisors of their duties and monitor their performance. This measure was not successful. Three months later the grand jury for Washington County found it necessary to present a general grievance for dereliction of duty against all the supervisors in Marietta and in June 1797 the Court directed them to expeditiously remove a blockage in the course of Duck Creek.⁹⁰

From the later date to 1803 there were nine more such commands issued to the supervisors of highway in Washington County (March 1798; June 1798; December 1798; September 1799; December 1799; February 1800; March 1801; September 1802). In August 1802 William Rufus Putnam, a director of the Ohio Company who was in Marietta, wrote to John May that the law for road labor and taxation could not be put into operation.⁹¹

Several historians of the West have noted that this combination of voluntary co-operation supported by a

communal ethos and a specific aversion to government directed work projects lasted at least thirty years beyond the admission of Ohio to the Union in 1803.⁹²

Thus we see that all eight elements of the concept of community prevalent in social theory can be found in the early Northwest Territory. To repeat, these key elements of community are: a certain unity of feeling and internal motivation to participate in community, clearly understood conventions and norms, the family, voluntary associations with flexible authority structures, a simple, subsistence economy and a concept of property based on use, labor, and community approval, non-codified law and authority, public opinion as the most important regulator of behavior, and an identifiable ethos that supported all this. The primitive conditions in the early settlements caused these eight elements of community to dominate social life. Together, these elements underlie the theoretical opposition of state and community which informs the present study.

Methodology

In order to observe the appearance of the empirical elements associated with the concept of the state as they begin to emerge where community predominated, we will need certain indicators.

1. The concentration of power and office within a small circle will be considered evidence of the state.

Authority in community is diffuse and temporary, lasting only as long as community members organize to face a specific task.⁹³

2. The power to coerce is also an element of the state. Thus, the appearance of officials whose powers include legitimate coercion will be considered an indication of the state. The social controls of community are more subtle than simple coercion. They involve an internalized attachment to certain forms of thought, feeling, and behavior. Enforcement depends more on the psychological need for acceptance and approval than on the threat of corporal punishment.⁹⁴

3. The tendency to surround the offices and functions of government with impressive rituals and symbols is further evidence of the appearance of the state. These rituals and symbols act to place the state in a sacred sphere "above" the community and to represent the state as an embodiment of the moral strength and cohesion of the community.⁹⁵

Because of the extremely elementary social conditions in the squatter settlements, other signs of the appearance of the state will be needed. These are: (a) the acknowledgement by the members of a squatter settlement that some men maintain permanent leadership roles, (b) the right to negotiate with hostile outsiders, and (c) the right to direct the use of arms in order to protect the territory of the settlement.

These factors can all be assumed to exist in those settlements founded on legally recognized rights of property and directed by duly appointed Territorial officials. But in the squatter settlements their existence will have to be proven and will signify the primitive beginnings of the formation of the state. We will still attempt, however, to find evidence for a concentration of power and office, the right to coerce, and political symbols and ritual in the squatter settlements.

The cases observed will include nine squatter settlements spread throughout the land area that eventually became Ohio and Indiana, and in somewhat more detail, three settlements (Marietta, Cincinnati, and Chillicothe) founded on legally sanctioned rights of property in the area that became Ohio.

The materials used are those of the historian-- contemporary newspapers, general histories, local histories, land records, court records, private papers, letters, journals, and travel accounts. In these materials are the names of officials (in squatter communities, leaders), their economic position in the settlements, their activities and their duties. The only guarantee that the information gathered is both accurate and reliable is the exhaustive nature of the research conducted. For the nine squatter settlements and the three settlements based on legal property ownership, all the available materials in

the collections mentioned earlier were consulted.

Ideally, the choice of settlements to study must be justified on the basis that they are representative of a large number of other settlements; that their patterns are not idiosyncratic but typical. Indeed, the initial conditions under which frontier settlements began were always broadly similar--an unbroken wilderness, occasionally hostile Indians, the need to begin subsistence agriculture immediately, and, aside from the family, no established social institutions.

All of the settlements of any considerable size became trading centers for agricultural products. All were situated near land that was both fertile and accessible. Marietta, Cincinnati, and Chillicothe were not exceptions.⁹⁶ The soil around all three settlements was very fertile. Those who arrived earliest settled on the flat bottom land and left the less desirable hillsides to the latecomers.⁹⁷

Cincinnati developed the most extensive trade, using the Mississippi River to transport farm produce to New Orleans and the Licking River to bring in the crops of the Blue Grass country. But both Marietta and Chillicothe were important trading centers for their regions (the Muskingum and Scioto River valleys respectively).⁹⁸

Other initial conditions varied widely. These included the ethnic origins of the population and the main

coastal regions of emigration. For these conditions it should be shown that the settlements chosen encompass much of the range of variance in the Territory as a whole.

This will not be possible for the squatter settlements. Information is too scanty. It is not even always possible to establish their exact location. We must hope that their wide geographic dispersion (amounting to some 1100 miles) will insure that they varied enough to encompass a broad range of conditions.

Marietta was settled by Anglo-Americans from New England with a scattering of French only recently arrived in the New World. Cincinnati's earliest settlers included Anglo-Americans and Scotch-Irish from Virginia and Kentucky and some newly arrived Germans. Scotch-Irish from Virginia and Kentucky and some Germans were the early settlers of Chillicothe.⁹⁹

Thus New England, the middle states, and the South were represented in these three settlements. The dominant "native American" ethnic groups (Anglo-Americans and Scotch-Irish) and some recently arrived European elements were also represented. This would seem to be a broad enough spectrum of coastal regions and ethnic groups.

In dealing with the effect on community life of the emergence of the state in each settlement certain methodological difficulties present themselves. The squatter settlements were short-lived, left few written traces

behind them, and never developed any permanent, official state apparatus. Thus we will not consider this question in the chapter on the squatter settlements.

For the permanent, legal settlements of Marietta, Cincinnati, and Chillicothe we will use personal memoirs, local histories, and church histories as source material on changes in community life. However, the life of community was lived, we shall see, by the small holding, poorer settlers. Such people usually do not record their personal memoirs. In the use of this material we are limited, therefore, to the recollections of the economic elite who lived outside of the sphere of community and who probably did not consider community life and habits significant enough to record. Thus references to community life in such writings are incomplete and sketchy.

Since the material available to us is incomplete, it would make little sense to attempt a review of all of community life. Therefore, we will limit our consideration of the effect on community life of the emergence of the state to two elements of community that are often mentioned in memoirs and local histories; the informal juries or small, informal church congregations that encouraged and enforced conformity to law and morality and the aid extended to newcomers such as giving them temporary room and board, helping them to build their cabin, clear and fence their land, and plant their first crop.

Furthermore, while the enforcement of law and morality is an area of social concern which agencies of the state began to handle early in the history of the settlements of the Northwest Territory, there was never any official state agency whose concern it was to aid newcomers. Looking at these social activities allows us, then, to compare the effect on community when an agency of the state becomes involved with a situation where the state remains inactive.

Tentatively, we may hypothesize that there would be a lessening of informal law enforcement and no change in aid to newcomers. Any diversion from this pattern would require further explanation.

Conclusion

In this first chapter we pointed out the opposition between the concepts of community and state as it appears in the literature of sociology and political theory. In order to clarify these two concepts and to use them in a sociological analysis of an actual process of social change, we chose a case study (the early settlements of the Northwest Territory) where community at first predominated but where the empirical elements associated with the state appeared and became central, if not dominant.

We abstracted eight important elements of community from the sociological literature on the subject and showed that the settlements manifested all of them and

that community was the dominant social form of the earliest period of those settlements.

We noted three indicators of the appearance of the empirical elements associated with the concept of the state (the concentration of power and office within a small circle, the power of legitimate coercion, political ritual and symbol). Another three indicators (the recognition by settlers that some men maintain permanent leadership roles implying the right to negotiate with hostile outsiders and to protect the integrity of the territory by force of arms) we assumed for the legal settlements but considered as evidence of the state in squatter settlements.

We chose two areas of social life in order to discuss the effect on community as the state emerges: informal, community-based enforcement of law and morality, and aid to new settlers.

The remainder of this study will use the theoretical constructs of community and state to analyze and describe a specific process of social change (the movement from community toward state in the earliest settlements of the Northwest Territory). By so doing we hope to arrive at a better understanding of that process and a clarification of the theoretical constructs.

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Chapter II

FROM COMMUNITY TOWARD STATE, I: THE SQUATTERS

Introduction

Our purpose, again, is to use the concepts of community and state in the analysis of a specific process of social change; namely, the movement from community toward state in the early settlements of the Northwest Territory. This change implies a movement away from voluntary and spontaneous mutual aid and diffuse authority toward coercion and centralized hierarchical authority as a mode of organizing social life.

The composite portrait of the early settlements drawn in Chapter I was meant to show that community was at first their dominant social form. This must surely have been true of the squatter settlements. There were no legal rights of property and no formally recognized political authority. A subsistence economy, which we have noted is an important element of community, was all that was at first possible in squatter settlements. There could not have been much development toward distinctions of wealth in a subsistence economy where property rights were not yet formally sanctioned and so the egalitarian ethic of the frontier was probably very much in effect. The struggle

for survival against nature and occasionally hostile natives was at its most difficult stage and there was, as yet, little solidity and permanence of social structure. But even in the squatter settlements the empirical elements of the state began to emerge. In this chapter we will try to identify the conditions within the social situation of the squatter settlements that led to this early emergence of the state.

The primitive conditions in squatter settlements will necessitate using indicators of the state whose presence may be taken for granted in settlements based on legal rights of property and set up under Territorial auspices. These indicators would normally be aspects of any legally constituted government. But since there was no official and legal government in the squatter settlements they become significant.

The recognition by other squatters that some men maintain permanent positions of leadership is one. Another is the power, invested in these leaders, to negotiate with hostile and potentially conquering outsiders. The final indicator is the right to direct the use of arms in order to protect the territory of the settlement. Also important are the indicators of the state's emergence we will use in legal settlements. These are, again, the concentration of such powers within a small circle, the application of coercion within the settlement, and the presence of

political ritual and symbol.¹ It will not be possible to find all of these in any one squatter settlement. In some we may find as few as two. However, we will consider this sufficient evidence that there was at least a beginning of the appearance of the state.

Background

Squatters began moving across the Ohio River from the eastern colonies before the American Revolution.² In an unsuccessful petition of April 1772, a group of associates that included Benjamin Franklin and Thomas Walpole asked Parliament to rescind its order of 1763 confining colonists east of the Alleghenies and allow the group to gain title to land west of the mountains and beyond the Ohio River. One justification for this request was that squatters had been streaming across the mountains for a long time anyway. Only stable government and legally sanctioned property claims, the argument ran, could prevent the area from becoming lawless, insurrectionary, and a threat to British interests and control on the east coast.³

Official sales of public land took place at varying times and places in the Northwest Territory starting in 1785 and lasting until the middle of the nineteenth century. Thus the period of squatter as opposed to legal occupation differs for different parts of the Territory.⁴

There were frequent attempts, first by the Continental Congress, and then by the Federal government under the constitution, to clear the squatters off the land. Some of our information will come from the reports of the leaders of these expeditions to their superiors. Other sources are local histories, land records, the papers and correspondence of prominent men, contemporary newspapers, and general histories of the region.

We will consider nine squatter settlements ranging from what is now eastern Ohio to eastern Indiana. The dates of establishment of these settlements are between 1780 and 1815. There is no way of knowing precisely how many squatter settlements there were in this region since many probably left no written traces. The nine chosen have left a small written record behind them and the activities of some of the settlers can be followed beyond the squatter period. Thus expediency and the hope that their wide geographic distribution (approximately 1,100 miles) might make them representative of other such settlements are the reasons for selecting these nine.⁵

Since squatters could settle where they wanted without regard to legal title, all of these settlements were accessible by water and on fertile land. Their desirable locations help to explain why the Continental and Federal authorities felt it so necessary to clear the squatters off before legal land sales could begin.

These settlements were not mere temporary refuges for restless vagabonds. Squatters hoped to someday own the land they worked. The many petitions claiming first right of purchase or preemption received by both the Continental Congress and the Federal government testify to this. Indeed, most squatters remained to become respectable citizens of the legal settlements that followed the start of official public land sales.⁶

Community in the Squatter Settlements

First we will indicate how community manifested itself in squatter settlements.

In Mingo Bottom, settled about 1780 near the present site of Chillicothe, Ohio, defense against hostile Indians involved a communal effort. Signal posts and duties were planned at community councils and executed jointly.⁷

On first arriving the settlers built their houses and cleared and planted the land together. They continued to do this for new arrivals. They hunted together. Communal corn huskings, harvestings, and log rollings were an integral part of the life of the settlement.⁸ The settlers shared food in times of scarcity. They housed neighbors left homeless after Indian deprecation, fire, or flood.⁹

The most important public structure was the fortified blockhouse in which squatter families would reside during periods of Indian hostility. While there they shared both

food and chores. The blockhouse, like all other buildings, including those meant for the private use of one family, was constructed by community effort--a "house-raising."¹⁰

Norristown was a squatter settlement begun some time between 1780 and 1785 near what is now Martin's Ferry in Washington County, Ohio. Informal church meetings were held in private homes. At these meetings public morality was both discussed and enforced.¹¹

Dangerous and destructive animals like bears, wild-cats, racoons, possums, and rattlesnakes were hunted communally. Similar efforts were directed against offending Indians.¹² When fire struck the community banded together to extinguish it. Families displaced by fire or flood boarded with their neighbors who also helped them rebuild their homes.¹³

New settlers were aided to build their homes, clear their land, and plant their first crop. All harvests were a communal venture. Hunting expeditions were undertaken by groups of men who often camped together for weeks. There were log rollings and corn huskings. One mill was built and shared by the entire community.¹⁴

In a squatter settlement on land that eventually became Lawrenceburgh Township in Dearborn County, Indiana, begun around 1790, there were co-operatively organized defense measures and expeditions against Indians.¹⁵ The settlement periodically suffered from hordes of squirrels

who destroyed most of the crops in the vicinity. Hunting these squirrels was a communal project. There were house raisings, log rollings, and corn huskings. Land was cleared, planted, and harvested co-operatively.¹⁷

Around 1796 a squatter settlement was established near what became the town of Alexandria in Scioto County, Ohio.¹⁸ Here the settlers built a school and supported its teacher by periodic donations of farm staples.¹⁹

The settlers shared foodstuffs in times of scarcity. Especially those settlers who arrived too late in the spring could count on this form of mutual aid. Families and individuals without homes, either because they had not yet been built or because of some mishap, were boarded "gratis" by their neighbors.²⁰

There were the usual house raisings, corn huskings, and log rollings. An expedition to find a salt spring was organized and reached a successful conclusion. The slaughtering of hogs was accomplished co-operatively.²¹

A squatter settlement on land that became the town of Rising Sun in Dearborn County, Indiana was begun around 1798. The settlers built a school and supported it by voluntary donations.²² Settlers aided each other in defense against Indian attack. They built and lived together, sharing work and provisions, in the typical frontier blockhouses.²³ There were land clearings, plantings, corn huskings, house raisings, and harvests. The squatters joined together to

build and use a mill.²⁴

In the squatter settlement on land that is now Miller Township in Dearborn County, established around 1799, the settlers built a crude blockhouse and defended themselves against Indian attack as a community. Command posts and duties for Indian emergencies were arranged in advance. They also built a school and maintained it by voluntary subscriptions.²⁵

Given what we know about the importance of community under the primitive conditions of first settlement in a wilderness, along with the composite portrait of social life during the frontier period in the Northwest Territory sketched in Chapter I, these examples should be sufficient to show that community was at first the dominant social form in the squatter settlements. As it has been opposed to the concept of the state community entails voluntary co-operation, mutual aid, and diffuse authority.

The State

We now explore the possibility that elements of social life associated with the concept of the state began to appear in squatter settlements. This would signify a movement from voluntary co-operation and mutual aid toward centralization of power and coercion (without, of course, implying that voluntary co-operation and mutual aid disappear entirely).

We will first try to determine if there were men who began to "hold office" or wield authority in such a manner as to be considered the final source of order. Along with the three standard indicators of the state (concentration of power, the right of legitimate coercion, political ritual and symbol), the recognition that some few men held permanent leadership roles and their right to negotiate with and direct force against hostile outsiders will be taken as evidence of such final authority and of the appearance of the state.

At Mingo Bottom a William McDonald and his son John were the generally acknowledged leaders of the settlement. John was an expert woodsman and Indian fighter. He took the lead in both these endeavors.²⁶

In 1785 General Joseph Harmar dispatched a certain Ensign Armstrong to clear squatters from the banks of the Muskingum River in what eventually became southeastern Ohio. In two years this land would be within the Ohio Company Purchase and near the first capital of the Northwest Territory, Marietta.

Armstrong found a populous squatter settlement. In discussing the length of time that squatters could remain before force was used, he dealt with the acknowledged leader of the settlement, a man called Amberson. (Amberson, by the way, was so well known that he called a squatter convention for April 1785 in an attempt to form

a government over the area that is now Ohio. This convention was to meet 300 miles from his Muskingum settlement at the mouth of the Scioto River. It is not clear whether or not the convention ever met. However, at the end of this chapter other, possibly related, attempts to form a squatter government will be discussed.)

Amberson, a powerful fighter, threatened Armstrong with the possibility that the squatters would respond to force with force. Thus the control over a given territory, retained by force, was considered an issue to be entrusted to a single man. Amberson, obviously, had the responsibility of negotiating with hostile outsiders. He was acknowledged as the settlement's leader by the other squatters. (It seems that the squatters along the Muskingum had to be forcibly evicted. Their homes, livestock, and crops were destroyed. However, they eventually returned.²⁷)

A little later in 1785 Ensign Armstrong was again confronted by a squatter leader ready to employ force to maintain rights of occupation. Near what is now the city of Chillicothe (not the Mingo Bottom settlement, but another in the same vicinity), Armstrong found a very intransigent group of well-organized armed squatters led by a man named Joseph Ross. Ross was entrusted with the right to discuss the disposition of the settlement with Armstrong. He was bellicose, of gigantic strength and size, a fierce brutal fighter and an expert hunter. He directed the affairs of

the little settlement and we cannot be far wrong if we assume that his formidable physical presence had much to do with his prominence. Armstrong, by the way, never succeeded in removing the squatters in Ross's settlement.²⁸

In August of the same year at Norristown Armstrong found another squatter settlement with acknowledged leaders. In this case Charles Norris and John Carpenter were known by the "official" title of justice of the peace. Norris and Carpenter had the right to approve or disapprove of prospective settlers and to negotiate with Armstrong's invading force. The squatters, under their leadership, presented Armstrong with the possibility of armed resistance and refused to leave. Seventy to eighty armed men were ready to do battle. Armstrong was forced to compromise and extend a grace period. Few settlers ever left.

Ex-revolutionary officer Joseph Hayes with his two married sons, two married daughters, and their families were the first party of settlers to arrive at what became Lawrenceburgh Township in Dearborn County, Indiana (1790). Captain Hayes, a skilled woodsman and hunter, and his son Joseph Jr. were the acknowledged leaders of this squatter settlement, which soon included others not related to them.³⁰

In 1795 a group of potential squatter settlers from Pennsylvania elected a man named Issac Bonser to travel to the Northwest Territory and select a promising spot. That

year Bonser went to the Territory, returned to Pennsylvania, and brought several families back with him to the mouth of the Scioto River near the present site of Portsmouth, Ohio. An excellent hunter, fighter, land surveyor, and remarkably strong, Bonser dominated the settlement from the start. He was acknowledged as the permanent leader by the other squatters.³¹

At Alexandria, settled around 1796, also near the mouth of the Scioto, the unchallenged leader was a tavern-keeper, John Collins. Collins decided disputes among the residents involving land boundaries and other problems that arose between squatter neighbors.³²

A former revolutionary officer, Colonel Elton, and his family, a family called the Fultons, and Robert Drake and his family were the most prominent residents in a squatter settlement on the site of what is now the town of Rising Sun in Dearborn County, Indiana. The men of these families dominated the new settlement. They were the final arbiters of all disputes that arose concerning first right of purchase or preemption claims.³³

John Dawson led the squatter settlement in what eventually became Miller Township in Dearborn County. This settlement began around 1799. Dawson was an accomplished Indian fighter, hunter, and physically powerful. He decided who might or might not remain and maintained a final say in such matters as preemption claims and

land boundaries.³⁴

Thus certain men were able to exercise final authority in the squatter settlements observed. They were acknowledged as leaders by the other squatters. They were entitled to negotiate with hostile outsiders and direct force against them. The purported strength, fierceness, and fighting prowess of at least five of these leaders (Amberson, Ross, Bonser, Dawson, and McDonald) indicates that coercion was an important element in their prominence. The fact that these powers resided with one or two men means, by definition, that power was not diffuse but concentrated within a small circle.

All this would appear to be evidence of an emerging state; the manifestation in social life of those empirical elements associated with the concept of the state as it is opposed to that of community. There was, then, a development toward coercion and centralized authority and away from voluntary co-operation and diffuse, temporary authority.

There does not, however, seem to be any evidence that these men received or extracted a reverent attitude from the settlers manifested in various symbols and rituals. Perhaps conditions were as yet too primitive for this or perhaps the sparse evidence left behind by the squatter settlements does not include indications of this phenomenon even if it did occur. In a later chapter we will return to the important problem of the state as representative and

embodiment of the society's sense of itself as an objective moral entity; the so-called "sacred" nature of the state.

Social Factors Leading to the Emergence
of the State

The next problem will be to attempt to isolate the social factors that led to this limited manifestation of the state in the squatter settlements. Several students of the state have noted that the threat of attack and the need to maintain an internal posture of military preparedness often encourages the hierarchical structure of authority and the centralization of power associated with the state.³⁵

Although, as we have said, defense in squatter settlements was in large measure a communal activity, this does not negate the possibility that hierarchy and centralization of power might also begin to arise from the same source. We are dealing with the movement from a condition of society that closely approximated community toward one in which elements of the state began to appear. In neither case was the social form of community or state realized in pure and unmixed form. Thus a social exigency like defense which, like any other task or problem prompted some voluntary and co-operative effort, might also give rise to some centralization and coercion.

The co-ordination of military actions require hierarchy and centralization of command and coercion. Unlike emergen-

cies such as fire or flood, the threat of attack was permanent. The squatter settlements were in constant danger from both Indians and the United States government. Therefore, merely temporary associations to handle a specific task or problem could not be as effective. In the absence of a separate military organization, the need to maintain readiness for military action among all able bodied residents during times of relative calm as well as during actual crises would, it seems, almost inevitably imply the beginnings of that centralization of power and coercion associated with the state. It has already been noted that of the nine squatter settlements considered, there is evidence that five of them were led by men (Amberson, Ross, Bonser, Dawson, and McDonald) with unusual physical strength and/or military skill.

Here are some specific examples showing how the need to defend a squatter settlement could give rise to responses organized according to the concept of the state and also according to the concept of community. In addition, the fact that the leaders of defense measures very often had other prerogatives like arbitrating preemption claims would seem to indicate a movement toward the centralization of authority associated with the state.

John McDonald of the Mingo Bottom settlement was an expert rifleman, hunter, Indian scout, and Indian fighter. During a communal hunting expedition in the spring of 1792

(wild turkey was the game), the men of the settlement, McDonald among them, were attacked by Indians. McDonald directed the successful defense measures taken at that time and led the men back to a blockhouse where several families were living together in typical frontier communal style.

McDonald was called "Colonel" by his fellow squatters. Since he had not as yet been a member of either a formally organized militia under Territorial law or of the United States Army, this title probably signified his continuing military leadership of the squatter settlement of Mingo Bottom.³⁶

As has been already noted, when in 1785 Ensign Armstrong tried to evict squatters from the area that is now Chillicothe, he was met by an organized armed force under the leadership of Joseph Ross. Armstrong also found several typical frontier blockhouses with families living, working, and sharing provisions together.³⁷

Charles Norris, the "justice of the peace" and "landlord" of the squatter settlement of Norristown, led all defense measures against the Indians and in 1785 confronted United States government troops with a well organized armed force of seventy to eighty men. However, the settlers of Norristown also lived in communal style in crude frontier blockhouses. While Norris and most of the men were away, several men would remain in the blockhouses with the women and children.³⁸

Captain Joseph Hayes, the leader of the squatter settlement at Lawrenceburgh Township in Dearborn County, directed defense measures and took the lead in expeditions against the Indians. Still, there were several blockhouses at this settlement where squatter families lived and defended themselves in communal fashion.³⁹

Isaac Bonser, an expert hunter, woodsman, and Indian fighter, militarily organized the squatters near Portsmouth, Ohio. He was the chief Indian scout and directed defense measures taken against the Indians. He would inspect the rifles of other settlers. His military leadership continued into the legal period of Scioto County. In 1803 when Scioto County was established, Bonser was instrumental in organizing the militia. He was elected major. But the squatter settlement of Portsmouth also used the blockhouse as a means of defense. Squatter families, in typical frontier style, shared work chores, food, and defense assignments.⁴⁰

Some squatter settlements, such as the one on land that became the town of Cadiz, Ohio, held regular militia drills. Squatter militia leaders had military titles. However, community style defense measures, especially the frontier blockhouse, were not missing.⁴¹ Other examples of this mixed response to the social exigency of defense in squatter settlements (a response that included both elements of community and state) can be found in early Harrison County, Ohio, at Columbia in Hamilton County,

and at Petersburg, Randolph Township, and Aurora, all in Dearborn County, Indiana.⁴²

Other scholars have maintained that the division of a fairly homogeneous society into distinct classes causes the growth of the state as the dominant class attempts to legitimize and protect its gains.⁴³

At this point a definition of class is needed. Class is here used to mean a group of individuals with the same relationship to the means of production or the same position in the general economic structure, e.g., owners of capital, independent craftsmen who own their own tools and equipment, propertyless workers, small landowners, tenants, merchants dealing in various magnitudes of commodities, etc. Class, for the purposes of this study, is an economic category.

Some scholars have stressed the central importance of the consciousness of a common economic position among members of a class and the degree to which that consciousness leads to organization, communication, and action.⁴⁴ The extent to which classes did or did not act co-operatively and in a self-interested fashion forms much of the substance of the following chapters. We also consider the problem in this chapter.

Using class as an important category will make necessary a brief outline of the economy of the frontier period. Agriculture, as in the later legal settlements, was the

basic productive activity in squatter settlements. As the settlements matured various craftsmen (wheelwrights, blacksmiths, carriage makers, agricultural tool makers, etc.), storekeepers and professionals (ministers, lawyers, doctors, schoolteachers) appeared. But agriculture remained the central form of production. The products of the craftsmen, the services of the professionals, and the merchandise of the storekeepers were paid for by the fruits of agricultural labor.⁴⁵

Therefore, land was the basic means of production. Most settlers owned, rented, or, in the squatter period, simply used, small plots. It could not have been possible, given the simple, mostly homemade tools at the farmer-settler's disposal, and the wild, unbroken wilderness conditions he faced, to successfully work more than twenty-five acres. Even this seems an optimistic estimate. Indeed, it took the settler approximately three weeks of hard labor to clear a single acre. The "out-lots," or sections of land meant for cultivation on the outskirts of Marietta and Chillicothe were between four and eight acres.⁴⁶

But land could also be bought, sold, and rented for profit. Thus it becomes a commodity carrying the possibility of producing wealth in an ever-increasing spiral. As a commodity it is no longer solely a useful object and means of production but also a vehicle to amass wealth in

its generally acceptable and negotiable form.

For this process to go on smoothly order must be maintained, title guaranteed, property protected, debts ultimately collectible by legitimate, legal coercion, and a central authority established to accomplish all this. Furthermore, the only recognized right to property must be the sanction of this central authority, not community approval.

If it is possible to show that these essentially different orientations toward the land (land as a useful object of production and as a commodity to be bought, sold, and rented for profit) existed in the squatter settlements and that the men who came to dominate those settlements saw land as a profit-producing commodity, it becomes feasible to suggest that class differentiation was an important cause of the rise of the state.

Community is rooted in an economy of equal distribution and mutual aid. But it was immediately possible for some squatters to accumulate more wealth than their neighbors. From the very beginning there was a simple division of labor on the frontier, including, of course, the squatter settlements. A local hunter, "scribe" or craftsman, would barter for the use of his skill. A man inexperienced in making farm implements might have to rent the use of his neighbors' with labor or with staples.⁴⁷ Even children learned valuable skills. One youngster in a squatter settlement in

western Virginia said: "I sold a belt for a day's work, or making an hundred nails."⁴⁸

These arrangements and others would naturally allow the most industrious and skilled squatters to amass more wealth which could then be used, when legal sales began, for land speculation.

It seems, also, that some squatters were wealthier from the start. These may have sold valuable parcels of land in the East before settling on the frontier. A perusal of "land for sale" notices in Eastern newspapers of the period (approximately 1780-90) indicates that this was a common practice.⁴⁹

Occasionally, some squatters were called "landlords" and others "tenants" by Continental and Federal Army authorities. The question arises--what can the terms "landlord" and "tenant" mean in a squatter settlement? Since there is not enough evidence to answer precisely, we must make some merely likely surmises.

A squatter "landlord" might arrive with cash and merchandise and pay others to clear, fence, and guard a large "tomahawk" or preemption claim. He could establish a store for the purchase of certain necessities like farm implements, whiskey, corn, bullets, and spare parts for weapons. He could then "rent" his land on a sharecropping basis, offering also his skill as a hunter, Indian fighter, and access to the supply of necessities in his store. Or

perhaps squatter "landlords" simply intimidated "tenants" physically (we know that Joseph Ross, John Amberson, Issac Bonser, John Dawson, and John McDonald were all powerful fighters) and demanded that they pay tribute for settling on "their" land.

The better off squatters extended their influence into the legal period. Historian Paul Wallace Gates has described this process. More important, he notes that there were squatter land speculators: "The more successful, who had brought considerable money with them, or who had accumulated something from land and barter exchanges on the frontier might have sufficient credit at the western banks to enable them to purchase 320, 480, or 640 acres."⁵⁰

Land purchases of the size Gates mentions could only have been for speculation. Thus land speculation began with the squatters.

It now becomes necessary to determine if the men who assumed the position of an ultimate authority in the squatter settlements were indeed squatter speculators. If so, then this tentative and elementary appearance of the state can be linked to the division of the squatter settlements into classes; into groups with different relations to the means of production--one farming the land on a subsistence level and relating to it directly as a useful object and the other buying, selling, and renting it in order to realize wealth in its most general form independent of land as a

useful object.

Two methods of determining whether or not a squatter was a squatter speculator will be used. Sometimes, as has been noted, outsiders called certain squatters "landlords" and other members of the settlement "tenants." This will be taken as evidence that the "landlords" were not subsistence farmers but rented, bartered, or sold land for profit.

If a squatter was able to purchase substantially more land than his neighbors (given the conditions outlined above, buying three hundred acres or more must be considered a speculative venture) when land sales officially began in his vicinity this will also be taken as evidence that he began his career as a land speculator, as Gates notes often happened, during squatter times. Following is the evidence for the men who dominated the squatter settlements discussed earlier.

William McDonald of the squatter settlement of Mingo Bottom, near what is now Chillicothe, purchased 320 acres when land sales began in that vicinity in 1796. His son John became a substantial, speculative landholder around Chillicothe and in Steubenville and Manchester, Ohio.⁵¹

John Amberson of the squatter settlement in the Muskingum region shows up in the earliest Washington County land sale records (beginning in 1788) as the owner of somewhat more than 300 acres.⁵²

Joseph Ross, the unchallenged leader of another squatter settlement in the region of what is now Chillicothe, immediately purchased 320 acres when land sales began in 1796. During the squatter period in that area (1785-96) other settlers were considered his "tenants." He became a co-founder of the prosperous town of Steubenville and a close associate of such influential land speculators as the Washington County Federalist Bezaleel Wells and Senator James Ross of Pennsylvania.⁵³

Joseph Hayes Jr. and a relation by marriage, Thomas Miller, of what became Lawrenceburgh Township in Dearborn County, Indiana, bought 973.32 acres when land sales began there in April of 1801. Their joint holdings eventually reached 4,000 acres.⁵⁴

In 1800, when land sales began in the region of Portsmouth in Scioto County, Ohio, Issac Bonser immediately bought more than 300 acres.⁵⁵

John Collins of Alexandria in Scioto County purchased more than 300 acres when land sales began there in 1800 as did Colonel Elton and Robert Drake when sales near Rising Sun in Dearborn County, Indiana, began in 1815.⁵⁶

Collins, by the way, was one of the earliest tavern-keepers in the lower Scioto Valley. He opened his tavern when he arrived there as a squatter in 1796. As local historian Elmer B. Sword notes: "The Tavern keepers were the aristocrats of those early days and served the purposes

of bankers because they had most of the money that was in circulation."⁵⁷

John Dawson of what was to become Miller Township in Dearborn County purchased 400 acres when sales for that region began in 1804. His holdings eventually reached 2,000 acres.⁵⁸

Norris and Carpenter of the settlement of Norristown are referred to by Armstrong as the "landlords" of that settlement.⁵⁹

Squatter Statehood Movements

It would appear, then, that the men who formed the nucleus of the emerging state in the squatter settlements were in a privileged economic position in relation to the other squatters. Thus we may tentatively link the centralization of authority that is integral to the concept of the state to the division of the settlement into classes. The need of a propertied speculator class to maintain order, enforce the collection of debts, and legally sanction and protect property would seem to be answered only by such centralization of authority. In this context it is interesting to note that the squatter economic elite were the prime architects of at least one attempt to gain recognition and legitimation for their authority from the Continental government in the East. Their project was to form a state approximately covering the present area of Ohio. We

may surmise that as large property holders they felt the need for the legitimate, tax-supported military protection and legal sanction that only a fully recognized state apparatus could offer. They could not expect these benefits as leaders of isolated, primitive, and beleaguered settlements.

At this point there is a semantic difficulty. The word state has thus far meant a theoretical construct with an empirical referent; a central and final source of authority over a given territory, able to employ and supported by force, able to direct force against outsiders, and to some extent representing and symbolizing the society's sense of itself as an objective moral entity and hence claiming a certain sacred status. This meaning should not be confused with a "state"--a specific administrative and territorial unit comprising one unit of the United States, e.g., the "state" of Ohio. In the following discussion the word "state" will appear within quotation marks when meant to refer to the administrative unit rather than the theoretical construct.

Although we cannot be sure to what extent the evidence that follows refers to a coherent and connected movement, it is clear that squatters in the land area that is now Ohio at various times attempted to form an administrative "state."

In 1782, three years before Congress began to sell land northwest of the Ohio, a General William Irvine traveling in

Pittsburgh reported that a convention had been scheduled to meet in Wheeling to form a new "state" on the Muskingum River (eventually the area of the Ohio Company Purchase that led to the Northwest Ordinance and the official establishment of the Northwest Territory). A constitution had already been drawn up and a mysterious Englishman referred to only as "Mr. J" was busy buying artillery and other supplies.⁶⁰

Three years later, in 1785, the following notice signed by the same John Amberson mentioned earlier was found by Ensign Armstrong in the Muskingum area. Armstrong notes that it could be found in almost every settlement west of the Ohio:

ADVERTISEMENT

March 12, 1785

Notice is hereby given to the inhabitants of the west side of the Ohio River that there is to be an election for the choosing of members of the convention for the framing of a constitution for the governing of the inhabitants, the election to be held on the 10th day of April next ensuing, viz: one election to be held at the mouth of the Scioto River, and one on the Muskingum River, and one at the dwelling house of Jonas Menzons; the members to be chosen to meet at the mouth of the Scioto on the twentieth day of the same month.

I do certify that all mankind, agreeable to every constitution formed in America, have an undoubted right to pass into every vacant country, and there to form their constitution, and that from the confederation of the whole United States, Congress is not empowered to forbid them, neither is Congress empowered from that confederation to make any sale of the uninhabited lands to pay the public debts, which is to be by a tax levied and lifted [collected] by authority of the Legislature of each state.

John Emerson [Amberson]⁶¹

This notice is probably less significant for its democratic rhetoric than for its clear implication that some squatters were prominent enough to call and hold large political meetings in their homes. Such men even assumed that the location of those homes would be known over distances half as wide as the present "state" of Ohio. One cannot imagine poor, subsistence level squatter frontiersmen traveling such distances and taking such pains over the establishment of a new "state." Such meetings and projects must have been the particular concern of the land speculators of the squatter period.

Two years later more evidence that squatters had launched an attempt to form a "state" appears. In the Pittsburgh Gazette for September 20, 1787, we find the following notice. It again makes mention of squatter landlord John Carpenter of Norristown:

Marriages: Mr. Henry Hogland, son of Governor William Hogland, west of the Ohio, was married to the highly amiable Elizabeth Carpenter, elder daughter of John Carpenter, esq., landlord of Norristown, west of the Ohio. The marriage was celebrated at the governor's hall, on Friday, the twenty-seventh day of May, at twelve o'clock, and the evening was most agreeably spent in dancing, firing of guns, and drinking of toasts for the success of the new state and first married couple in it.⁶²

Perhaps "Governor" Hogland's elevation resulted from the convention that Amberson called in 1785. In any case, it seems clear, as Ohio historian Randolph C. Downes also concludes, that squatter landlords had formed what they

considered to be a "state." It is almost certain that the governor was also a landlord as there is definite proof of the existence of a squatter settlement called Hoglandstown.⁶³

Since these attempts to form a squatter "state" were all initiated by squatter speculators or landlords, it would seem reasonable that one strong motive was the protection by legitimate force and legal title that only a generally recognized, central political authority (a state) can offer private property.

We are admittedly without documentary proof of the psychological motives of the squatter landlords who mounted a separatist statehood movement. We, therefore, will make the merely reasonable inference that the need to establish formal control and legal sanction for property in an area where one claims large, but as yet unsanctioned, amounts of property, would seem to be a likely motivation.

Inferring motives from actions after having established a social structural context for those actions and when no source or interview material is available is not new in sociological literature.⁶⁴ It should also be noted that our argument that one of the social factors causing the emergence of the state in squatter settlements was the beginning of class differentiation in those settlements does not stand or fall on whether or not squatter landlords organized a statehood movement in order to gain legal sanc-

tion and military protection for their property. We have already shown that those squatter landlords maintained, in a centralized fashion, several prerogatives or powers associated with the concept of the state. This brief discussion of the squatter statehood movement and its leadership is only meant to suggest why large property holders might feel the need for a centralized structure of authority.

We can also argue by analogy since every similar separatist movement of the period about which there is more complete information follows that pattern. Thomas P. Abernathy, in his study of the early Southwest, From Frontier to Plantation in Tennessee, has shown how groups of speculators controlled the separatist movements in the western sections of the coastal states. Watauga (Virginia, 1775), Franklin (North Carolina, 1785), and Kentucky (1786) are cited.⁶⁵ Historian John D. Barnhart says of the Kentucky movement: "Leaders in this land speculation went in promising democratic government in order to secure the support of the settlers."⁶⁶

The Transylvania movement on land that later became Kentucky is a classic example of this process. Judge Richard Henderson of North Carolina formed the Transylvania Company in 1775 to purchase land from the Cherokees between the Ohio, Kentucky, and Cumberland Rivers. He opened a land office in North Carolina and, in anticipation that his claims might be challenged by either North Carolina or

Virginia, he convened a constitutional convention there. Potential buyers, settlers, and Company owners attended.

The members of the convention created a legislature but Henderson and the other proprietors of the Company retained a veto power over any action it might take. A representative was then sent to the Continental Congress to request that Transylvania become a colony under its protection. This failed, and eventually Transylvania was annexed by Virginia.⁶⁷

Finally, historian Merrill Jensen has shown how groups of land speculators controlled the eventually successful statehood movement in Tennessee (1788). These speculators, according to Jensen, needed to create a "state" government in order to protect their claims against squatter settlers (who, if the pattern we have found applies, were probably led by squatter landlords) petitioning Congress for pre-emption rights.⁶⁸

In essence, then, since only a centralized, formally organized, and coercive authority could insure their property rights, the landlord speculators of the squatter period provided the impetus for the movement away from community and toward the state. Their attempts to gain permanent legitimation for their power and property by forming an administrative "state" recognized by the central power in the East is further evidence that the appearance in social life of the empirical elements associated with

the concept of the state is tied to the rise of classes and class domination.⁸⁴

Conclusion

We have shown that community was the dominant social form during the earliest period of squatter settlement. This implies that voluntary co-operation and diffuse authority was the basic mode of social organization. We then showed that elements associated with the concept of the state began to appear as certain men acquired a permanent leadership role, had the power to protect the territorial integrity of the settlement by directing the use of force against outsiders, and applied force within the settlements. These elements of the concept of the state imply a centralization of authority that is opposed to community.

We indicated that the conditions for the emergence of the state existed in the social situation of the settlements. While defense was at least partially a communal effort, the need to mobilize for defense and maintain a posture of military preparedness in all likelihood helped create some centralization of power.

The settlements were largely egalitarian (consisting mainly of subsistence farmers) and therefore supportive of community as a social form. However, there was an economic division of labor within the settlements that led to some

class differentiation. Also, it seems that some squatters arrived with substantial amounts of cash and material wealth. The squatters who amassed or who had more wealth than their fellow settlers prior to arrival were the central actors in the formation of an emerging state.

It is likely that these wealthier squatters felt the need to control the territory in which they owned substantial property and to develop legal sanction and military protection for that property. This seems probable when it is remembered that they joined together in a statehood movement seeking recognition of their authority from the Continental government in the East. Significantly, all the separatist statehood movements of the period about which there is somewhat more complete information were led by large land claimants whose aim it was to protect and legitimize their holdings. Hence class differentiation was another social factor that fostered the emergence of the state in the squatter period.

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Chapter III
FROM COMMUNITY TOWARD STATE, II: MARIETTA

Introduction

The first legal settlement in the Northwest Territory was Marietta (1788) at the mouth of the Muskingum River in what eventually became Ohio. Our consideration of this settlement will again focus on the concepts of community and state; the opposition of voluntary co-operation and diffuse authority to centralized, minority-controlled, coercive authority.

Although community was at first the dominant form of social organization in Marietta, the conditions for the emergence of the state also existed from the first. This chapter will describe the shift from the dominance of community to the growth of the state, identify the conditions which led to this change, and discuss its effect on two elements of community life: the enforcement of propriety and order and aid offered new settlers.

The Ohio Company Purchase

The settlement of Marietta resulted from a large speculative venture, the famous Ohio Company Purchase. The Northwest Ordinance of 1787 was drawn up by the Continental Congress mainly to accommodate the need of

the men of the Ohio Company for stable government in the area of their purchase. The Ordinance formed the political framework for the settlements northwest of the Ohio, defined their Territorial status, and, more broadly, their early forms of government.¹

In general, the large land speculator and his relationship to the central government were important factors in the emergence of the state in western settlements. Therefore, we begin this chapter with a discussion of the Ohio Company Purchase.

At a meeting at the "Bunch of Grapes Tavern" in Boston on the evening of March 1, 1786, the Ohio Company of Associates was formed. The Company, made up mainly of ex-revolutionary officers and members of the elitist Society of the Cincinnati and the Royal Order of Freemasons, included some of the most powerful and wealthy men in America.²

Their project was to launch a vast land speculation northwest of the Ohio River. In October 1787 they succeeded in negotiating a contract with Congress for one and one half million acres in the area of the Muskingum River at the falls of the Ohio. The nominal price of the land was fifteen cents an acre, but Congress accepted certificates of public debt at face value for one-third of the debt. This paper had dropped to one-tenth of its original value. The actual price, then, was about nine cents an acre.³

Connected to this plan, and concluded at about the same time, was another venture involving two and one half million acres further west. This was the Scioto speculation. Certain powerful figures in the administration and in Congress made the Ohio Company Purchase contingent upon the Scioto speculation.⁴

The low price charged the Ohio Company speculators might be partially explained by the fact that eighteen members of the Continental Congress of 1787 were Ohio Company shareholders. These were:

Connecticut:
 Benjamin Huntington
 Jonathan Sturges
 John Treadwell
 Georgia:
 William Pierce
 Massachusetts:
 Nathan Dane
 Elbridge Gerry
 New Hampshire:
 Jonathan Blanchard
 New York:
 Alexander Hamilton
 John Laurance
 Walter Livingston
 Melancthon Smith
 Pennsylvania:
 Jared Ingersoll
 David Jackson
 James Reid
 Arthur Saint Clair
 Rhode Island:
 James Varnum
 Virginia:
 John Brown
 Edward Carrington⁵

In 1787 there were eighty-one congressmen. Thus, 22 percent were Ohio Company owners. Many of the others, as we shall when we consider Cincinnati and Chillicothe,

were large speculators elsewhere. They might reasonably grant good terms to their colleagues in the hope that the favor would be returned.

Casual lack of concern in those days with questions of possible legislative conflict of interest is indicated by the following excerpt from a letter dated August 7, 1787. Virginia member Edward Carrington wrote to James Monroe:

We have at last made a break into the Western Lands. The Ohio Company have adjusted with Congress a contract for 4 or 5 Millions of Acres in a body on the east side of Scioto at 2/3ds of a dol. per acre.... I am about to join them with a few shares; what think you of such an adventure.⁶

A few examples will show the involvement of other key speculators. Arthur Saint Clair was president of the Continental Congress at the time of the Ohio Company Purchase. He became the first governor of the Northwest Territory; in effect a colony of the central government created as a result of the sale. As one of his first official acts he increased the value of his land by proclaiming Marietta in the Ohio Company Purchase the capital of the Territory.⁷ James Varnum, a member of Congress from Rhode Island, was appointed one of the three Supreme Court Justices of the Territory.⁸

George Washington supported the Ohio Company sale. His motives were not entirely disinterested. Washington owned 30,000 acres on the Ohio and Great Kanawha Rivers and a new settlement in the area would be sure to increase

the value of the land. He hoped, also, that the Ohio Company Purchase and settlement would form a connection between his substantial holdings in the Virginia Military District, a land reserve for Virginia's revolutionary soldiers east of the Scioto River, and the commerce and manufacture of Pittsburgh.⁹

During the Congressional negotiations on the sale (the summer of 1787), Alexander Hamilton was deeply involved in the movement to scrap the Articles of Confederation and construct a more centralized federal system. Hamilton hoped that this change, among other measures designed to bolster the mercantile and industrial capital of the nation, would facilitate the "funding" of the public debt; the increase in real value of the certificates of public debt that monied men had bought from original holders at severely depreciated prices. Accepting this paper from land speculators like the shareholders of the Ohio Company as payment for vast quantities of western lands and insuring the investment value of those lands by a forceful and persistent effort against squatters and Indians were to be important priorities of the new Federal government under the constitution.¹⁰

In fact the members of the Society of the Cincinnati, along with other large holders of public debt certificates, were rumored to have been considering a coup should the Constitution not be ratified and adopted.¹¹ A letter

addressed to Congress by Rufus Putnam, a principal founder of the Ohio Company, member of the Society, and eventually a Territorial Supreme Court Justice, contains this ominous hint: "[T]here are thousands in this quarter who will migrate to that country ... unless such settlement is too long delayed and necessity turns their views another way."¹²

The connection between the Ohio Company Purchase and the monied interests in favor of the adoption of the Constitution is clear when we consider that of the eleven delegates to the constitutional convention in Philadelphia during the summer of 1787 from Massachusetts, Connecticut, and New York seven (James Bowdoin, Elbridge Gerry, Nathaniel Gorham, Caleb Strong--Massachusetts; William Johnson, Oliver Ellsworth--Connecticut; Alexander Hamilton --New York) were Ohio Company shareholders.⁹⁷ John Neilson and William Livingston (New Jersey) and Jared Ingersoll (Pennsylvania) were also shareholders. Of these, Charles Beard lists Gerry, Johnson, Ellsworth, Hamilton, and Neilson as holders of public debt certificates.¹³ (The following delegates' family names appear among the list of shareholders. It has not been possible within the limits of this study to determine if they were related to the shareholders: New Hampshire--Nicholas Gilman; Massachusetts--Rufus King; New Jersey--William Patterson; Pennsylvania--Robert Morris, Gouverneur Morris, and James Wilson.)

It will be remembered that Congress agreed to accept certificates of public debt from the Ohio Company for one third the purchase price of fifteen cents an acre for one and one half million acres. These terms would make little sense unless Ohio Company shareholders were also substantial public creditors. Several historians of the period have thus interpreted the situation.¹⁴

In fact, seventy-one Ohio Company owners from the states of Massachusetts, Connecticut, and New York are listed in the Treasury Records as owners of debt certificates.¹⁵ Secondary transfers, or sales taking place after the original acquisition from the Federal government are not included in these records. Thus the number might very well be higher. Since the wealthy speculator bought certificates of debt cheaply from original holders, unincluded sales would have been made at depreciated prices.¹⁶

We cannot say how much public debt the proprietors of the Ohio Company had bought from original holders at depreciated prices. But we do know that the Society of the Cincinnati, whose membership was heavily represented in the Ohio Company, was instrumental in securing the defeat of a bill that would have discriminated between speculative and original holders to the benefit of the latter.¹⁷ It is interesting, and probably not coincidental, that at the time of the completion of the Ohio

Company sale (July 1787) all nine members of Congress from Connecticut, Massachusetts, and New York who were Ohio Company owners also held public debt certificates.¹⁸

Furthermore, during negotiations leading to the purchase, Secretary of the Board of Treasury William Duer, acting in co-operation with several congressmen, offered to use his considerable influence to secure advantageous terms for the Company if another speculation were launched. This was the infamous Scioto speculation. It involved an advance of public funds toward the original purchase and a promise by the Reverend Manasseh Cutler, the Ohio Company's principal agent to Congress, to keep the names of the interested parties secret.¹⁹ Cutler noted in his journal:

[W]e obtained a grant of near five millions of acres of land ... one and a half million acres for the Ohio Company, and the remainder for a private speculation in which many of the principal characters of America are concerned. Without connecting this speculation, similar terms and advantages could not have been obtained for the Ohio Company.²⁰

The relationship between the Ohio Company, the Scioto speculation, and the highest officials in both the Territorial and the Continental governments has been described by Francis J. Philbrick: "Secretary [of the Territory] Sargent and Judges Samuel Holden Parsons and Rufus Putnam very clearly held their positions by virtue of their activities for the Ohio Company and many members of Congress were interested in the Scioto speculation that was tied

to the Ohio Company's purchase."²¹

As best as can be pieced together from incomplete records and correspondence that, for obvious reasons, were meant only to be privately understood, the settlers were sold shares in the so-called Scioto Company, not legal title to land. Title would not be obtained, either by the Company or the settlers, until the full debt to Congress was met. In short, the settlers were to bear the risk of the speculation.²² This fact was grossly misrepresented by the Company's agent in France, and in 1790, four hundred Frenchmen emigrated to the Ohio country. They soon learned that they owned shares in a bankrupt corporation, not land.²³

The formal creation of the Territorial government and the Ohio Company Purchase was inseparable processes.²⁴ B.A. Hinsdale says this of the relationship between the Ordinance of 1787 which created the Northwest Territory and the Ohio Company:

The Ordinance of 1787 and the Ohio purchase were parts of one and the same transaction. The purchase would not have been made without the Ordinance, and the Ordinance could not have been enacted except as an essential condition of the purchase. The meaning of this is that the New England men would not buy the land unless a satisfactory government was secured, and that Congress would not have enacted the Ordinance had it not been for the opportunity to make a large sale of land.²⁵

A letter of a Congressman involved in the deliberations over the Ordinance reveals the following: "After some difficulty we passed an Ordinance for establishing a

temporary Government beyond the Ohio as preparatory to the sale of that Country."²⁶

The elite societies of the Cincinnati and the Masons formed a fraternal link between the Ohio Company speculators and the congressmen who drew up the Ordinance. Furthermore, Manasseh Cutler had a preponderant influence on the final product.²⁷

Merrill Jensen sees the Ordinance as a document specifically designed to promote a speculative sale. In fact, Jensen describes the ratification of a new constitution and the approval of the Ordinance in the same year (1787) as a dual victory of the Eastern business establishment. That the maintenance of property rights was an important priority of Congress may be noted in the fact that the second and third paragraphs of the Ordinance, after an introduction stating that the Territory would form one district for the purposes of government, deal with property, property transfer, estates, and inheritance.²⁸

In his "Report of Government for the Western Territory" (1784), Thomas Jefferson wanted to allow settlers the right to elect a legislature and form a constitution immediately. But Cutler wanted and got an appointive government that could not tax the lands of nonresidents (absentee speculators, only one third of the Ohio Company shareholders ever went to the Territory) at a higher rate than residents. This government was to be closely supervised by Congress,

only gradually gaining autonomy as population increased.²⁹

Initially, the Territory was administered by five men (the Governor, three Supreme Court Justices, and the Secretary) all appointed by the Congress. Four of them (Governor Saint Clair, Judges Samuel Parsons and William Varnum and Secretary Winthrop Sargent) were Ohio Company shareholders, and the other (Judge John Clyves Symmes) a substantial speculator further west, along the Great Miami River.³⁰

Long before negotiations on the Ohio Company sale began in 1786 squatters had settled in the area and were continuing to do so.³¹ According to Mannasseh Cutler their presence made necessary a government that would sanction and uphold legitimate claims to property. In the summer of 1787 Cutler said: "A strong government should exist to protect rights of property among licentious people preparatory to sale of lands."³²

An indication of the efficacy of Cutler's efforts is this letter (July 15, 1787), replete with Cutler's terminology, written by Virginia Congressman Richard Henry Lee to George Washington: "It seemed necessary, for the security of property among uninformed, and perhaps licentious people as the greater part who go there are, that a strong toned government should exist, and the rights of property be clearly defined."³³

Perhaps the memory of Shays' Rebellion had helped to instill in the New England speculators a fear that "strong toned government" was needed to uphold the sanctity of property.³⁴ This was the theme of still another Ohio Company communication to Congress sent that same summer of 1787: "By beginning so near the western limit of Pennsylvania it [the proposed purchase] will be a continuation of the old settlements, leaving no vacant lands to be seized by such lawless banditti as usually infest the frontiers of countries distant from the seat of government."³⁵

By "banditti" the Company owners could only have meant the squatters. Their fears of losing the area to squatter claims were entirely realistic. We know that among these "banditti" there were aspiring land speculators who were attempting to form their own state and thus assure that their claims were legitimate; provided with legal sanction and tax-supported military protection.

Edward Cook, an Army Lieutenant based in Westmoreland County, Pennsylvania, noted squatters north of the Ohio as early as 1779. He complained that their improvements might form the basis of a legal title. Indeed, before the Revolution, Virginia had granted land to squatters for clearing and improvement. Later on, well beyond Ohio's admission as a state in 1803 and into the 1830s, squatter claims had a certain quasi-legitimate status on the frontier. They were

often actually sold to incoming settlers.³⁶

But the Continental and Federal governments had decided that to sell the land in large parcels to speculators was the most efficient way to raise revenue and "fund" the public debt.³⁷ According to historian Henry Tatter, who is perhaps a bit too sanguine about the ideas and policies of the colonial period:

The young nation parted at once with the colonial precedents of recognizing individual rights in the heritage of unsettled land. The leaders of the struggle for independence cast aside their liberal concepts of the natural right of man to a fair allotment of whatever unused land he might find, and embraced the idea that the vacant lands in the west should be used as the basis for a fund to extinguish the Nation's debts.³⁸

Aside from the mere efficiency of this policy, members of Congress and other influential public officials were themselves deeply involved in speculative land ventures. It was clearly to their advantage to have first chance at buying the public land. Robert Morris and James Ross of Pennsylvania, Jonathan Dayton of New Jersey, Uriah Tracy of Massachusetts, William Henry Harrison of Indiana, Roger Griswold of Connecticut, and George Washington and Thomas Jefferson of Virginia were among the most prominent. There were many others.³⁹

Finally, we should remember that "extinguishing the public debt" meant paying the face value of paper that they had bought for much less to speculators, many of whom were members of Congress. Insuring such payment by using

the western lands as a revenue source was as much good mercantile policy as statecraft.⁴⁰

Accordingly, Congress adopted an aggressive anti-squatter policy. In 1779 the commander at Fort Pitt, Colonel Daniel Brodhead, dispatched sixty soldiers to remove squatters from near the mouth of the Muskingum River in the vicinity of what later became Marietta. Four years later the Continental Congress issued a proclamation against unauthorized settling west of the Ohio.⁴¹

From April 1785 to the summer of 1786, there were at least five expeditions against squatters in the area of what was to become the Ohio Company Purchase. Fort Harmar, at the mouth of the Muskingum River, was built in 1785 to provide a base for these operations and for surveyors preparing eastern Ohio for sale in large parcels.⁴²

Community

This large land sale involving well-known public figures and monied men, the drawing up of the Northwest Ordinance creating the Northwest Territory, and the effort against squatters to insure that the public lands would be available for sale in large parcels to speculators formed the background for the first legal emigration to the mouth of the Muskingum River. Ohio Company employees (who took their payment in land and so, in a sense, can be considered settlers) and settlers left Danvers, Massachusetts on

December 1, 1787 and Hartford, Connecticut on January 1, 1788. On April 7, 1788, forty-eight men arrived at the point of juncture between the Ohio and Muskingum Rivers.⁴³

In Chapter I we showed that the primitive conditions of western settlements in their early stages fostered community as the predominant mode of social organization. The first settlers of Marietta responded to the new environment with the co-operative behavior, voluntary association, and diffuse authority associated with the concept of community.

Soon after their arrival the party of settlers and workmen went off to seek the most likely spot for a settlement. They decided on the east bank of the Muskingum about one half mile before it enters the Ohio.⁴⁴ There they cleared land, built cabins, and planted the first crop together.⁴⁵ A group of men cleared and enclosed a large field for common use.⁴⁶

Next they joined together to build a fortified structure called Campus Martius. This was both a second fort (Fort Harmar was already in the vicinity) for a civilian militia and a residence for Territorial and Ohio Company officials. It was square, had a large yard in the middle, fortified blockhouses at each corner, and private residences between the blockhouses.⁴⁷

In June 1789 the settlers cleared and fenced seventy acres of land and planted corn. That fall there was a severe early frost that destroyed the crop. Meanwhile,

also in the fall of 1789, Indians destroyed all the game and set fire to the forest around Marietta. Of course, the result of all this was a genuine famine. Settlers simply shared what little food they had.⁴⁸

Soon there was a co-ordinated system of defense. A shot was the signal for each settler to hurry to a particular alarm post and assignment. If the Indians returned, all joined in the chase. During the Indian hostilities of 1790-95, settlers who did not take refuge in Fort Harmar or Campus Martius built together and lived communally in fortified blockhouses sharing chores, provisions, and defense measures. Farming was done in teams, some settlers acting as sentries. Women and older girls washed clothes and cooked.⁴⁹

Within the first two years of the settlement a mutual insurance company was formed to protect each other's livestock. Settlers agreed to replenish an accidental loss borne by any of their number from their own stock.⁵⁰

Emergencies such as floods, fires, marauding and destructive animals, illness (especially illness that threatened to become contagious), and weakened roofs and bridges caused by heavy rain called forth co-operative action. In March 1791 settlers covered the rooves of Campus Martius with mud to prevent the Indians from setting them afire with flaming arrows. Meetings, begun in 1789, were held in the northwest corner blockhouse at Campus Martius

where settlers discussed strategies for dealing with these emergencies.⁵¹

In January of 1790 a family stricken with smallpox arrived in Marietta. Two town meetings were held, and it was decided that those who never had the disease should leave the village proper and move in with families on the outskirts. Once there they would be inoculated.⁵²

The men hunted together. Their chief game were those creatures who threatened livestock and crops--bears, panthers, squirrels, wolves, and wildcats.⁵³

In order to grind corn during the Indian wars (1790-95) settlers banded together to take their crop to a mill they had built on Wolf Creek. A large raft called a pirogue (also build by the settlers) was the means of transport. Some ground the corn while others kept guard.⁵⁴

From the beginning of the settlement the fall harvest was a co-operative task. There were also, from the beginning, the usual frontier log rollings, quilting bees, corn huskings, and house raisings. Within the first two years the settlers began to work a salt spring together. Work parties were directed by whoever knew the particular task best. The best shots acted as sentries.⁵⁵

Church meetings were held in private houses until 1798. At these meetings settlers both discussed and, with public disapproval as the main sanction, enforced public morality.⁵⁶

In 1798 a separate building for school sessions and church meetings was erected by the co-operative labor of the settlers. The minister and the teacher were supported by communal donations of farm produce.⁵⁷ Aside from Campus Martius, private dwellings, blockhouses, the corn mill, the pirogue, and the school-church building settlers co-operatively built and maintained a bridge over Tiber Creek.⁵⁸

In addition to the composite portrait of the social life of the initial period of frontier settlement drawn in Chapter I, these examples from Marietta should be enough to show that in its earliest period the major exigencies of social life were handled in a co-operative style and that community was the predominant mode of social organization.

The State

Also in evidence very early were the empirical elements associated with the concept of the state. These elements, as with the squatters, appeared before the establishment of formal government which began in Marietta on September 2, 1788.

One of the distinguishing characteristics of the state is its right to wield legitimate coercion. Soon after the arrival of the first settlers and Company employees in April of 1788 and before the arrival of Governor Saint Clair in July, Ohio Company owners formed an organization known as the Board of Police. According to a student of

the earliest Territorial laws:

The Ohio Company had its own military force; it had already created a Board of Police which had passed regulations for the settlement that smack of an armed camp; militia is to be enrolled and officered; an officer of police is to execute the necessary regulations enacted by the board for cleanliness, health, and propriety; all persons coming within the settlement are to report themselves within twenty-four hours; no one is to go beyond the fields without permission from the commander or the officer of the day; the corps of militia is to be paraded the first day of each week.⁵⁹

The Board also assumed the right to allow or forbid settlers to leave the safety of Fort Harmar and take up residence on their land.⁶⁰ It co-ordinated efforts to defend against and attack the Indians. Aside from organizing its own militia, the Ohio Company, through the Board of Police, supervised and paid for the building of the specifically military sections of Campus Martius. (The residential sections were built by the co-operative labor of the settlers.) The Board instituted the policy of supplementing the pay of settlers who enlisted in the regular United States Army stationed at Fort Harmar.⁶¹

The Board kept records of immigrants and decided if non-landowners might stay.⁶² It fined settlers who missed militia drills and appointed various officials such as a sealer of weights and measures, a registrar of births and deaths, and fence viewers. The certificates of debt issued by the Company were negotiable currency.⁶³

With legitimate coercion and military protection, the right to determine lawfulness of residence, the imposition of penalties for neglecting "public" duties, the appointment of officials and the circulation of money the Ohio Company, supposedly a private organization, clearly was taking on the character of the state. There is an interesting analogy, then, between the Ohio Company and other state-granted monopolies such as the Dutch East India Company and the chartered companies of the United States colonial period. Indeed, Frederick Engels' description of the trading companies of the late sixteenth and early seventeenth centuries seems to apply to the Ohio Company: "The trading companies wherever still existent were usually converted into armed corporations which conquered and monopolistically exploited whole newly discovered countries under the protection and sovereignty of the mother country."⁶⁴

Concentration of power and office within a small circle is another characteristic of the state. The directors of the Board of Police consisted of five Ohio Company owners. The population of Marietta had reached over 200 adult men by the time official courts began in September 1788. These men deliberated alone and, during the period of time that the Board existed (April 1787 to September 1788) never relinquished office. They were: Rufus Putnam, Archibald Crary, Griffin Greene, Robert Oliver, and Nathaniel Goodale.⁶⁵

Quasi-religious ceremonies and symbols, another sign of an emerging state, marked the beginnings of the Board of Police. An integral part of state ceremonials are the sites chosen for them. Several scholars have remarked that there is an attempt to render the sites of state occasions more impressive and ornate than those that house ordinary, everyday events.⁶⁶

The first town meeting in Marietta established the Board of Police. It was held in July of 1788 under a massive old oak tree, the largest in the vicinity. This tree, on the bank of the Muskingum and the shade it afforded, became commonly known as "the Bower," "the handsome old Bower," and "the sacred Bower." An elaborate monument and plaque now stand at its site in Marietta. In the absence of man-made structures this spot must have seemed the most solemn available and it was used for similar, and purely religious, occasions for at least one year.⁶⁷

Under this old tree certain political rituals were performed. Before a group of approximately fifty, several Ohio Company shareholders supervised a reading of the Northwest Ordinance and the Congressional commissions of the Governor, Secretary of the Territory, and the three Supreme Court Justices (none of whom were present). The meeting ended with an offering of prayer for the guidance of these officials and for the well-being and prosperity of the new Territory.⁶⁸ After drawing up the rules and

regulations and selecting the officials of the Board of Police, a committee of five was appointed to write to Governor Saint Clair and request his sovereign approval of the informal government.⁶⁹

Thus, along with community as a social form the state made its appearance early in the history of Marietta. There was legitimate coercion, centralization and minority control of authority, and political ritual. Certain powers that may be taken as granted during the period of official government under Territorial auspices like the right to decide who could legitimately reside in the area, to defend the area from attack and to attack outsiders, the appointment of officials, and the circulation of currency were also appropriated by the Board of Police and, in a situation where no official government as yet existed, may be taken as indicators of the state.

Social Factors Leading to the Emergence
of the State (April to September 1788)

The social factors that fostered the appearance of the state must also have existed early in the history of the settlement of Marietta. One such factor seems to have been the need to be constantly alert to the danger of Indian attack.

Although defense measures were to a great extent handled according to the concept of community, especially

in the blockhouses where several families lived, worked, and defended themselves together, the Board of Police with its militia and generally military style of organization, clearly was meant to augment the regular army troops stationed at Fort Harmar.

There is no inherent contradiction in the same social exigency (the need to defend the settlement) giving rise to both forms of social organization (community and state). Indeed, they were occasionally mixed in the same response to the fear of Indian attack and to actual conflict. Community and state, after all, are theoretical constructs designed to classify and interpret social processes. Such processes rarely exhibit the same clear distinctions and oppositions that exist between constructs.

To follow are some specific examples from the earliest period of Marietta showing defense measures as organized both in terms of community and state. Here we will also refer to several of the smaller settlements on the outskirts of Marietta but also on Ohio Company land.

It has already been pointed out that the Ohio Company fostered the early emergence of the state in Marietta by forming the Board of Police. All measures taken on behalf of the Company were administered through the Board. These measures, then, are to be taken as responses organized according to the concept of the state.

Ohio Company workmen and settlers worked together to build the fortification Campus Martius. Work began in April of 1788. The Ohio Company workmen built the purely military parts of the structure, particularly the blockhouses at each corner. The settlers built the private residences between the blockhouses.⁷⁰

At the small settlement just to the west of Marietta called Belpre families lived in communal style in thirteen blockhouses built mainly by co-operative labor. Teams of men did the work of land clearing and farming, some acting as sentries. But during actual Indian emergencies and drills they were led by a regular Army officer or a Ohio Company owner with a military title gained during the revolutionary war (Major Nathan Goodale). The Company paid for the building of several of the blockhouses and also employed several Indian rangers or scouts.⁷¹

About twenty-two miles northwest of Marietta was the little settlement of Waterford. There about twenty families lived communally in three blockhouses. However, the men formed themselves into a small military force with a hierarchical structure. Ohio Company owner Colonel Robert Oliver was in charge of this force. Beneath him was a captain (William Gray), a sergeant (David Wilson), and a corporal (Andrew Webster). The Company sent three of its laborers to build the blockhouses.⁷²

The Wolf Creek settlement was just east of Waterford. Aside from the communal life of the blockhouse, the few men (approximately 12) of this settlement were led as a military force by an experienced woodsman, Captain Joseph Rodgers, and by Colonel Oliver.⁷³

It would also seem that the division of Marietta by classes was another social condition which fostered the emergence of the state, specifically, the Board of Police. Marietta was divided along class lines from the very start. At the top of the class hierarchy were the Ohio Company owners who had settled in Marietta. Around one-third of the original 714 owners became residents.⁷⁴

Most had been prominent in New England politics and society. Many had been high ranking officers in the revolutionary army. Many were members of the elitist societies of the Cincinnati and the Freemasons. Each share in the Ohio Company carried with it title to 1,173.37 acres. This amount of land was clearly meant for speculation, not actual farming. The Board of Police was comprised solely of Ohio Company owners.⁷⁵

Below them were small farmers (both owners and tenants) working lots of four to eight acres and various small craftsmen and shopkeepers.⁷⁶

The population of Marietta increased rapidly at first. In April 1788 there were 48 men. By the end of the summer of 1788 there were about 200 men, 22 of them with their

families. The Ohio Company policy of granting 100 donation or free tracts to speed settlement probably helped cause this increase. But it also might have caused Ohio Company officials some concern about maintaining order, especially since the donation tract settlers could have come from rather poor class backgrounds.⁷⁷

It should be remembered that Manasseh Cutler had argued before Congress that "a strong toned government should exist to protect rights of property against licentious people" in the new settlements of the West.⁷⁸ It seems reasonable that, in the period before the establishment of official government under Territorial sanction, about one year after Shays' Rebellion in New England, the propertied men of the Ohio Company felt the need for order, security, and authority in a new wilderness settlement and took it upon themselves to provide that authority by establishing the Board of Police. Thus it would appear that, aside from the need for defense, the class stratification of the settlement had the effect of fostering the emergence of the state.

Of course, we should acknowledge the possibility that the Board of Police provided certain services. It probably gave the settlers, too, a sense of order and security to have a governing organization in a new and strange wilderness environment where they were surrounded by natives who might become hostile at any moment. It seems, also, that

the Board took measures to enforce cleanliness and healthful conditions. It attempted to insure safety by restricting the area that settlers could traverse alone.⁷⁹ However, at this very early stage of settlement it is likely that these problems could have been met through the dominant social form of community.

Very early, then, in the history of Marietta, before the establishment of government under Territorial auspices, we find the elements associated with the concept of the state: centralization, minority control, and coercive authority. This first emergence of the state occurred at a time when social life was largely organized in terms of community.

The social conditions which seem to have fostered the emergence of the state were the need to defend the settlement and the division of Marietta into distinct economic classes.

The State under Territorial Government

Official, Territorial government began when Governor Saint Clair established Washington County (with its county seat at Marietta) and its Court of Quarter Sessions, Court of Common Pleas, and Court of Probate in September 1788. The county covered what is now eastern Ohio but at first it was only effective as an agency of government in Marietta and its immediate vicinity.⁸⁰

The Court of Quarter Sessions was the main governing body of the county. It met four times annually and was empowered to divide the county into townships, make estimates of revenues needed and collect taxes, make appointments to various county and township level offices, try and sentence "petit" criminals, lay roads and award contracts for bridges, the courthouse, jail, and other public works.⁸¹ The Courts of Common Pleas and of Probate handled matters of property. The first dealt mainly with land ownership transfer and the second with estates, wills, and inheritance.⁸²

Centralization and minority control of power and office is one indication of the concept of the state. The first Court of Quarter Sessions, Court of Common Pleas, and Court of Probate were staffed by three men, all appointed by Governor Saint Clair: Benjamin Tupper, Archibald Crary, and Rufus Putnam. R.J. Meigs was the clerk of both courts. All of these men had served on the Board of Police.⁸³

Between 1788 and 1803 there were twenty-one justices of the Quarter Sessions Court. These men were an office-holding elite, receiving twenty-two appointments to twelve other prestigious offices, including: Representative to the Territorial Legislature, County Commissioner*, County Assessor*, Commissioner to Incorporate Marietta*, Justice of the Probate Court*, County Recorder*, Overseer of the Poor*, Justice of the Court of Common Pleas, Prosecuting Attorney for Washington County*, Constable*, Town Clerk*,

and Colonel of Militia* (asterisks indicating the eight positions to which the justices were empowered to appoint one another).

Another way to illustrate minority control, specifically of the Quarter Sessions Court, is to analyze the appearance of the various justices by "justice sessions." Between 1788 and 1803 there were 127 justice sessions. That is, a single justice attending all eight sessions in a two-year period would account for eight justice sessions. Nine justices were members of the court for more than two years. These nine accounted for 103 of the 127 justice sessions.⁸⁴

Judging from the salaries and fees they commanded, the five most prestigious offices of local government were justice of the quarter sessions court, sheriff, county recorder, constable, and overseer of the poor. Between 1788 and 1803, thirty-nine men held these five offices. Of the thirty-nine, twenty-four held more than one office.⁸⁵ Thus there clearly was a centralization and minority control of power and office during the period of official government under Territorial auspices from 1788 to 1803.

The right of legitimate force is also an indication of the state. We have seen that a coercive organization known as the Board of Police arose in Marietta before the establishment of official government under Territorial authority. Of course, legitimate force was one of the powers of county government under Territorial authority.

The following brief discussion of some infractions of law and the penalties they entailed is not meant to imply that a particularly brutal state arose in Marietta. It is meant only to illustrate how legitimate force exercised by a minority became an important element in the social life of Marietta.

Coercion was applied against all the commonly proscribed violations of persons and property; murder, robbery, arson, etc.⁸⁶ Some behaviors defined as criminal and subject to legitimate force would seem to have been less serious. For example, a law of 1788 forbade "idle, vain, or obscene conversation." A law of 1799 became more specific and stated that no citizen should "profanely curse, damn, or swear by the name of God, Jesus Christ, or the Holy Ghost."⁸⁷

A law of 1788 prohibited "common labor and pursuits" on Sunday. In 1799 the law regulating behavior on Sunday was expanded to include prohibitions against "reveling, quarreling, and fighting." There were to be no "games, sports, diversions," and no hunting or shooting.⁸⁸

A law of 1798 gave justices of the peace broad powers to expel anyone they deemed undesirable. Justices were to obtain sureties of good behavior from "idle, vagrant, and dissolute characters--swindlers and gamblers as well as dangerous and disorderly persons."⁸⁹

It would appear, also, that corporal punishment was administered for rather minor offenses. A law of 1788 prescribed thirty-nine lashes for unlawful assembly. Also in the 1788 code was a law stipulating that disobedient children or bond servants could be jailed until they apologized. A child or servant who struck his master received ten lashes. Refusing to testify before the Quarter Sessions or Common Pleas Courts was punishable by thirty-nine lashes and two hours in the pillory. A law of 1795 prescribed fifteen lashes and twelve days in prison for thefts of \$1.50 and less.⁹⁰

Other offenses, although serious, were, by our standards, punished severely. For example, the larceny law of 1788 demanded twofold retribution to the victim and thirty-nine lashes. If the offender had no property he was subject to hard labor service under the sheriff for seven years.⁹¹

Another indication of the emergence of the state are rituals and symbols separating the processes and events of government from the prosaic routines of daily life. The "bower" was the site of the first political rituals in Marietta. We have already described the first town meeting, with the reading of proclamations and the offering of prayer, held there in July 1788. The first July Fourth celebration was also held in the bower. There was firing of cannon from Fort Harmar. The fort was decorated with numerous banners

and the celebration ended with a "beautiful Illumination."
 (There is a hint of mythology in the story that the fish eaten that day was the largest ever caught in the waters of the Muskingum by a white man, a 100 pound, six foot pike.⁹²)

When Governor Saint Clair first arrived in Marietta on July 7, 1788:

Governor Saint Clair arrived at the garrison. On landing he was saluted with thirteen rounds from the field piece. On entering the garrison the music played a salute, the troops paraded and presented their arms.⁹³

On this day intense excitement prevailed throughout the settlement and at the fort on the opposite bank. The officers assumed their newest uniforms and the soldiers' muskets and trappings were polished to the highest degree of cleanliness. The distinguished citizens collected about the Campus Martius awaiting the arrival of their hero. General Harmar and his officers, proceeding to the landing, when amidst the ruffling of drums and the booming of the Federal salute of fourteen guns; they received the Governor as he stepped from the twelve cased barge of state. He was accompanied by Major Doughty of the artillery; Judge Parsons and Secretary Sargent. The Party proceeded in solemn state to the fort, where it was to remain until the formal opening of civil government.⁹⁴

On July 15, 1788 ceremonies marking Governor Saint Clair's commencement in office took place at the "bower." Following are two accounts of this event:

At five o'clock P.M. there was a general muster in the bowery. His excellency came over from the garrison to this place, escorted by the corps of officers, the secretary [Winthrop Sargent] etc. The secretary then read the ordinance of Congress, the governor's commission, the judges' and his own.⁹⁵

Tuesday July 15, 1788, civil government was established in the territory west of the Ohio River. General Saint Clair, attended by Judges Parsons and Varnum and Secretary Sargent, made his public entry into the city of Marietta, being escorted across the river in a barge of state to the accompaniment once more of drums and guns.⁹⁶

The courts of Washington County opened in Marietta in September of 1788. Neither court had any business before it and so the processions, prayers, proclamations, and addresses described in these contemporary accounts take on an added significance. After all, they were the only reason for convening:

The first court of common pleas in the northwest territory was opened at Marietta on Tuesday, the second day of September, 1788. A procession was formed at "the point," composed of the inhabitants, and officers from the fort, who escorted the judges of the court of common pleas, with the governor and the supreme judges of the territory, to the hall in the northwest block-house of Campus Martius. The procession was preceded by the sheriff, with his drawn sword and wand of office, the whole making quite an imposing appearance and exciting the admiration of the friendly savages, a number of whom were loitering about the new city. When all were assembled the duties of the day opened with prayer by the Reverend Manassah Cutler. The court was then organized by reading the commission of the judges, the clerk, and the sheriff; after which it was opened for business by the proclamation of the sheriff; "Oyes Oyes-- A court is open for the administration of even handed justice to the poor and the rich, to the guilty and the innocent, without respect of persons; none to be punished without trial by their peers, and in pursuance of the law and evidence in the case." There being no business before the court at this term it was adjourned without day.

On the second Tuesday of September, which was in the ninth day, this court [County Court

of Quarter Sessions] sat for the first time.... The court was opened with the usual proclamation of the sheriff, after the general commission appointing the judges was read by the clerk. The charge was given with much dignity and propriety by judge Putnam.... At half past one the court again opened, when the jurors entered and presented a written address to the court, which after being read was ordered to be kept on file. Judge Putnam made a reply to the address. There being no suits before the court, it was adjourned without day.⁹⁷

On December 13, 1788 around two hundred Indian leaders came to Fort Harmar to negotiate a treaty with Governor Saint Clair. They fired a salute to the governor and to the American flag flying over the fort. The soldiers returned the salute with cannon fire and musketry for several minutes. There was martial music and a guard of soldiers escorted the Indians to the fort. In January 1789, when Territorial Supreme Court Justice Parsons and a General Butler passed Fort Harmar there was a fourteen-gun salute.⁹⁸

On January 13, 1789 there was a funeral for Ohio Company shareholder and Territorial Supreme Court Justice James Varnum. The procession, as described in this contemporary account, included a mixture of fraternal, religious, and political symbolism:

Procession:

The Military Under Captain Zeigler
Marshalls
Mr. Wheaton with sword and military commission
of Varnum on a mourning cushion.
Mr. Mayo with diploma and order of Cincinnati
on a mourning cushion.
Mr. Lord with civil commission on a mourning
cushion.

Mr. Fearing with insignia of masonry on a mourning cushion.

Pall Holders:

Griffin Greene
 Judge Tupper
 The secretary
 Judge Crary
 Judge Putnam
 Judge Parsons

Private mourners:

[various private citizens and petty officials are named here]
 Indian chiefs
 The militia officers
 The Cincinnati
 The Masons⁹⁹

Every Sunday religious services began with a procession that included prominent officeholders. The procession followed this order: "1. Sheriff Sproat with revolutionary sword drawn and sheriff's wand; 2. A drum and fife corps; 3. General Rufus Putnam; 4. General Benjamin Tupper; 5. The rest of the citizenry." The revolutionary sword brandished by Sheriff Sproat on Sunday was also his "emblem of justice" when on duty.¹⁰⁰

Clearly the state, with its concentration of power and office, legitimate coercion, and ritual and symbol, became an increasingly important aspect of the social organization of Marietta after the establishment of official government.

The State and Community Life

Next we should consider the influence on community life of the emergence of the state. In Chapter I we decided to focus on the community-style enforcement of propriety and moral behavior and on aid extended to new-

comers. The official agency for the enforcement of law which, presumably, assumed the responsibility for maintaining order in the settlement, was the Quarter Sessions Court of Washington County along with the County Sheriff and his force of constables. This organization began in September 1788.¹⁰¹

However, the Court was not very active at first. Three of its first five sessions (September 1788, March 1789, and June 1789) met and adjourned because there was no business. Between 1788 and 1795 thirty-seven meetings were scheduled. Eighteen had no business and adjourned. Four adjourned because there were not enough justices present (three constituted a quorum). During the first eight years there were six cases (three assaults, two hog thefts, and one violation of the Northwest Ordinance--the "selling of a Negro woman") that required the hearing of evidence, maintenance of trial records, and rendering a decision.¹⁰²

Perhaps the population of Marietta was so law abiding that it required little effort by centralized and coercive authority to maintain order. Another possibility is that propriety and moral behavior were discussed and enforced outside of the aegis of the state within the institutions of community, primarily the church meetings held in private homes and unofficial juries of neighbors. Of course, these two possibilities are not mutually exclusive and their

combination could have caused the relative inactivity of the Court between 1788 and 1795.

Between 1796 and 1803 the activity of the Court increased. A rise in population encouraged by the end, for the time being, of Indian hostilities and the withdrawal of British troops, might have contributed to this development. In 1795 the Indians of the Northwest Territory were decisively defeated by General Anthony Wayne. The Pinckney Treaty with Spain opening the Mississippi River for Western produce and trade and the Jay Treaty insuring the absence of British troops were signed.¹⁰³ At the end of 1795 there were about 300 unindentured male adults in Marietta. By the end of 1798 there were 500, and by 1803 there were 550.¹⁰⁴

Between 1796 and 1803 the Court scheduled thirty-two meetings. Nine were cancelled because there was no business to conduct. In these eight years there were twenty-one indictments and trials (seventeen for assault, one for attempting to free a prisoner, one for gambling, one for stealing meat, and one for keeping a "disorderly house").¹⁰⁵

If we review the memoirs of settlers, local histories, and church histories, counting the references to community style enforcement of propriety and moral behavior from 1788 through 1795 and from 1796 through 1802 we should be able to make some determination about whether community

activity increased, decreased, or remained the same with the increasing activity of state authority.

As we noted in Chapter I, the small holding, poorer settlers did not record their memoirs. We are therefore dependent on the writings and recollections of the economic elite. Since we have seen that the subsistence level, simple agricultural economy of the small holding settlers is most conducive to community as a principle of social organization, this elite was probably somewhat removed from the voluntary association and mutual aid of community life. They most likely did not consider community habits and routines interesting enough to record. Indeed, much of the substance of the personal memoirs available has to do with such matters as the deliberations of the Ohio Company Directors, the activities of Governor Saint Clair and General Harmar, the feasibility of various speculative business ventures, the possibility of concluding a treaty with the Indians, and the like. Our findings must, then, be offered tentatively since we cannot be sure that all or even most events in community life have been noted. The lack of personal memoirs written by non-elites is a problem that faces historians and sociologists generally. All the researcher can do is present his findings with the qualifications we have outlined.

Population increased during the latter period (from 1796 to 1803). Increased population might offer more

opportunities for informal community groups to form and meet simply because there were more people available to do so. If this is so, a decrease in such activity, in spite of increased population, would make the possibility that this decrease was caused by state activity more likely.

However, it might also happen that increasing population led to a more impersonal social environment which was less conducive to community activity. In other words, population increase might have been a distinct and separate cause of decreasing community activity rather than a potential cause of increased activity which was offset by the emergence of the state.

Ideally we should check the amount of community activity under conditions of population increase, stability, and decrease holding state activity constant in order to determine the independent effect, if any, of population on community activity. This will not be possible within the limits of this study and so we must add another qualification to our findings.

Finally, the confidence we can place in our findings is again limited by the small number of cases.

However, even with these limitations in mind, the difference in the number of reference to community activity in the area of enforcement of morality and propriety from 1788 through 1795 as compared to 1796 through 1803 is striking. From 1788 through 1795 there are eleven such

references. Seven of these involved small church groups and four involved informal juries. From 1796 through 1803 there are only five such references, three to church groups and two to informal juries. On eight of these occasions the community groups dealt with drunkenness, five dealt with theft, one with disorderly and boisterous behavior, and on two occasions the behavior discussed is unknown.¹⁰⁶

It seems, then, that community style enforcement of morality and propriety did indeed decrease during the period of time (1796-1803) that the state became more active. We may tentatively conclude, therefore, that as the state became active in the area of enforcement of morality and propriety the incidents of community style enforcement decreased. More generally, we may say that as the state began to involve itself in an area of social concern the institutions of the community became less involved.

In Chapter I we said that we would also consider the frequency of community-style aid to newcomers. Such aid included affording them temporary room and board, helping them to build their cabin, clear and fence their land, and plant their first crop.

There never was any state agency whose function it was to aid new settlers. Therefore, if we compare the periods 1788 through 1795 and 1796 through 1803, we expect to find no changes in the amount of this activity. Any

deviation from this pattern will require further discussion.

In the period between 1788 and 1795 there are fourteen references to aid afforded new settlers. From 1796 to 1803, despite the lack of any state involvement in this area, there are no references to such aid.

Ten of the fourteen references are within the years 1788 to 1790, the first three years of the settlement. There is one reference to communal aid for each of the years between 1791 and 1794. There is no such reference from 1795 through 1803. It would appear that communal aid to newcomers occurred more frequently during the earliest period of settlement when conditions were most difficult.¹⁰⁷

As the settlement matured (especially after peace with the Indians in 1795) and various craftsmen and merchants appeared (e.g., by 1803 there were eight stores and nineteen buildings housing "public officers and mechanics," according to the Marietta Ohio Times), aid to newcomers became less necessary. Thus, we may say that primitive conditions and their gradual alleviation, rather than state activity or inactivity, were the important factors in determining changes in the frequency of communal aid to newcomers.

To conclude, where the state became actively involved in an area of social concern (the enforcement of propriety and moral behavior) it seems to have been a factor causing community involvement to diminish. In an area where the state never became involved (communal aid to new settlers)

the important factor leading to lessened community involvement was the general socioeconomic maturation of the settlement.

Social Factors in the Emergence of the State

We noted in Chapter I that the political development of the settlements was to a great extent determined in advance by the Northwest Ordinance of 1787. The forms of local government in the Territory were set forth in a law creating the County Courts of Quarter Sessions and of Common Pleas written by the governor and three supreme court justices in August 1788. Thus, in order to understand the emergence of the state under official Territorial government we must refer again to the Ordinance and to the process that led to the formation of the Northwest Territory.

We have hypothesized that the division of a settlement into distinct classes fosters the emergence of elements of the state in social life. It appears that the dominant class tends to seek protection and legal sanction for its property in a centralized, minority-controlled, and coercive authority.

During the negotiations with the Continental Congress prior to the Ohio Company sale, Company spokesman Manasseh Cutler repeatedly expressed the need for a strong centralized authority in order to protect and maintain property in the West. Thus, the first paragraphs of the Northwest

Ordinance that deal with specific legislative matters are about estates, inheritance, land and movable property ownership, and property transfer. Cutler convinced Congress to create a Territory under strict supervision of the central authority in the East, administered by five officials all appointed by Congress (the governor, secretary, and three supreme court justices), where no elections would occur until a certain population was reached (5,000 unindentured white males), where the Territorial Legislature formed as a result of these elections could be dissolved at will by the governor and all of its acts were subject to his veto, and where there were substantial property qualifications for all key Territorial officials.¹⁰⁸

Local government was mainly the prerogative of the county courts of quarter sessions. There were no property qualifications for the justices of this court. However, they were all appointed by the governor and this seems to have been enough to insure that substantial property holders predominated.

In Washington County there were twenty-one justices of the Quarter Sessions Court between 1788 and 1803. Twelve were Ohio Company shareholders and eight were independent speculators (men who owned 300 acres or more and who operated outside of the Company). Of the nine justices who accounted for 103 of the 127 justice sessions between 1788 and 1803, eight were Ohio Company owners and the other

was an independent speculator.

Of the thirty-nine men who held the offices of justice of the quarter sessions court, sheriff, county recorder, constable, and overseer of the poor between 1788 and 1803, twenty-five were Ohio Company owners. The other fourteen were independent speculators.¹⁰⁹

Clearly, the speculative elite of Marietta and Washington County dominated the offices of local government.

Because of the nature of the process (a large speculative sale of land to a company founded and directed by wealthy men) which led to its establishment, the stratification of Marietta began, in a sense, before the settlement was a reality. The form of government for the Territory and the settlements was prearranged by monied interests at least partially to secure legal sanction and protection for their property and control of the offices of government.

Besides gaining protection and sanction for its property it seems that the economic elite of Marietta used its control of centralized and coercive authority to further its interests in other ways. The road law of 1792 gave the Quarter Sessions Court of each county the power, upon petition of twelve inhabitants of a township, to appoint surveyors and command the unpaid labor of every able bodied male sixteen and above. The penalty for delinquency was fifty cents per day. In 1799 it was raised to seventy-five cents and reached five dollars by 1802.¹¹⁰

A check of the Records and Journals of the County Court of Quarter Sessions for the years 1788 to 1803 reveals that roads were built near the lands of thirty-six men, thereby increasing their value. Nineteen of these men were Ohio Company shareholders. The other seventeen were independent speculators. Seven of these were relatives of shareholders. This group of thirty-six held a total of 172 county and township offices.¹¹¹ Moreover, on twenty-eight separate occasions during the same period justices approved the construction of roads near their own lands.¹¹²

It will be remembered from Chapter I that the settlers of Marietta and Washington County were not enthusiastic about required road labor and that the Court had to constantly enjoin them to fulfill their obligation. The fact that the fine for delinquency constantly increased is another indication of reluctance.

In order to place the road law and the settlers' response to it in historical context it will be necessary to briefly outline the precedents for road service in the settled regions. The obligation to work on roads did not begin in the Northwest Territory. However, none of the colonies and later the states whose laws we will consider relied exclusively on unpaid and involuntary labor. Along with such labor the older colonies, from the late seventeenth to the early nineteenth centuries, used county property taxes, lotteries, tolls, and the establishment

of public corporations able to issue stocks to finance and build roads. It is possible that the greater taxable wealth in the older jurisdictions allowed them to use taxation and paid labor whereas the Northwest Territory needed the unpaid labor of its citizens.

In tracing the eastern precedents for the Territorial road law of 1792 we will limit ourselves to Massachusetts, Pennsylvania, and Virginia. We will thus include one colony from each of the major divisions of colonies (New England, the Middle Colonies, and the South). The law in the Northwest Territory was written by Secretary Winthrop Sargent (acting for Governor Saint Clair), Judge Rufus Putnam, and Judge John Clyves Symmes. Sargent and Putnam were from Massachusetts and were probably familiar with its laws. It eventually had to be approved by Governor Saint Clair who was from Pennsylvania. These three colonies (later states), then, are both representative and likely to encompass the legal experiences of three of the four men responsible for the first Territorial road law.

In all three colonies the penalty for avoiding road work was a fine. We will see that the well-to-do avoided militia duty by simply paying a fine and it would seem reasonable that in the highly stratified and oligarchic colonial period they did likewise in order to avoid heavy physical labor alongside the poorer classes. We will also see that in Massachusetts and Virginia the rich did not

even have to nominally break the law to dispose of their road work obligations.

First we will consider the road laws of Massachusetts. A law of 1693 demanded the unpaid, involuntary labor on the highways of all able bodied males sixteen and older. However, a law of 1780 indicates that for extensive and difficult road work covering areas outside the limits of single towns and counties unpaid, involuntary labor was not used. In that year a lottery was organized to raise \$200,000 for the purpose of repairing the roads in Hampshire and Berkshire Counties. A contract was awarded and all workmen were paid.¹¹⁴

For road repairs within the towns, shortly before the establishment of the Northwest Territory, a hybrid system of paid and unpaid labor existed. A law of March 1787 outlined the procedure for repairing roads within the limits of incorporated towns. Property taxes for this purpose were levied, and each male freeholder either paid the tax or worked it off at the current price of common labor. It would seem, then, that wealthier men had a choice between working or paying but that the poor most likely had to work. However, some laborers were probably hired and paid from the fund of taxes collected. That involuntary labor was hard to enforce can be inferred from the fact that the fine for neglect of road duty set in 1693 had to be raised three times between that year and 1787.¹¹⁵

Next we turn to the road laws of Pennsylvania. A law of 1700 already stipulated that roads were to be built with paid labor from tax funds. Maintaining and repairing these roads, however, was the unpaid task of the inhabitants. The fine for neglect of road duty (20 shillings) set in 1700 was raised in 1712 and again in 1736. In 1762 this law was repealed, and road maintenance, as well as road construction, became the work of paid laborers with monies raised through a county property tax. This method of building and maintaining roads, with two increases in the property tax (1772, 1779), remained the same until the establishment of the Northwest Territory in 1787.¹¹⁶

By 1792 (the year the first Territorial road law was written) Pennsylvania was using even more sophisticated methods of financing road construction and maintenance. In that year the Pennsylvania Legislature began to authorize transportation corporations with the power to issue stocks. These corporations were to be profit-making ventures that could impose toll charges for entry on the major highways they were responsible for building and maintaining. Of course, road construction and maintenance workers were paid by these corporations.¹¹⁷

In Virginia various methods of financing and building roads were used from the earliest colonial period on. A law of 1661 established the principle of using unpaid and involuntary labor. The surveyors of highway (appointed by

the county courts) in each county were empowered to demand that every parish provide workers to build, clear, and maintain the roads. The first instance of a tax-financed road built with paid labor occurred in 1691. The Lieutenant Governor and the Council of the Colony appointed supervisors who, in turn, bought supplies and hired and directed labor. The road was financed through general colonial tax funds.¹¹⁸

Between 1661 and 1790 the full gamut of methods for financing roads built by paid labor were used. These were county property taxes, lotteries, tolls, and the establishment of public corporations. In three instances (two roads built in 1786 and one in 1788) labor and supplies could be substituted for the payment of taxes. The justification for this in each case was that the lack of a major road had curtailed commerce and limited taxable wealth.¹¹⁹

The road law of 1748 exempted the masters of "two or more male, laboring slaves" from road labor, so long as they sent one of their slaves.¹²⁰ This law, in effect, probably limited the road work force to poor whites and slaves. Like militia duty, then, the well-off could avoid road duty if they chose to.

The fine for avoiding road duty rose three times (1779, 1780, 1785) between 1661 and 1790, indicating that the law, as in the Northwest Territory, was difficult to enforce. The act of 1780 explicitly states that, "Whereas the penalties imposed by an act of assembly entitled 'An

act to amend an act entitled an act concerning highways, mill dams, and bridges,' have been found insufficient to compel the due execution thereof, Be it therefore further enacted ... "121

To conclude, we must emphasize that it is not our purpose to show that required road work was peculiar to the Northwest Territory. We are only attempting to indicate that, like other activities of government in the earliest period of settlement, the burden fell on the small holding settlers while much of the benefit was reaped by the economic elite. This may or may not have been true in the older jurisdictions. The fact that there much road labor was voluntary and paid can be interpreted to mean that it was less burdensome. We do know, however, that in Virginia and Massachusetts the rich could be legally exempt from road work and the fine for neglect, an indication that the poorer classes were not eager to work for free on the roads, continually rose in Virginia, Massachusetts, and Pennsylvania.

The first Territorial law written by the Governor and three Supreme Court Justices acting together as a legislature in 1788 established an unpaid and involuntary military force. The law required the enrollment of all males between sixteen and fifty. Missing drills and exercises entailed a fine of fifty cents per day. This was raised to six dollars per day in 1799. Desertion during combat

was punishable by death. The Governor and Judges could not imagine that the settlers might simply refuse to bear arms, and there is no mention of this offense in the law.¹²²

One assumption has been that maintaining a militia was an inescapable necessity designed to protect the lives and property of all the settlers from marauding, hostile natives. This assumption rests on another one--that the mere presence of white men enraged the natives. However, the Indians of the Old Northwest were initially friendly to white settlers as were, parenthetically, the Indians of New England and Virginia to the first white settlers to arrive in North America approximately 150 years before.

The French, especially, who either hunted and trapped or farmed small plots, were on good terms with the natives of the Northwest. Within the Ohio Company purchase, the 400 Frenchmen who settled at Gallipolis in 1790 had no trouble at all with the Indians until several of them joined Governor Saint Clair's disastrous expedition of 1792.¹²³

When the very first party of New Englanders arrived at the mouth of the Muskingum River in April 1788 they were greeted amicably by the principal chief of the Delaware, Captain Pipes, and seventy of his tribe. That the chief was already known by an English equivalent of his name means that he must have had previous contact with whites. In fact, we know that there were squatters in this area

since well before the Revolutionary War. Since the newcomers were warmly greeted, these first settlers could not have alienated their neighbors. Indeed, squatters had often opposed large speculative purchases which they feared would endanger their good relations with the Indians. As early as 1776 the Continental Congress received a petition from squatters west of the Alleghenies protesting against "land jobbers" who had surveyed Indian lands.¹²⁴ (Of course, it is likely, given what we already know about the nature of squatter settlements, that this petition was the work of would-be squatter speculators who perceived the eastern speculators as rivals. But at least the squatters had not, as yet, offended the Indians.)

Within months of the establishment of the official Territorial government there were violent incidents. By 1790 there was general warfare involving both militia and regular forces. It seems clear that the Indians sensed no limit to the white man's need for new land under the Territorial government and its original sponsor, the Ohio Company. A voracious land thirst encouraged by official policies favorable to speculation was to become from then on the theme of white-Indian relations in the West.

The Federal government wanted to sell the western lands in large lots to speculators in order to pay the public debt. Its predecessor, the Continental Congress, had not been effective in dealing with the Indians and a

major priority of the Federal government was to realize the full value of those lands through a more forceful Indian policy. Often enough, the public officials who favored this policy were the speculators to whom the land was sold. Thus, the instructions of Congress to Governor Saint Clair were to alienate Indian land as far as the Mississippi.¹²⁵

It is interesting to note that not every technique used by the Federal and Territorial governments to separate the Indian and his land was military. At Fort Wayne in the Indiana Territory military officials encouraged liquor consumption through a regular distribution of rations. Even the seemingly innocuous instruction in the arts of settled agriculture begun in 1795 was designed to make it easier to appropriate the vast hunting forests of an essentially nomadic people. It was hoped that the trading houses established in the same year would lead to land cessions when the Indians fell in debt.¹²⁶

In contrast, the small owning and renting settlers required only limited amounts of land for agriculture, trapping, and hunting. Land for them was a natural resource, the extent of its use dependent on their inherently limited capacity for physical exertion and consumption. It was not a commodity carrying the possibility of unlimited accumulation.

The small holding settlers, it seems, sensed that a policy of indefinite encroachment on Indian land was not their highest priority and we have already described how they balked at military service and taxation. The constant increase in the fine for missing drills also points to their reluctance to be good citizen soldiers. (Although they would fight fiercely to defend, as civilians, their property, fellow settlers, and families.) Hence, requiring militia service was another way in which the propertied elite of Marietta used centralized and minority controlled coercive authority for its benefit.

Again, in order to make our discussion of militia service in the Northwest Territory more meaningful, we should briefly review its historical precedents in the East. Of course, the idea of a militia force was not invented by the governor and judges of the Northwest Territory. Interestingly enough, they were accused of making up their own laws rather than adapting them from existing state codes as the Ordinance directed. Thus, in 1795 the House of Representatives passed a resolution declaring all the laws of the Northwest Territory, except a repealing act, null and void. The Senate did not follow suit because of the opinion that the laws were null anyway.¹²⁷

In the summer of 1795, after the House's action, the governor and judges passed thirty-seven new laws, carefully noting what older state code each one was based on, and

repealed twenty-six laws and parts of laws. Neither the militia nor the road laws were among those repeated.¹²⁸

But, clearly, in drafting the militia act of 1788 the governor and judges followed colonial and state precedents. As Theodore Calvin Pease has noted, "Even when the judges were legislating independently they usually had in mind as models specific state laws and legal procedures with which they were familiar."¹²⁹

All the colonies, except Quaker Pennsylvania, adopted militia laws soon after they were founded. Pennsylvania did so at the start of the revolution in 1776. Indeed, the Articles of Confederation (1781) and, later, a federal law of 1792, made it mandatory that each state have a well armed and equipped militia force.¹³⁰

John K. Mahon, a military historian, has said that the militia laws of the Northwest Territory were more stringent than those of the older states, requiring frequent training and the carrying of arms to public worship. All of the previous militia forces, like that in the Northwest Territory, were involuntary. However, most of the older states provided pay for militia men while on active service whereas the Northwest Territory did not. During several Indian campaigns in 1791 Pennsylvania paid its militia at twice the rate that the Federal government paid its regular troops.¹³¹

Other benefits such as pensions for the families of dead or disabled militia men and payments to poor families while the main provider was on militia duty were common in the older states but unknown in the Northwest Territory. Some of the seaboard states provided the militia with arms and ammunition while the citizen-soldiers of the Northwest Territory were required to arm and equip themselves.¹³²

But even though the militia laws of the older states were generally less stringent and provided various benefits, it seems that military performance and compliance with the law were no better. In Massachusetts, for instance, which is said to have been the best of the eastern militias, the fine for not appearing at drills constantly rose. In 1666 it was from five shillings to six pounds based on the rank of the offender. In 1776 the minimum fine was twelve pounds.¹³³

A Massachusetts Colony law of 1675 begins with the words, "This Court taking into Consideration the great disappointment the Country hath suffered by Reason of non-Appearance of Souldiers Impressed for several Expeditions . . . ," and goes on to levy a fine of from four to six pounds on the offenders.¹³⁴ Some of the language of this law indicates that there was occasional active, physical opposition to militia enrollment: "if neglect or refusal be Accompanied with Refractoriness, Insurrection, or Contempt upon Authority, such persons shall be punished with

Death or some other grievous punishment."¹³⁵

Mahon notes that in general fines for failure to enroll, failure to train, improper arms and equipment, and not appearing for active duty were high and that these offenses occurred frequently.¹³⁶

In addition, there was open resistance to paying fines. Some offenders would leave their militia district. Others threatened to shoot any agent sent to collect. In 1800 only one in nine Pennsylvania militia delinquents actually paid a fine.¹³⁷

Perhaps resentment against the rich was one cause of noncompliance with militia laws. There were many complaints that in order to avoid militia service and harassment by the law the wealthy simply paid a fine they could well afford. The poor also complained that arming and equipping themselves was an unreasonable burden.¹³⁸

The performance of the militia forces during the revolution was not impressive. George Washington was thoroughly displeased with them. He said that they came and went as they liked, ate up all the provisions and exhausted the stores, and then left at the critical moment.¹³⁹

Though they operated under stricter laws, were unpaid, and did not receive certain other benefits, the settlers of the Northwest Territory were not, in essence, asked to do anything that was not also required of the inhabitants

of the seaboard states. Neither does their performance seem to have been any better. In both locations there appears to have been some active opposition to militia service.

However, our point is not to show that what happened in the Northwest Territory in regard to militia service was entirely new. We only want to indicate that in the context of initially friendly relations with the Indians, the breakdown of those relations as it became obvious that there was no limit to the western speculators' need for land as a profit-producing commodity, and the small holding settlers' resistance to militia service and poor performance of duty, that the militia was an unwelcomed obligation imposed on the poorer settlers for the benefit of an economic elite. That similar events occurred in the East does not detract from this argument.

The economic elite of Marietta also used to advantage the power of the centralized and coercive authority to collect taxes for public services and works projects. We have discussed how roads were almost invariably built near the lands of local speculators and officials. In addition, since the county, through the Court of Quarter Sessions, awarded contracts to surveyors, road building was also a form of patronage.

The records of the Court show that fourteen surveyors were hired between 1788 and 1803. Of these, twelve were

Ohio Company shareholders and one was a relative of a shareholder. The one surveyor unconnected with the Ohio Company was an independent speculator. These fourteen men held a total of fifty-five township and county offices.¹⁴⁰

There were other forms of public patronage. In 1788 Ohio Company workmen built the fortified blockhouses at the corners of Campus Martius. Later the Company petitioned for and received full reimbursement of expenses from the Federal government on the grounds that defense of the settlement was an obligation of the national government. In 1789 the Company sold, for the then substantial sum of \$35 (a skilled workman earned \$3 per week; a large house could be leased for \$36 per year), the northwest corner blockhouse to the County for use as a courthouse. All of the justices who decided upon this purchase were Company shareholders.¹⁴¹

In 1797 one member of the committee appointed by the Court to report on the construction of a schoolhouse, shareholder Joshua Shipman, received a contract to supply the lumber.¹⁴² Between 1788 and 1803 there were four other construction projects sponsored by the County--two jails, a courthouse, and a bridge. All of these contracts were awarded by the Court of Quarter Sessions to sitting justices.¹⁴³

Finally, overseers of the poor routinely presented an account of reimbursable expenses to the Court of Quarter

Sessions. In 1791, 1792, and 1794 the overseers presented their accounts to courts on which they sat themselves.¹⁴⁴ Between 1788 and 1803 Quarter Sessions justices appointed themselves to the position of overseer six times and appointed relatives four times. These self- and family appointments occurred in 1790, 1791, 1793, 1794, and 1800.¹⁴⁵

In sum, the division of the Marietta settlement into classes was clearly a social factor that fostered the appearance of the state. The dominant class both formed and benefited from this authority. It gained protection and legal sanction for its property, enforced road and militia work on settlers, and supplemented its income through tax-supported work projects.

In the period before the establishment of official government, we noted that the need to defend the settlement was a factor that led to the appearance of the state. After the beginning of official government a Territorial law of 1788 mandated a militia force for each county in the Territory. This force was then the result of an action of the state, not one of the causes of its appearance.

Furthermore, the establishment of the militia was supplemental to the policy of indefinite encroachment on Indian land that mainly benefited the economic elite of Marietta. It is, then, probably accurate to say that the

militia force grew from the class stratification of the Marietta settlement.

Conclusion

In Marietta we have observed a movement from the dominance in social life of community toward the appearance and increasing importance of the state.

In the period before the establishment of official Territorial government (April-September 1788), the appearance of the state was fostered by the need to defend the infant settlement and its division into classes. After official government began, the exigency of defense became less important as a causal factor. It was one of the activities of centralized, coercive authority and not a contributing cause of its emergence. The division of the settlement into classes remained central.

We briefly compared the change over time of community involvement in two areas of social concern, one where the state became increasingly active and one where the state never became active at all. It appears that in the first area community involvement decreased with the increasing activity of the state. In the second community involvement decreased with the socioeconomic maturity of the settlement.

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²Ephraim Cutler Dawes, The Beginning of the Ohio Company (Cincinnati, 1882), p. 15; Archer Butler Hulbert, ed., "The Records of the Original Proceedings of the Ohio Company" (Marietta, 1917), pp. xli, xliii, xliv.

³Theodore T. Belote, The Scioto Speculation and the French Settlement at Gallipolis (Cincinnati, 1907), p. 10; Benjamin H. Hibbard, A History of the Public Land Policies (Madison, WI, 1965), p. 49.

⁴William W. Backus, A Genealogical Memoir of the Backus Family: Journal of James Backus (Norwich, CT, 1899), pp. 357-57; Belote, Scioto Speculation, pp. 15, 16; Robert V. Hine, The American West--An Interpretive History (Boston, 1973), p. 64.

⁵Ohio Company of Associates, "Names of the Proprietors of the Ohio Company" (Marietta, Ohio, Special Collections, Dawes Memorial Library, Marietta College); U.S. Congress, Biographical Directory of the American Congress, 1774-1961 (Washington, 1961), pp. 38-41.

⁶Edmund C. Burnett, ed., Letters of the Members of the Continental Congress, 8 vols. (Gloucester, MA, 1963), VIII:631 ("Edward Carrington to James Monroe, August 7, 1787").

⁷Merrill Jensen, The New Nation--A History of the United States during the Confederation, 1781-1789 (New York, 1967), pp. 355-56; John May, "Journal and Letters of Colonel John May of Boston" (Cincinnati, 1873), pp. 53-54.

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¹³Beard, An Economic Interpretation, pp. 263, 264, 267, 270; Ohio Company, "Names of the Proprietors."

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¹⁵Ohio Company, "Names of the Proprietors,"; Records of the Connecticut Continental Loan Offices, 1777-1789, "Register of Liquidated Debt Certificates, 1783-1787," vol. 491; Records of the Massachusetts Continental Loan Office, 1777-1791, "Register of Loan Office Certificates, February 8, 1777 to May 26, 1781," vol. 260, "Register of Interest Certificates Issued on Loan Office Certificates and Liquidated Debt Certificates, September 15, 1784 to April 13, 1786," vol. 264; Records of the New York Continental Loan Offices, 1777-1790, "Register of Loan Office Certificates, 1777-1781," vol. 544, "Register of Liquidated Debt Certificates, 1784-1787," vol. 545 (Washington, DC: The National Archives of the United States).

¹⁶Malcolm J. Rohrbough, The Land Office Business (New York, 1968), p. 33.

¹⁷Charles A. Beard, Economic Origins of Jeffersonian Democracy (New York, 1945), p. 177.

¹⁸Ohio Company, "Names of the Proprietors of the Ohio Company"; Connecticut Continental Loan Offices, 1777-1789, "Liquidated Debt Certificates, 1783-1787," vol. 491; Massachusetts Continental Loan Offices, 1777-1791, "Loan Office Certificates, February 8, 1777 to May 26, 1781," vol. 260, "Interest Certificates on Loan Office Certificates and Liquidated Debt Certificates, September 15, 1784 to April 13, 1786," vol. 264; New York Continental Loan Offices, 1777-1790, "Loan Office Certificates, 1777-1781," vol. 544, "Liquidated Debt Certificates, 1784-1787," vol. 545; U.S. Congress, Biographical Dictionary, pp. 38-41.

¹⁹Backus, A Genealogical Memoir, pp. 357-57; Belote, Scioto Speculation, p. 16; Hine, The American West, p. 64.

²⁰Belote, Scioto Speculation, p. 16.

²¹Francis S. Philbrick, ed., The Laws of the Illinois Territory, 1809-1818 (Springfield, IL, 1950, p. xxxii).

²²Belote, Scioto Speculation, pp. 24-25. This kind of arrangement was not limited to the Scioto speculation. In 1792 the Ohio Company was in default on its payments to Congress for its original purchase. Congress intended to grant only as much land as had actually been paid for, implying that settlers who had already paid full price to Company agents were to be the losers (Hulbert, "Records of the Original Proceedings of the Ohio Company," pp. xxxli, xliiv). Later on, in 1801, a Colonel Edwards purchased a substantial amount of land at the mouth of the Little Scioto River on credit (paying only one quarter of the price) from the Chillicothe land office. He then "sold" the land to actual settlers neglecting to tell them that he did not have full title and that they would be responsible for meeting the remainder of the debt to the Federal government (Hine, The American West, p. 64).

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²⁵Hinsdale, The Old Northwest, p. 267.

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³⁵ John May, "Side Lights on the Ohio Company of Associates from the John May Papers," The Western Reserve Historical Society Tract 97 (1917): 84.

³⁶ Randolph C. Downes, Frontier Ohio, 1788-1803 (Columbus, 1935), p. 73; Idem, "Ohio's Squatter Governor," p. 276; Lyle S. Evans, A Standard History of Ross County, Ohio (Chicago, 1917), p. 569; Paul Wallace Gates, "The Role of the Land Speculator in Western Development," in The Public Lands, ed. Vernon Carstensen (Madison, WI, 1963), p. 351; Western Spy and Hamilton Gazette (Cincinnati), 17 September 1800.

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³⁸ Henry Tatter, "State and Federal Land Policy during the Confederation Period," in The West of the American People, eds. Allan G. Bogue, Thomas D. Phillips, and James E. Wright (Itasca, IL, 1970), p. 192.

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- ⁴¹Downes, "Ohio's Squatter Governor," pp. 274-77.
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¹²⁷ Pease, Laws of the Northwest Territory, pp. xxi, xxiv-xxv.

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¹³⁸Ibid., pp. 47, 48.

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Chapter IV

FROM COMMUNITY TOWARD STATE, III: CINCINNATI

Introduction

The next important legal settlement in the Northwest Territory was Cincinatti, founded in December 1788. Our focus, again, in considering this settlement, will be on the movement from community toward state. We will try to show that at first the small wilderness society of Cincinnati was mainly organized in terms of community but that there was a gradual movement toward the state. We cannot determine with certainty that the state became the dominant mode of social organization, replacing community. All we can show is that the state began to appear very early in the history of Cincinnati. We will also try to indicate the social conditions which fostered this development and its effect on two aspects of community life, aid to newcomers and enforcement of morality and propriety.

Background

The Miami River area was opened for sale and settlement by Judge John Clyves Symmes, a member of the Continental Congress from New Jersey. His purchase from

Congress eventually resulted in the sale to Matthias Denman in 1788 which, in turn, formed the basis for the settlement of Cincinnati.

This chain of events began in 1786. In that year a New Jersey merchant named Benjamin Stites happened to be in the little Ohio River town of Lexington, Kentucky. Some backwoodsmen came through the town in pursuit of Indians who had stolen their horses. Stites joined them in a chase by flatboat down the Ohio River to the mouth of Little Miami.

Stites was so impressed with the beauty and fertility of the country between the Great and Little Miami Rivers that he was sure he had found a fine speculative venture. He hastened east to New Jersey in order to inform his business associate Judge Symmes. Symmes was interested enough to make a journey to the area in the fall of 1786.¹

On August 29, 1787 Symmes petitioned Congress for one-million acres between the Miamis to be granted on the same terms as the Ohio Company had received in July. Before he received his grant Symmes sold Stites 10,000 acres at five shillings per acre, payable in public debt certificates.²

Although the sale to Stites eventually proved valid and was the foundation of the settlement of Columbia (annexed to Cincinnati in 1872), Symmes' predilection

for selling land to which he had no clear title became the source of much litigation and confusion. Between 1788 and 1792 he sold many tracts on the assumption that his original request for one million acres would be granted. In 1792 he received title to 248, 540 acres from Congress between the Little and Great Miami Rivers at 66 2/3 cents per acre. This was payable in depreciated Continental debt certificates and military bounty warrants. The actual price, then, was about ten cents per acre, very close to what the Ohio Company had paid.³ (All of the members of Congress from New Jersey and Pennsylvania who owned shares in Symmes' Miami Company also owned public debt certificates.⁴)

During the negotiations Symmes formed an association of shareholders called the Miami Company. This Company, like the Ohio Company, consisted mainly of ex-revolutionary army officers. There were also members of the Continental Congress and first Federal Congress. They were:

Elias Boudinot -- New Jersey
 Robert Breckinridge -- Kentucky
 Jonathan Dayton -- New Jersey
 Samuel Dick -- New Jersey
 Robert Morris -- Pennsylvania
 William Patterson -- New Jersey
 James Schureman -- New Jersey
 John Witherspoon -- New Jersey⁵

William Henry Harrison, a future delegate to Congress from the Northwest Territory, governor of the Indiana Territory, and President of the United States was a share-

holder and, incidentally, Symmes' son-in-law. Governor of the Northwest Territory Arthur Saint Clair owned a share in the Miami Company as well.⁶

In the summer of 1788 Matthias Denman, a New Jersey speculator, bought one six-hundred and forty acre section on the banks of the Ohio opposite the Licking River from Symmes' Miami Company. He paid seven one-hundred acre military land warrants worth about forty-nine dollars. Denman joined Robert Patterson (the founder of Lexington, Kentucky) and Robert Filson (both from Kentucky) in partnership. This purchase resulted in the settlement of Cincinnati.⁷

In August 1788 the partners placed an advertisement in the Kentucky Gazette announcing the beginning of a new settlement. Filson, a classicist, attempted a Latinate rendering of "the town opposite the mouth of the Licking River" and came up with the name "Losantiville". The owners offered the first thirty settlers who would plant two crops successively and build a sturdy house a free one-half acre lot in the town proper and a four acre out-lot.⁸

In early September two parties totalling about fifty men left from Limestone and Lexington, Kentucky and arrived on September 10. They set out to explore the area. Robert Filson was with them, wandered off by himself, and was not seen again. It is assumed that he was killed by

Indians.⁹

This event alarmed the party and they returned to Kentucky. The remaining two partners took on Israel Ludlow, a surveyor from New Jersey, in place of Filson. Believing that the Indians were less active in the winter, another party set out on December 24, 1788. This group of twenty-six landed on December 26. By January 7, 1789 Ludlow, with the voluntary help of the other settlers, had surveyed the donation tracts and on that day they were drawn for and distributed.¹⁰

In May one-hundred and forty soldiers from Fort Harmar arrived. Later, in the summer and autumn of 1789, Fort Washington was built under the direction of a Major Doughty who had also supervised the construction of Fort Harmar in 1785. By the end of the year five-hundred soldiers were stationed at Losantiville. Their presence helped speed the progress of the new settlement. Perhaps the fact that Governor Saint Clair owned land in the town had some bearing on the placement of the fort there rather than at either of the nearby settlements of Columbia or North Bend.¹¹

By early 1790 the town had a population of approximately nine-hundred living in two-hundred houses. Among this population were two blacksmiths, two carpenters, a shoemaker, a tailor, a mason, two doctors, and three school teachers. There were three taverns.¹²

On January 2, 1790 Governor Saint Clair arrived at Losantiville. He did not like the name and changed it to Cincinnati in honor of the elite society to which he belonged. On January 5 he established Hamilton County with Cincinnati as its county seat and named the justices of the Quarter Sessions and Common Pleas Courts. Thus official civil government began in Cincinatti.¹³

Community

The primitive conditions of a new wilderness settlement and the delay in the establishment of official government for a little over one year encouraged community as the dominant form of social life.

The party of twenty-six that arrived on December 26, 1788 broke up their flatboats and together built some crude cabins. They then partially cleared the out-lots that were distributed in early January, 1789. After a short time they built more sturdy fortified structures or blockhouses and lived in them together, sharing all food and chores.¹⁴

Since no crop had as yet been planted the chief food at this time was wild game-turkey, deer, squirrel, and buffalo. Hunting this game was a communal effort. Fish were abundant in the Ohio River and the men of the settlement ventured out together and divided the catch.¹⁵

The little settlement was never actually attacked but the Indians committed isolated acts of theft and violence. Between fifteen and twenty residents of Losantiville and its outlying areas were killed during the first year of settlement. The offending Indians were chased by riding parties organized on the spot. This was called "calling out hands."¹⁶

In the spring of 1789 the men, working in teams with some acting as sentries, planted sixty acres of corn north of the settlement in a fertile field called "Turkey Bottom." In the summer, before the corn harvest, there was a shortage of provisions, especially breadstuffs. The settlers donated various items like animal skins and sent a party of six up the Monongahela to the nearest settlement at the mouth of the Great Kanawha to trade for flour. This party went part of the way by canoe, part on foot. They hunted together for their food.¹⁷

By autumn 1789, there were eleven families in Losantiville, and so the settlement was no longer exclusively male. Women and older girls engaged in communal activities. They cooked and washed clothes together in the blockhouses. In times of scarcity they searched for and prepared various edible roots.¹⁸

An early autumn frost destroyed the corn crop. The settlement was again without adequate food. Those who had some food shared with those who did not. Again

a party was formed to take what the settlers could spare to trade. This time the destination was Limestone, Kentucky.¹⁹

The settlers built and used communally a water mill for grinding corn. In the lower parts of the town near the river there were many swamps and ponds. The settlers cut down trees and placed the trunks so that they could be used for small footbridges.²⁰

In 1789 the settlers hired a schoolteacher, John Reily. Reily met his students in the blockhouses and cabins of the settlers. They supported him by donations of game and farm produce. He does not seem to have had, at least at first, any residence of his own and lived for approximately two weeks with each parent in turn. In 1792 a separate school building was built co-operatively. This building was also the site of community wide meetings.²¹

In 1795 the members of Cincinatti's Presbyterian church began a school. Each head of a family donated three shillings and three pence to support the schoolmaster and buy materials.²² Between 1792 and 1800 several more community supported schools were established. During the period of 1788 to 1803 there was no other form of elementary education in the settlement.²³

During the year 1789 church services, where public morality was both discussed and enforced, were held in

blockhouses, private homes, and sometimes outdoors, the stumps of fallen trees serving as seats. In 1790 the settlers banded together to build a horse mill. Church meetings were, on occasion, held in this mill.²⁴

In 1792 the settlers, who were mainly Presbyterians, built a church by communal labor. A minister (James Kemper) was procured. He and his family were supported by donations of farm produce and game.²⁵

Fires were fought co-operatively. In the spring of 1793 there was both a serious fire and a serious flood. Those displaced were sheltered and fed free of charge. The rebuilding of cabins and fences was a communal task.²⁶

In 1802 there was a mass meeting to devise more efficient methods of fire fighting. It was decided to take up a collection and purchase six ladders and six firehooks. This measure was by no means the creation of a distinct fire department since actual fire fighting remained a co-operative task.

Newcomers were sheltered and fed gratis. Because of this practice the cabins of Cincinnati were often crowded and uncomfortable. The new settlers were also assisted in building their cabins, clearing their land, and planting their first crop. In turn they were expected to contribute to the common defense of the settlement

and to participate in any other communal work activities that arose.²⁸

In 1795 an epidemic of "chills and fever" struck Cincinnati. Settlers who were well nursed the sick. A large room in a local tavern (Yeatman's) served as a makeshift hospital.²⁹

The settlers enforced morality and propriety without the benefit of formal government. For example, an 1819 letter of an early settler, Luke Foster, to a friend, Thomas Clark, says:

Of law, we had little use, until it was organized, though some seemed necessary; and what we did use, was both summary, and energetic, the cheap without fea or cost the first was a felony, a man had lost a barrel of flour, from the bank of the river, the first man he met, being informed, proposed to search every house, and add every house-keeper to their party, as they went on, until they mustered 13, the next man, refused their admittance but the determined serch, prest forward, and found the barrel of flour under the bed. The 13 first formed themselves into a court, and determined the punishment, then provided each a good whip, tied up the culprit to a thorn tree, and gave him three stripes each, which made the compliment of 40 save one: the property being restored all was settled. Some other small causes were settled by the same spirit.

It appears, then, that community was the dominant mode of social organization during the early years of the Cincinnati settlement.

The State Before Official Territorial Government

We now attempt to see whether there were signs of the appearance of the state during the approximately one year period before the establishment of official Territorial government in January, 1790. The limitation of power to a small minority, the right of this minority to administer legitimate coercion, and political ritual and symbol are indicators of the state. We must note that the situation in Cincinnati was somewhat ambiguous since there were two distinct political authorities operating during the first year.

During the period of time before the establishment of official local government in 1790 the settlement of Cincinnati was ostensibly under the jurisdiction of the United States Army. The first soldiers arrived in May, 1789. By the end of 1789 Fort Washington had been built and there were 500 soldiers stationed there.³¹

The power of legitimate coercion is surely one of the attributes of the military arm of a sovereign nation and it appears that the United States Army stationed at Fort Washington did indeed exercise coercion in the new settlement. John Clyves Symmes complained that during 1789 the military burned the property of several settlers and put them in irons for various "trifling offenses." Others were beaten and imprisoned. One settler, Knoles

Shaw, was banished from the Territory. His offense was discussing the possibility of desertion with several soldiers. The military authorities, in order to ensure complete control of the settlement, declared that Losantiville was under martial law.³²

The concentration of power and office is another indication of the state. Military organization is hierarchal and authoritarian, with final authority residing in the most senior officer and merely delegated to various subalterns. The commanding officer at Losantiville during most of 1789 was Major Doughty.³³

Political ritual and symbol is one more indication of the state. Fort Washington had a spacious parade ground adjacent to it. During the year 1789 there were several parades and periodic drills with martial music, prominent display of the American and regimental flags, display of arms, and cannon fire. The July Fourth parade included the firing of cannon and musketry.³⁴

Acting simultaneously with the military was a political authority which seems to have been related more closely to the life of the community. The settlers met together and developed a simple code of law which they solemnly pledged to abide by and help enforce. They also elected William McMillan magistrate and John Ludlow (the brother of Israel Ludlow) sheriff.³⁵

The presence of two authorities led to some open clashes. The most serious involved a culprit sought by McMillan and Ludlow who took refuge from the unofficial authorities in the fort. A stern letter was sent from there to McMillan instructing him to cease his functions. McMillan sent an equally stern letter to the effect that he would not. A sergeant and three privates then appeared at McMillan's home to arrest him. An altercation followed. McMillan suffered a blow to the chest resulting in a chronic disorder which eventually proved fatal.³⁶

There seems to have been other clashes between the military and the civilian population of Losantiville. Not all involved the elected civilian officials. In 1789 a popular Indian fighter, Lewis Wetzel, was arrested and imprisoned in Fort Washington for killing an Indian at Marietta. Petitions arrived at the fort demanding his release. These were ignored. The citizens of Losantiville and of other settlements along the Ohio began to arm themselves with a view to freeing Wetzel by force. Judge Symmes managed to prevail upon the military in favor of Wetzel thus preventing what might have been a bloody confrontation between armed civilians and the United States Army.³⁷

The first family to settle in Losantiville arrived on February 8, 1789. On that day Francis Kennedy came

with his wife and seven children. The men of Losantville helped them break up their flat boat and build a crude cabin.

There was a shortage of flour at the small Army camp at North Bend and several soldiers came to buy some from Kennedy who had an ample supply. Kennedy refused to sell saying that he needed the flour for his family. The military delegation threatened to take it by force but Kennedy rallied the men of the settlement and the soldiers withdrew quietly.³⁸

It would appear, then, that in Losantville prior to the establishment of official Territorial government there were conflicts between the state as represented by the United States Army and the community as represented by the "officials" chosen to enforce a mutually agreed upon code of behavior and spontaneously organized bands of armed civilians. These conflicts may have at least partially resulted from the inherent opposition of state and community as modes of organizing society.

Social Factors Leading to the Emergence of the State
Prior to the Establishment of Official Government

The next task will be to isolate the social factors that led to the appearance of the state at this early stage of the Losantville (later Cincinnati) settlement.

One factor was the need to defend the settlement. The Indians around Losantiville were, at first, friendly. Soon after the arrival of the first party on December 26, 1788 a delegation of Indians appeared. Cincinnati historian Charles Theodore Greve, drawing on the reminiscences of actual pioneers, has described the scene:

On Hamson's (Robert Hamson of Sussex County, New Jersey) brandishing his rifle at the foremost Indian, the Indian took off his cap, trailing his gun, and holding out his right hand...This was so unexpected a visit from the Indians that the people at the blockhouse were much at a loss in what point of view to consider it. Some thought the Indians came in only as spies, to view their strength; others thought more favorably, and believed the Indians sincere in their peaceable professions. A few days' acquaintance discarded the fears of the former, and the white and red people began to form a sociable neighborhood: our hunters frequently taking shelter for the night at the Indian camps; and the Indians, with their squaws, spending whole days and nights at the blockhouse, regaling themselves with whiskey.³⁹

The Indians had also been on good terms with the squatters and trappers who inhabited the area before the period of legal settlement. But perhaps because the Indians became suspicious when they observed the whites clearing away much of the surrounding forest, the arrival of increasing numbers of soldiers, and the construction of an imposing fortification (Fort Washington) housing about five-hundred troops, these friendly relations did not last.⁴⁰

We have noted that fifteen to twenty residents of

Losantiville and its outlying regions were killed in 1789. The state in the form of the United States Army stationed at Fort Washington sometimes participated in these clashes.⁴¹

But the need to defend the settlement caused elements of the state to emerge among the civilian population as well. The settlers of Losantiville generally responded to Indian offenses with a spontaneous "calling out of hands," but there was also an unofficial civilian militia (established before county government in 1790 and the official militia under Territorial law). This militia was directed by a very few men. The Ludlow brothers (Israel and John) were prominent as well as a "Lieutenant" Bailey. Because of the need to maintain a posture of permanent military preparedness, these men also exercised authority during periods of calm. They required that every adult male supply himself with a serviceable rifle, one pound of lead, sixty bullets, and six flints. Settlers had to come to church services armed under penalty of a one dollar fine. Drills were held twice a week. There were periodic inspections of the settlers' military equipment.⁴² This coercive authority wielded by a small minority constitutes an elementary beginning of the emergence of the state before the establishment of official government.

A similiar development can be observed in Cincinnati's outlying settlements or "stations" which were an integral part of the growth of Cincinnati and Hamilton County. In Marietta the Ohio Company and its administrative organ, the Board of Police, required the earliest settlers to remain clustered in or near Fort Harmar and Campus Martius. There was no such powerful unofficial authority in Cincinnati and so adventuresome and impatient settlers left the relative safety of the Fort Washington vicinity to form stations on their lands.⁴³

Here several families lived together in a single fortified blockhouse or in cabins clustered around a central blockhouse. The social life of these blockhouses essentially conformed to the concept of community. Groups of men farmed and hunted together, some always acting as sentries. Women and older girls cooked, washed clothes, and performed other domestic chores co-operatively. But elements of the state developed because of the need for constant military preparedness. A single individual, usually the principal land owner, directed the station and formed the men into a quasi-military force. Often these leaders were former officers of the revolutionary army. They were able to inflict penalties for non-performance of defense related duties. Their prominence is indicated by the names habitually given to the stations.

The most well known were Covalt's Station, Dunlap's Station, Ludlow's Station, White's Station, and Griffin's Station.⁴⁴

Thus coercive authority exercised by a small minority also began to appear in the outlying stations near Cincinnati. This elementary appearance of the state was, again, a response to the permanent threat of Indian attack. (The state might have grown very gradually from such beginnings. But, of course, the establishment of official government in January 1790, marked a new stage in its development).

The division of the settlement into classes was another cause of the appearance of the state prior to January 1790. The settlement was the result of a speculative venture and from its earliest inception class distinctions were evident in Cincinnati. As in most western settlements the owners of land for speculation in the town proper and on its outskirts and the larger merchants, often land speculators too, were the elite. Below them were the professionals--ministers, lawyers, doctors, and teachers, followed by small farmers, both owners and tenants, skilled and unskilled laborers, clerks and small shopkeepers, and the transients who seemed always to appear in the early towns. In order for profit on land to be realized by the speculator elite

property rights had to be secure, debts collectible, and general order maintained.

The earliest settlers of Cincinnati were mostly Kentucky backwoodsmen. They were a rough and tumble lot, prone to hard drinking and violence. Many arrived destitute, having spent all their resources on land and on the journey to the Miami region. It is a safe assumption that the proprietors of the Losantiville settlement, like their counterparts in Marietta, felt the need for military protection of their property, not only from the Indians, but from the settlers as well. After all, Shays' rebellion, when the generally sober and law abiding small farmers of New England refused to pay their debts to landowners, occurred only little more than a year before.⁴⁵

The presence of the United States Army placed the poor and unruly settlers of Losantiville squarely under the laws of property and property transfer that were long established in the East. The Army, then, as a manifestation of the state in early Cincinnati before the establishment of official, local Territorial government in January 1790, can in part be seen as the protector of the investment value of the land between the Great and Little Miami Rivers for its speculative owners.

Indeed, even the need to defend the settlement from

Indians, already mentioned as a social factor fostering the appearance of the state, would probably not have been so urgent if western expansion, including the area of the Miamis, was not based on the sale and resale of land for the profit of an economic elite. There is no inherent limit to this process and the Indians must have sensed that they had either to attack or perish. Seen in this light, the division of the settlement into classes becomes the major cause for the appearance of the state, including as a corollary development the exigency of defense.

The State Under Territorial Government

Civil government under Territorial auspices began in Cincinnati with the establishment of Hamilton County with Cincinnati as its county seat in January 1790.⁴⁶ We have already seen how basic the elements of community were to the social organization of the settlement at this early stage.

One indicator of the appearance of the state is the concentration of power and office within a small minority. Unfortunately, the original docket of the Quarter Sessions Court of Hamilton County kept by William McMillan has been lost and so our knowledge of the officials of Hamilton County and Cincinnati is only partial. However, much can

be pieced together from local history texts, contemporary newspapers, various official documents (arrest warrants, certificates of appointment to office, summonses to appear in court, etc.), and the private papers of prominent families. This material is found in the library and manuscript collection of the Cincinnati Historical Society.

Both the first Quarter Sessions and the first Court of Common Pleas were staffed by three men: William McMillan, William Wells, William Goforth.⁴⁷

Israel Ludlow was the clerk of both courts.

We know the names of the 18 men who held the most prestigious county office, Justice of the Quarter Sessions Court, between 1790 and 1803:

William McMillan	John Armstrong
William Wells	John Reily
William Goforth	Josiah Morrow
John S. Gano	Thomas Gibson
George Cullum	John Maston Lewis
Aaron Caldwell	William Henry Harrison
James Findlay	Jacob Burnet
Joseph Pierce	Lewis Kerr
William Schenck	Martin Baum

Eleven held office for more than one year. Twelve held one or more other township, county, or territorial level offices. The total of such other offices was 40.

If we consider the five most prestigious positions (Quarter Sessions Justice, Court of Common Pleas Justice, Sheriff, Constable, and Overseer of the Poor) we find that they became vacant 143 times between 1790 and 1803.

However, only 46 men held these offices. These 46 held a total of 74 other positions. (Since there were other important settlements in Hamilton County--Columbia and North Bend--and the pattern of choosing from all three settlements began with Saint Clair's first appointments, the number from Cincinnati who held office must have been even smaller). During this 13 year period the population of Cincinnati grew from the original band of 23 settlers to approximately 1,000.⁴⁸

Thus power and office in Cincinnati were concentrated within a small circle during the years 1790 to 1803.

The power of this minority to administer legitimate coercion is another indication of the state. The Quarter Sessions Court of Hamilton County was the main agency of local government in Cincinnati. The justices of this court had the power to imprison, whip, and confine citizens to the pillory and stocks. These penalties were sometimes applied in cases that we would today consider relatively minor. Here are some examples from early sessions of the court presented to illustrate that coercion was indeed exercised by the minority who controlled office. (Since the original docket of the Court kept by Justice William McMillan has been lost and we must rely on other sources for our information, it is, unfortunately, impossible to say precisely which sessions.) It is understood we are not

attempting to prove that a particularly brutal state arose in Cincinnati, only that legitimate coercion was habitually exercised by a minority controlled political authority.

A woman named Catherine Fortie was given ten lashes for stealing an iron kettle. The original sentence was twenty-five but this was reduced because she had been a nurse in the Continental Army.⁴⁹

James Ferguson sued John LeCount because LeCount owed him \$1.50 for beer and cakes. In the course of the trial LeCount spoke disrespectfully to the Court and received twenty-five lashes. Mary Thomas, the wife of Caspar Thomas, was prosecuted as a "common scold." Mary received twenty-five lashes and thirty days in jail.⁵⁰

A discharged soldier named Peter Kerrigan married Mary Murphy without publishing the banns. William Maxwell, the owner of the Western Spy, was annoyed because the newspaper did not get an advertisement. Kerrigan was arrested at Maxwell's request. He received ten lashes, four hours in the public pillory, and three months in jail.⁵¹

A man named Harvey James ferried his neighbor across the Ohio for one pound of tobacco. This violated the ferry service monopoly granted Robert Benham by the Quarter Sessions Court. (Benham was a member of the Court.) James got ten lashes and a twenty dollar fine.⁵²

Joab Monters decided that he was the second savior. He was jailed for an indefinite term but continued to preach his message from the windows of the jail. He received fifty lashes. This punishment was nearly fatal.⁵³

Political ritual and symbol are also indications of the state. The firing of guns from Fort Washington typically greeted the arrival of important civilian and military officials in Cincinnati. In January of 1790 Governor Saint Clair arrived: "He was received as he stepped ashore from his barge with a salute of fourteen guns and as he marched into Fort Washington with his suite another salute of 14 guns were fired in his honor."⁵⁴

In July 1792 nine cannon shots were fired in honor of Territorial Supreme Court Justice Rufus Putnam.⁵⁵

July Fourth celebrations also provided occasion for political pageantry. The federal salute of thirteen volleys was fired from Fort Washington in the morning, noon, and evening. There were military parades including artillery fire and martial music. Both the militia and regular army performed special drills before Governor Saint Clair, Secretary Sargent, and other officials. Fireworks were set off. There were elaborate feasts and balls at which many prayers and patriotic toasts were offered.⁵⁶

In July 1790 the Courts of Hamilton County officially

opened. There was an elaborate procession and a thirteen gun salute.⁵⁷

On October 4, 1790 the General Circuit Court of the Territory held its first session at Cincinnati. According to a contemporary account in The Centinuel of the Northwest Territory: "The procession from the Judge's chambers to the public ground was in the following order: Constables with Batoons, Sheriff and Coroner with White Wonds, Gaoler, The Honorable Judge, Clerk with Green bag, Judges of the Common Pleas, Justices of the Peace, Attornies, Messengers, and company."⁵⁸

Here is an excerpt from the original "doquet" of the Court. Even the language of this document implies the description of a ritual rather than the practical doings of an active organization:

Doquet of the first general court, of the territory of the United States north-west of the river Ohio, held within and for the county of Hamilton, which commenced at Cincinnati on October the fourth, in the year of our Lord, one thousand seven hundred and ninety, and of the independence of the United States of America the fifteenth.

October 4, 1790, eleven o'clock, A.M., Monday. The Honorable Judge Turner, escorted by the sheriff and attended by the clerk and other judicial officers of the said county, present. Court opened agreeable to proclomation at the instance of the honorable the judge, above mentioned, whose commission being openly read, and the necessary proclamations duly made for the judicial and ministerial officers of the county to make their return, the sheriff presented his list of grand jurors to be summoned:

Of Cincinnati: (24 names given)

Returned to serve the first sixteen,
viz. (16 names given)
One judge only attending, court, without
proceeding to business, was adjourned until
eleven o'clock of tommorow A.M.

Tuesday, fifth October, 1790.
Court opened pursuant to adjournment. Present,
Honorable Judge Turner, Absentees (grand
jurors - 4 names) Proclamations duly made,
court was adjourned till twelve o'clock, at
noon, to-morrow.

Wednesday, sixth October, 1790.
Present, Honorable Judge Turner. Court opened
pursuant to adjournment. Absentees of yesterday
obtained a remission of their respective fines.
Necessary proclamations being made, Court was
adjourned, ut supra, until twelve o'clock, at
noon, tomorrow. (This goes on, with various
absentees among the grand jury until Saturday,
October 9. On Saturday they adjourn until
five o'clock).

Soden Die, five o'clock, afternoon.
None of the judges present, the sheriff proceeded
to adjourn the court without delay.
No business entered upon at this term by reason
of there not being present, of the honorable the
judges, a number sufficient to constitute a
quorum.

(signed) W. McMillan
In behalf of John Gano,
deputy to Israel Ludlow,
clerk.⁵⁹

The symbolic nature of this first session is clear.
The Court met from October 4 to October 9. Proclamations
and commissions were read. There never were enough
justices or jurors present to constitute a quorum. On
the ninth no judge appeared at all. It seems, in any
case, that there was no business to conduct.

In the fall of 1792 an Indian prince died in Cin-
cinnati. All the officers of the Army and important
civilian officials attended the funeral. Three salutes

were fired over the grave, each answered by a cannon shot from Fort Washington. Then, "a long pole stripped of its bark was put up at the head of the grave and a white flag suspended from it."⁶⁰

George Washington's birthday, especially since the fort was named in his honor, was celebrated elaborately. There were fireworks, cannon, rockets, small arms fire, and prayer.⁶¹ In 1795 the occasion fell on a Sunday. This celebration, as described by a contemporary observer, was a bit more subdued. However, we note the symbolic value of the American flag: "Sunday last being the anniversary of the President's birth, the same was respectfully noticed at this place in the evening by an elegant allumination of the barracks and flag staff of Fort Washington."⁶²

On February 1, 1800 a memorial service in the form of a mock funeral was held for President Washington. The account that appeared in the Western Spy and Hamilton Gazette on February 5, 1800 may give some idea of the symbolic nature of this occasion:

At 12 o'clock the troops formed on the flat in front of the garrison (then under command of Captain Miller), where they were joined by Captain Findlay's and Captain Brown's troop of horse, the Masonic brethren and a large concourse of citizens, all eager to testify their high veneration for the character of the deceased. The bier was received by the troops formed in lines, with presented arms, officers, drums and colors saluting.

The procession then moved on in the following order--Minute guns firing from the garrison and the music performing a solemn dirge. Calvary, Regular Troops, Horse, representing that of the General, with saddle, holsters, and pistols, and boots reversed, Rev. Mr. Wallace, Pall Bearers. To the left of Bier--Dr. Sellman, Captain Prince Col. Spencer. To the right of Bier--Dr. Elliot, Maj. Ziegler, Maj. Goforth. His excellency the Governor and the Attorney General as Mourners Masonic Brethren, Militia Officers in Uniform, Citizens.

Having proceeded through different streets, and arrived at the place representing that of internment, the military halted, and opening their lines formed an avenue for the bier and those immediately attendant on it to pass through, the troops leaning on reversed arms.

The coffin having been deposited in the grave, a prayer suitable to the occasion was delivered by the Reverend Mr. Wallace, after which the Masonic Brethren performed their ceremony.

Three discharges of musketry over the grave concluded the ceremonies.⁶³

Throughout all these years (1790-1803) there was a constant association between religious ceremonies and the official operations of government. Sunday services, for example, were also the occasion for militia drill and display.⁶⁴

Thus the political symbolism and ritual associated with the emergence of the state was manifest in the early years of the Cincinnati settlement.

It would seem, then, that although community was at first the predominant social form, all three of the important indicators of the state appeared during the period

of official Territorial government in Cincinnati; the exercise of legitimate coercion, concentration of power and office, and political ritual and symbol.

Social Factors Related to the Emergence
of the State Under Territorial Government

After January 1790 the emergence of the state must be seen in the context of official Territorial government. In order to account for it we must refer again to the social-economic background of the beginnings of Territorial government. This background implies the importance of the stratification of the Cincinnati settlement.

The organization of the Northwest Territory was one aspect of a general plan to sell off the western lands in large parcels to speculators who, in turn, would handle the sale to actual settlers. Many of these speculators were congressmen. The first large sale was to the Ohio Company whose representations to Congress consistently stressed the need for a strong, centralized authority staffed by large property holders in order to buttress and protect rights of property among, as Manasseh Cutler called them, "licentious people." The second large sale was in the Miami River area and eventually led to the establishment of Cincinnati. This was to John Clyves Symmes who was a member of the Continental Congress from New Jersey and who soon became a Territorial Supreme Court Justice.

His Miami Company included at least eight congressmen.⁶⁵ There is no reason to assume that Symmes' sentiments regarding the need to protect property rights were different from those of the Ohio Company owners.

There were substantial property qualifications for all key Territory officials. Although there were no property qualifications for the most important local officials, the justices of the Quarter Sessions Court, they were appointed by Governor Saint Clair.⁶⁶ This procedure insured that the justices were almost uniformly men with large property holdings, especially in land.

In Cincinnati and Hamilton County all eighteen Quarter Sessions Justices (1790-1803) held land in excess of three-hundred acres (The amount we have used to define a speculator). All of the forty-six men who held the five most prestigious offices (Quarter Sessions Justice, Common Pleas Justice, Sheriff, Constable, and Overseer of the Poor) were speculative land holders. During this period there was a total of one-hundred and twenty-seven men who held all county and Cincinnati township offices. One hundred and twenty-one of them were speculators.⁶⁷

The exclusion of small holding settlers from office in Cincinnati and Hamilton County can be further demonstrated. Below are the names of the thirty-one settlers who received donation tracts (five acres) in January of 1789:

Joel Williams
 John Porter
 David McClure
 Samuel Mooney
 Sylvester White
 Joseph Thornton
 James Carpenter
 Ephraim Kibby
 John Vance
 Jesse Fulton
 Issac Van Meter
 Daniel Shoemaker
 Elijah Martin
 Archibald Stewart
 James McConnel

Henry Bechtel
 Issac Freeman
 Samuel Blackburn
 Scott Traverse
 Matthew Cammel
 Noah Badgeley
 Luther Kitchel
 James Cammel
 Jesse Stewart
 Benjamin Dument
 _____ Davison
 James Dument
 Jonas Menser
 Thomas Grizzel
 Harry Lindsay⁶⁸
 James Campbell

If small holders had a realistic opportunity to obtain government office, one would suppose that these men would do so. They had the advantages of early residence, the prestige associated with being founding pioneers, a "stake" in the community, and, considering the rigorous conditions under which donation land was granted, pioneer spirit and energy.

From 1790 to 1795, when all positions were appointive, one of the donation tract holders (John Vance) became a fence viewer, probably the least prestigious of all local offices. After 1795, when some offices became elective, we find none of the thirty-one in office.⁶⁹

Speculators used their official positions to enhance their private interests. Because of the loss of the early Quarter Session records, our evidence for this claim is not as strong for Cincinnati as for Marietta. However, students of early western settlements agree that their

governments functioned in behalf of local speculative land owners and larger merchants. Richard C. Wade, for example, points out that public projects were almost inevitably conceived in their interest. He shows how in Louisville public monies were spent to advance commercial enterprise while the police force was allowed to deteriorate.⁷⁰

Given Wade's analysis and the pattern we have already established for Marietta, the following data on Cincinnati, although incomplete, does show that land speculators used their domination of office and power to advantage.

In April, 1798, a bridge was built across Mill Creek on the outskirts of the village. The Quarter Sessions Court of Hamilton County awarded the contract, worth \$375, to Thomas Gibson, George Cullum, William Henry Harrison, and John Maston Lewis. All four were justices of the court. All four held land in excess of five-hundred acres.⁷¹

In 1801 William Schenck, a local land speculator, was appointed surveyor in the township of Cincinnati. This position brought fees of as much as \$50. Schenck sat on the Quarter Sessions Court that made the appointment. In 1801, John S. Gano, an appointing justice, became County Recorder.⁷²

The use of involuntary labor to build roads that increased land values for local speculators, which occurred in Marietta, can only be inferred for Cincinnati. The same Territorial road law, requiring unpaid labor of all males sixteen to fifty, operated in Cincinnati and Hamilton County. The fine for non-compliance rose from fifty cents a day in 1792 to five dollars a day in 1802.⁷² This would seem to indicate that the settlers did not easily comply with the law.

The militia was another form of required labor. Cincinnati and Hamilton County inhabitants were subject to the Territorial law of 1788 creating an unpaid and involuntary militia. The fine for missing militia drills rose steadily from fifty cents a day in 1788 to six dollars a day in 1799. The manuscript collection of the Cincinnati Historical Society contains several accounts of the local residents' reluctance to participate in the militia. Not only did they eschew military service but they also harbored the numerous deserters from the regular army stationed at Fort Washington.⁷⁴

We have already noted that the settlers' initial relations with the Indians were amicable. Only when the construction of Fort Washington and the clearing of the surrounding forest made it clear to the natives that the whites' need for land was not limited by the

simple requirements of subsistence agriculture did open and consistent hostilities break out.⁷⁵ It would seem a reasonable hypothesis, then, that one cause of both Indian hostility and small settler resistance to militia service was the desire of land speculators to amass unlimited quantities of Indian land. The small holding and renting settlers probably did not perceive this as a high priority and the Indians sensed that the whites' land thirst would lead to the destruction of their culture and even of their very existence.

In summary, the principal figures involved in the land sale that eventually led to the Cincinnati settlement were highly placed and wealthy men, including several congressmen. The federal policy designed to raise revenue by sales to large speculators led to a form of government that insured the dominance of an economic elite who then used its position to enhance its private interests through public works projects, patronage, and the enforcement of road and militia service. It was in this context that the state emerged after January 1790.

The State and Community Life

Next we try to give some indication of the effect on

community life of the emergence of the state. As in Chapter III on Marietta, we concentrate on community based enforcement of propriety and morality (an area of social concern in which an agency of the state began to function) and aid extended to newcomers (an area in which the state never functioned). Our sources are local histories and personal memoirs. All of the qualifications regarding the usefulness of this material mentioned in Chapter III continue to apply.

In 1789 there was no official agency for the enforcement of moral behavior and propriety in Cincinnati (then Losantiville). Early in 1790 the Quarter Sessions Court of Hamilton County was formed and assumed this function. We will therefore compare the references to the incidence of community based enforcement during 1789 with such references in 1790. By community based enforcement we mean informal neighborhood juries and church groups. We expect to find that community activity in this area diminished when an agency of the state appeared.

There are thirteen references to community enforcement of morality and propriety in 1789 and six for 1790. Fourteen of these references deal with drunken and disorderly behavior and five with theft. It seems, then, that when an agency of the state appeared the community

became less involved in this area of social concern.⁷⁶

The aid extended new settlers was an area of social concern where no agency of the state ever functioned. In Chapter III on Marietta we learned that as the settlement matured, as population and number of merchants and artisans increased, the references to community sponsored aid diminished. This was true even though more settlers were arriving. In this area, then, the social-economic maturity of the settlement seemed to be the most important factor in diminishing community activity.

The population of Losantiville in 1789, the first full year of settlement, was approximately eighty living in twenty small cabins. There were, as yet, no skilled artisans or merchants. Population grew rapidly from the beginning of 1790 until November 1791 when the defeat of Saint Clair's army by the Indians caused many to panic and flee to Kentucky. By the middle of 1791 Cincinnati's population had reached nine-hundred. There were ten skilled artisans and three general stores.⁷⁷

Thus, if we compare the references to community based aid extended to newcomers for the year 1789 to such references in 1791 we expect to find, if the pattern established for Marietta persists, that they diminished in the later year. There are thirty-six references to community aid extended to newcomers for 1789 and thirteen

for 1791. Therefore, it would appear that as the settlement matured materials and services could be procured from merchants and artisans and aid to newcomers began to diminish.⁷⁸

In summary, the pattern found in Marietta seems to apply to Cincinnati as well. That is, where an agency of the state began to function in an area of concern previously handled within the context of community, community involvement diminished. In an area of concern where no agency of the state functioned, the extent of community involvement was dependent on other factors (in the case of communal aid to new settlers, the social and economic maturity of the settlement).

Conclusion

In Cincinnati, as in Marietta, it has been possible to trace a movement from community toward state. The division of the settlement into classes, and, to a lesser extent, the need to defend the settlement, were the main factors behind this development.

We have also tried to determine the effect of the emergence of the state on community involvement in two areas of social concern; the enforcement of morality and propriety and aid extended to new settlers.

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²⁰ Ibid., pp. 61, 74; Chambrun, Cincinnati, p. 55.

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- ²⁵Goss, Cincinnati, I:82, II:377-78.
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Chapter V

FROM COMMUNITY TOWARD STATE, IV: CHILLICOTHE

Introduction

The final settlement to be considered is Chillicothe, founded in 1796. Again, we will attempt to show that community predominated at first, but that elements associated with the state began to appear very early and gradually gained in importance. We will try to isolate the major social condition which led to this development and to briefly discuss its effect on two aspects of community life.

Background

The colony and, later, the state of Virginia claimed most of the land northwest of the Ohio River. This claim was based on various charters to colonial companies granted by James the First in 1606, 1609, and 1611 and a successful military expedition against the British and their Indian allies led by General George Clark in 1779.¹

In 1780 Virginia was ready to cede her claims to the Continental Congress with the condition that the titles of land companies who had purchased from the Indians should not

be honored. Three states with no chartered claims in the region northwest of the Ohio (Pennsylvania, New Jersey, Maryland) attempted, between 1780 and 1783, to prevent Congress from making that commitment. The delegates from these states were often stockholders in the Indiana and Illinois-Wabash Companies whose claims in the area happened to be based on Indian purchases. Among them were Robert Morris, Samuel Wharton, James Wilson, and Charles Carroll. Governor Thomas Johnson of Maryland and Benjamin Franklin were also interested in the companies and not without influence. They insisted that Congress had complete sovereignty in the region and could simply take the land from Virginia.²

Virginia's delegates fought these efforts by demanding, whenever the question of the land cession came before Congress, that each delegate say precisely what ties he had to the companies. By 1783 Virginia seems to have prevailed. Indeed, most members of Congress felt that the revenue from land sales in the area was sorely needed and were tired of the endless wrangling.³

Thus, the treaty of peace with England, signed in 1783, included provisions which supported Virginia's position. The land was to be exploited for the benefit of the United States as a whole and not by any individual states laying claim to it. Specifically, the land was to provide a common fund for paying the costs of the

revolution. It was eventually to be divided into republican states that would join the Union on an equal footing with the older states.

In December 1783 Virginia ceded the area with no specific restrictions but with enough congressional support (and the added authority of the peace treaty) to block the claims of the companies. However, she did reserve 3,900,000 acres between the Little Miami and Scioto Rivers as compensation for her revolutionary war veterans. This area became known as the Virginia Military District.⁴

The largest number of Virginia Military District land warrants were distributed to ex-privates. These warrants were for one-hundred acres. But since most of the soldiers could not afford the cost of a survey, they never settled in the District. In any case, settlement was very dangerous until General Anthony Wayne's decisive victory over the Indians in 1794 and the signing of the Treaty of Greenville in August 1795.⁵

Another obstacle to settlement was a federal law of 1796 which forbade bounty land locations of less than four-thousand acres. This meant that the ex-private had to band together with other one-hundred acre warrant holders to use the services of an agent who would represent four-thousand acres worth of warrants and direct a survey for a fee. Some of these agents, like John Hanna of Pennsylvania and Israel Smith of Vermont, were promi-

ment members of Congress and land speculators. Most often, however, the soldier simply sold his claim to a speculator for about ten cents an acre (worth about one dollar by our standards.)

One of the monied men who bought Virginia Military District land warrants at this price was Nathaniel Massie. Massie came from a wealthy Virginia planter family and had been an officer in the revolutionary army. From 1783 to 1795 he was a surveyor on the Kentucky frontier (then part of Virginia.) During this time he amassed a substantial fortune speculating in salt, furs, and land.⁷

In 1791 he founded the town of Manchester on the Scioto River, the first settlement in the Virginia Military District, now in Adams County, Ohio, twelve miles north of Maysville, Kentucky. Two years later he began to conduct surveys further up the Scioto for other Virginia speculators. These expeditions took him to what was eventually to become Ross County, Ohio, in the fertile Scioto valley. He was impressed with the region and decided to some day found settlements there.⁸

By 1795 he had increased his holdings in the Scioto valley area to approximately nineteen-hundred acres through further purchase of military land warrants, mostly from General Anthony Wayne's disbanding army. In the spring of that year he organized a party of fifty would-be settlers who left Manchester by flatboat to travel north on the

Scioto. In two days they arrived at the falls of Paint Creek. There they happened on a party of Shawnee Indians and attacked them. One of Massie's party was killed and the rest returned to Manchester. General Wayne heard of the incident and was incensed at Massie for engaging the Indians while he was attempting to negotiate peace with them.⁹

In March, 1796, seven months after the conclusion of peace with the Indians upon the signing of the Treaty of Greenville, two parties of about twenty each set out from Manchester, one by pirogue up the Ohio and Scioto rivers, and one overland on horseback. Around April 1 both groups met on the banks of the Scioto River near the mouth of Paint Creek. After exploring the region Massie decided on a spot three miles northeast of the original landing for his new settlement. He gave it the name "Chillicothe," the Indian word for "town."¹⁰

Massie offered a free one-half acre lot in the town proper and a four acre out-lot to the first one-hundred actual settlers. By July, 1796 Chillicothe had been laid out and the donation tracts assigned. During the first year other tracts of the same size were sold at ten dollars each.¹¹

Community Before the Establishment of
Official Government in August, 1798

Social life in Chillicothe was at first organized mainly in terms of the concept of community. This mode of organization began before the first settlers arrived, as they made their way from Manchester by pirogue up the Scioto and overland by horseback. Hunting, fishing, various domestic chores and sentry duty were performed co-operatively. Food was shared equally.¹²

The overland party arrived sooner than the party travelling by water. They helped each other to pitch tents. When the second group arrived the men began to build cabins co-operatively. The second group brought the farm implements and soon after they arrived the settlers began clearing land and planting the first corn crop.¹³

The cornmeal that the settlers brought with them and shared among themselves was exhausted before the fall harvest. Thus they were totally dependent on hunting and fishing. The settlers hunted wild game together. Deer, turkey, bear, possum, and quail abounded. Fishing parties made plentiful catches in the Scioto River. This food was shared equally. When the wives and children of the settlers began to arrive during the summer, the game was distributed according to the size of each family.¹⁴

New settlers and, later on, newly married couples,

could always expect help in clearing and planting their land and building their first cabin. Cabin raising was usually accomplished by three teams of men. One team cut down and hewed the logs. Then they carried the logs to the building sites. Another fitted the logs to form the cabin. The third team worked on the roof. When the job was done the new settler provided whiskey and food for a party.¹⁵

Often potential settlers would arrive in groups of approximately one-dozen to inspect the area before buying land. They would help each other pitch tents and share their provisions, whether brought with them or donated by established settlers. The Treaty of Greenville does not seem to have allayed all fears of Indian attack on the trail and these groups were meant to afford the travelers some protection. They usually formed themselves at Indian Chastier, now Wheeling, West Virginia. On the journey to Chillicothe they hunted and fished and performed other chores co-operatively.¹⁶

As the settlement matured the new settlers were provided with game, livestock, and farm produce until they were able to feed themselves. Travelers were usually boarded for free as were new settlers before their lands were located, cleared, and a cabin raised. If the new settlers had not yet made their purchase they were shown the land available.¹⁷

In the spring trees known to have bee hives were marked. In September the settlers went out together to cut these trees and secure the honey which was then divided equally.¹⁸

The slaughtering of hogs was accomplished co-operatively. The best marksman shot the animals and others did the work of cleaning, skinning, and butchering. All who helped were given choice parts.¹⁹

At this earliest period there was no mill in the Chillicothe vicinity. The nearest one was sixty-five miles away near Maysville, Kentucky. It was customary for four or five men to travel to this mill together, either on foot or horseback, sharing all chores and food.²⁰

Log rollings, harvestings, and corn huskings were other co-operative work occasions for the men. Women engaged in apple-butter making and quilting parties.²¹

From the beginning of the settlement there were Presbyterian meetings in the cabins with the members of the congregation taking turns at preaching. In the fall of 1797 a Presbyterian society was organized. There was still no meeting house and no minister, but the settlers began to use a half finished log cabin. Toward the end of 1797 a church was built by communal labor and a minister, William Speer, secured. The settlers supported Reverend Speer with contributions of farm produce and game.²²

In 1798 the Methodist settlers began holding meetings

in private homes, the preaching also handled by each member in turn. In the same year a circuit riding minister of unknown denomination, Reverend Stephen Timmons, appeared in Chillicothe. He, too, was paid by the voluntary donation of farm produce. At all these meetings public morality was both discussed and enforced.²³

In 1797 the settlers banded together to build a school house and hire a teacher, Nathaniel Johnston. For his services Mr. Johnston received food, clothing, and shelter, boarding with the families of each of his students in turn.²⁴

Several public meetings on the banks of the Scioto River took place in 1797. At these meetings the settlers, who were as yet without official local government under Territorial authority, devised a simple set of rules and regulations for the settlement. They also elected Samuel Smith magistrate.²⁵

In chapter one we described how the settlers decided that all Indians who had bought and consumed liquor were to be escorted out of the town by the merchant. Failure to abide by this rule was punishable by having one's stock spilled in the streets. A Mr. Meeker once suffered this penalty. It is not known if others were similarly treated.²⁶

We also described in chapter one how "Justice" Smith could empanel "juries," appoint "lawyers," and decide on punishment should a guilty verdict be rendered. The stories

of two such "cases" have survived. One involved the theft of a greatcoat and handkerchief by a Mr. Brannon and his wife and another the theft of a horse collar by a Mr. McMurdy. The manner in which Smith handled these cases and punished the culprits has also been described in Chapter I.²⁷

Although the Chillicothe settlement began after peace was made with the Indians in 1795, there still were, on occasion, Indian alarms that called forth the co-operative efforts of the citizens. In 1798, for instance, a Chillicothe saloon keeper, Thomas Thompson, killed an Indian in the town. The dead Indian's comrades demanded that Thompson be turned over to them. At a town meeting, held before the establishment of official local government, the citizens of Chillicothe decided against that course.

The settlers feared an Indian attempt to forcibly take Thompson and avenge their tribesman by murder and pillage. They set up an armed patrol of the streets and placed all the women and children under guard in Abram's House, an inn and meeting hall which was Chillicothe's largest building.

Meanwhile, the settlers sent a delegation to try and pacify the Indians. They brought presents and promised that Thompson would be punished under the laws of the United States. The Indians relented. Later, however, Thompson was allowed to escape arrest and relatives of

the murdered Indian killed two young farmers on the outskirts of Chillicothe in vengeance.²⁸

Thus the voluntary association and co-operative effort implied in the concept of community was the basic mode of social organization in Chillicothe before the establishment of local Territorial government (April 1796--August 1798.)

During the absence of official local government, elements associated with the state do not seem to have been as evident as they were in both Marietta and Cincinnati. In Marietta the Ohio Company's Board of Police and the United States Army exercised centralized, minority controlled, and coercive authority. In Cincinnati the Army alone represented this style of social organization.

In addition, the other two settlements were begun before serious Indian hostilities ended for approximately seventeen years in 1794. Thus the need to defend the settlements also contributed to the appearance of the state in Marietta and Cincinnati. Chillicothe was established after Anthony Wayne's victory at the battle of Fallen Timber (1794) and there was but little need to be concerned about the Indians. The military was, in a sense, present in Chillicothe before official government began. However, the remnants of Wayne's disbanding and victorious Army, far from asserting coercive authority, drank, gambled, brawled in the streets, and in general gave the town

a loose and boisterous tone which distressed its more respectable citizens. One local historian has called Chillicothe at this time a "sink of corruption."³⁰

But signs of the state were not entirely lacking. The principal landowner of the settlement, Nathaniel Massie, lived in Chillicothe and was considered its leader. At first (April through July 1796) Massie decided whether or not to grant potential settlers donation tracts, in effect deciding whether they could become permanent residents. Of course, problems of land boundaries and title were referred to him. Massie could expel non-landowners whom he deemed idle or mischievous.³¹

Early in 1797 two wealthy Virginians with large land holdings in the Virginia Military District, Thomas Worthington and Edward Tiffin, arrived. They would later hold important positions in local and Territorial government and in the state of Ohio. But they also seemed to have exercised some political authority before official government began in Chillicothe. Worthington and Tiffin heard "cases" involving disputes between their tenants over land boundaries. Both were considered leaders and could decide, through their proprietorship rights, whether or not to accept a potential settler and could expel those they considered undesirable.³²

Therefore, in the period before official local government, Massie, Worthington, and Tiffin exercised some

of the control over the population of the settlement that we associate with the state.

The State Under Official
Territorial Government

On August 28 1798 Governor Saint Clair organized Ross County by proclamation, appointed the justices of the Quarter Sessions and Common Pleas Courts, and fixed Chillicothe as the county seat. From that point on the governance of the settlement was no longer effected by town meetings, church groups, and informally chosen "officials."³³

The empirical indicators of the state became more evident after the establishment of official government. These indicators are a centralization and minority control of authority, the exercise of coercion by this minority, and political ritual and symbol.

In August 1798 Saint Clair appointed three men (Thomas Worthington, Hugh Cochran, Samuel Smith) to both the Court of Quarter Sessions and the Court of Common Pleas. The clerk of both courts was Edward Tiffin.³⁴

Between 1798 and 1803 the main organ of local government, the Quarter Sessions Court, was staffed by thirty-two justices. During the same period the five most prestigious positions in local government (Quarter Sessions Justice, Common Pleas Justice, Sheriff, Constable, Overseer of the Poor) became vacant a total of sixty-nine times. However, only fifty-two men filled these positions.

These men held a total of one-hundred and twenty-three other local offices.³⁵

The population of Chillicothe in 1798 was approximately six-hundred. By 1803 it was between twenty-five hundred and three thousand.³⁶ Thus it would seem that during these years political authority in Chillicothe was in the hands of a minority. This was a marked change from the period before the beginning of official Territorial government when it appears that town gatherings and church groups in which many settlers participated decided on the basic rules, regulations, and norms for the direction of the settlement.

Another indication of the emergence of the state is the exercise, by a minority, of legitimate coercion. Chillicothe operated under the same Territorial laws as did Marietta and Cincinnati. These laws, by our standards, were somewhat harsh. Besides imprisonment and hanging, such corporal punishment as whipping, public confinement in the pillory, and forced labor were common.

Of course, such punishments were common in the eastern states too. As legal historian Calvin T. Pease has said, "In the criminal codes adopted punishments were savage--the pillory, the whipping post, the gallows; but so were those of the eastern states."³⁷

It should be understood that we make no claim for a particularly harsh or brutal state in Chillicothe and

the Northwest Territory. We claim only that forms of behavior and methods of social organization associated with the concept of the state appeared and became central in a context where community originally predominated.

The laws of the Northwest Territory included indefinite prison terms for certain minor offenses. A disobedient child or servant remained in jail until he or she apologized. A debtor remained in jail until he or she could satisfy the creditor. If a person defaced or tore down a public proclamation and could not pay the costs of damage, he or she stayed in jail until the costs were met. In Chillicothe the punishments for these three offenses was administered a total of eleven times between 1798 and 1893.³⁸

Such crimes as petty larceny, perjury, and unlawful assembly entailed penalties of fifteen to thirty-nine lashes. A second offender of the unlawful assembly law received thirty-nine lashes and ten years in jail. These punishments were administered nine times between 1798 and 1803.³⁹

Much punishment occurred at the direction of single Justices acting independently of the Quarter Sessions Court and without formal records. Thus the number of times the whipping post and pillory were actually used cannot be precisely determined. But according to local historian Lyle S. Evans it was almost daily. Usually Negroes were whipped

for misdemeanors and whites for thefts. Although it is nowhere specified in the Territorial laws, Evans tells how culprits who could not pay court costs and fines were branded with red hot irons and then bound to labor as servants for a period of seven years.⁴⁰

Another empirical indication of the state is the presence of political symbols and rituals. Upon the opening of the first session of the Quarter Sessions Court on December 28 1798 there was a procession to the center of town led by the sheriff (Jeremiah McClene), justices, and clerk of the court and followed by the rest of the citizenry. The usual prayers and proclamation were read along with the Territorial commissions of the sheriff and justices. The Court had no business before it and so its opening could only have had symbolic significance.⁴¹

July Fourth was always an occasion for military processions, toasts, and balls. In 1802, for instance, the local militia infantry regiment met at its parade ground on the outskirts of the town. Sixteen patriotic toasts were delivered by the Colonel (Elias Langham), each followed by a discharge of musketry from the troops. The regiment then marched to the center of the town where there were more toasts and more volleys of musketry. Later the regiment returned to the parade grounds where it drilled with flags and rifles for an audience of Chillicothe citizens. The day ended with a ball at the "Red Lion" Inn.⁴²

The filling by gubernatorial appointment of any important militia office usually resulted in a large muster and drill attended and watched by most of the townsfolk. One of the largest of these occurred in April of 1803 when Colonel Samuel Finley became Adjutant General of the Ross County Militia.⁴³

It would appear, then, that the three empirical indicators of the state (minority control, legitimate coercion, and political ritual and symbol) appeared early in the history of Chillicothe and the forms of social organization associated with the state became more significant, although community was, at first, the central mode of social organization.

The Main Social Factor Fostering the Emergence of the State in Chillicothe

Next we should consider the most important social factor that appears to have fostered this early emergence of state in Chillicothe. This factor was the division of the settlement into classes.

Like every town in the Northwest Territory Chillicothe was under the jurisdiction of the Territorial government created by the Northwest Ordinance. That government's origin in part lay in the need of land speculators for legal sanction and military protection for their investment and the need of Congress to sell large parcels of land in order to meet the costs of the revolu-

tion and repay the national debt. The Indians of the Northwest Territory were the only major obstacle standing in the way of the realization of these goals.⁴⁴

After the establishment of Territorial government there was a series of local struggles and finally a major conflict with the Indians. This ended in 1794 with General Anthony Wayne's victory at the Battle of Fallen Timber.⁴⁵ Chillicothe was founded two years after the close of that conflict. The value of the land in the Chillicothe area was thus ensured by the authority under which Chillicothe's government was established.

Chillicothe, like Marietta and Cincinnati, was a speculative venture and class distinctions were never missing. As in other western settlements the large speculative land owners and merchants were the most prestigious and powerful class. Beneath them were the professionals (ministers, lawyers, doctors, teachers,) small farmers, day laborers, and transients.⁴⁶ Chillicothe's early political leaders all belonged to the economic elite of land speculators and merchants whose property the Territorial authority was designed to protect. The stringent property qualifications and, at first, strictly appointive system of office tenure in the Northwest territory, insured that this group would dominate both local and Territorial government.⁴⁷

Nathaniel Massie, the town's founder, held many important offices in the Territorial government and, eventually,

in the state government of Ohio. He was a colonel in the Ross County Militia, a member of the Territorial Legislature, a delegate to Ohio's first constitutional convention in 1802, the Speaker of the Senate in Ohio's first General Assembly, a Major General in the Ohio Militia, and in 1807 was awarded the victory in a disputed election for governor of Ohio. However, he refused to hold office because he did not receive a popular mandate.⁴⁸

Thomas Worthington and Edward Tiffin, who arrived in 1797 and, as we have seen, immediately began to exercise political leadership in the town, also held many important offices. Worthington was Lieutenant Colonel of the Ross County Militia, chief United States Land Officer in charge of public sales for the Chillicothe District, Supervisor of the Internal Revenue District established northwest of the Ohio River in 1801, Justice of both the Quarter Sessions and Common Pleas Courts of Ross County, a member of the Territorial Legislature, a member of Ohio's first constitutional convention, a senator from the state of Ohio, and, eventually, its governor.⁴⁹

Tiffin was clerk of both the Quarter Sessions and Common Pleas Courts, Town Recorder and Lister of Lands, a member of the Territorial Legislature and of Ohio's

first constitutional convention, and the first governor of the state of Ohio.⁵⁰

From 1798 to 1803 thirty-two men were appointed to the Quarter Sessions Court, the most important institution of local government. Twenty-six of them, by virtue of owning three-hundred or more acres, were land speculators. These were:

Thomas Worthington	Zack Stephens
James Scott	Arthur Stewart
Hugh Cochran	James Grubb
David Shelby	Samuel Carpenter
Samuel Finley	Samuel Wilson
William Patton	William Robinson
Elias Langham	Arthur Chinneworth
James Dunlap	John Sharp
John Brown	Horatio Strong
Noble Crawford	Ruben Abrams
William Chandler	Isaac Davis
Anthony Davenport	James Ferguson
James Stewart	John Guthery

Of the seventy-three men who held all local offices in Chillicothe between 1798 and 1803, sixty-five were land speculators.⁵¹

This local economic and political elite used its power and position to advantage. From 1799 to 1803, one-hundred and twenty-nine contracts to surveyors were granted in Ross County by the Court of Quarter Sessions. Seventy-one of them (63%) went to attending justices, their relatives, County Sheriff McClene, or the major landholder and founder of Chillicothe, Nathaniel Massie. The usual fee for this work was about six dollars. (At this time a substantial house rented for about thirty-six dollars

a year and an acre of good farm land cost about two dollars and fifty cents.⁵²⁾ (After its opening in 1799, the Territorial Legislature also assigned road contracts. It is interesting to note that the Journal of the Legislature, 1801, lists Thomas Worthington as receiving \$237.41 for road building. Worthington was a member of that Legislature.)

These roads were built, as were those in Marietta and Cincinnati, by the unpaid and involuntary labor of the local small holders and renters. They almost invariably ran adjacent to the lands of local land speculators, thereby increasing the value of those lands. Of the forty-one names mentioned as having roads built near their lands in the Minute Book of the Court of Quarter Sessions of the Peace for Ross County, 1798-1815, thirty-four (83%) were land speculators.

In 1801 the Court of Quarter Sessions for Ross County awarded a contract worth twelve-hundred dollars for the building of a stone courthouse and capital building. Of the five men named, three (William Chandler, Elias Langham, Thomas Worthington) were justices empowered to grant the contract and one (Everhard Harr) was a former justice. In 1800 Worthington had been commissioned by the Court to find suitable contractors.

In fact, Justices Harr, twice (1799 and 1802) and

Worthington, once (1801) received fifty dollars from the County for the task of hiring contractors. Each time they hired themselves.

The County Jail was finished in 1801 at a cost of approximately one thousand dollars. The builders were Samuel Smith and Worthington. Both were justices especially commissioned by the Court of Quarter Sessions to award the contract.

Ruben Abrams, in whose tavern the Quarter Sessions Court was held between 1799 and 1801 (and for which it is reasonable to assume he received compensation), was granted one-hundred dollars for his services as Secretary to the County Commissioners in 1801. The Commissioners met once that year. Abrams, in 1801, was a Justice empowered to make appointments and set fees. In the same year the Court awarded Abrams a contract to repair and rebuild the chimney in the jail and procure a stove "for the use of the county."

In March 1801 the Court granted William Patton, a sitting Justice, thirty dollars to build a stray animal pound. Finally, in April 1802, Nathaniel Massie had a road built adjacent to his land. He also received the surveyor's contract.⁵³

Thus, it appears that the forms of social organization associated with the state became more and more central

as Chillicothe developed. This process began before the establishment of official local government under Territorial auspices in 1798 but was accelerated by that event.

The division of the Chillicothe settlement into classes would seem to have been the most important factor in the gradual emergence of the state. Before the establishment of official government some political authority was exercised by the local economic elite. After the establishment of official local government minority controlled and coercive political authority lay almost entirely in the hands of that elite. This is not surprising when we consider that the Territorial authority had been formed so as to protect the interests and insure the political dominance of large land speculators. It is also clear that these speculators used their positions of influence to further their private interests.

Community During the Period of
Official Government, 1798-1803

Although the state became more important as a mode of social organization during the period of official local government the voluntary association, co-operative behavior, and temporary authority associated with community did not disappear. The communal activities that were in

evidence before official government began continued. There were land clearings, house raisings, harvestings, quilting and butter making parties, corn huskings, and log rollings. Other farm chores like the building of fences and the slaughtering of hogs continued to be co-operative activities. Newcomers and travelers were assisted in the same way.⁵⁴

In 1799 the Methodists of Chillicothe, who before this had been sharing the duties of preaching among themselves, hired a minister; the Reverend Henry Smith. Smith was supported by the voluntary donations of the congregation, mostly farm produce and game. For some time he preached either in the cabins of the congregation or out of doors. Late in 1799 a small log church building was erected by the co-operative labor of the members. In July of 1800 a one and one-half story brick church was built in the same way.⁵⁵

In 1802 about twelve Baptists began meeting in each other's cabins and taking turns at preaching. In 1803 they banded together to build a church. Public morality and propriety was a common topic of discussion at all these church meetings.⁵⁶

In 1800 the first separate log cabin for a school was built by co-operative labor. Three more schools, built and furnished co-operatively, appeared between 1800

and 1803. In these schools the teachers were supported by the donations of the settlers and by "boarding out" with the families of the students.⁵⁷

In May, 1803 another Indian alarm elicited a co-operative effort. About forty Shawnee hunters were suspected of murdering a Captain Herrod on the outskirts of Chillicothe. An Indian raid was feared and every sturdy and large cabin in Chillicothe and the immediate vicinity became a blockhouse with the usual co-operative sharing of food and chores. The cabin of a farmer named James Shepard sheltered the most people.

The townsfolk gathered and a party of volunteers, after electing a leader on the spot, set out in pursuit of the Indians. After several days they captured a Chief Roundhead on the banks of the Mad River, about sixty miles northwest of Chillicothe. There a meeting was held with James Logan, a half white Shawnee leader. The meeting resulted in Indian promises of future peaceful behavior in return for the freedom of Chief Roundhead.⁵⁸

The citizens of Chillicothe no longer devised rules for the governing of their town at informal town meetings. But, on occasion, they did gather in protest or support of political measures and events or simply to provide for local needs.

On April 4, 1802 a mass meeting was held at the court-

house to decide on the site of a market-house. A voluntary subscription was initiated. The building, at the foot of Paint Street, was finished by the end of the year and stood for approximately five years.⁵⁹

On June 30, 1802 there was a meeting at the "Red Lion" Inn to protest certain sales taxes. The issue of the United States Gazette that contained the acts was burned in the yard of the Inn.⁶⁰

A mass meeting to declare against slavery in the new state of Ohio took place in July of the same year. In the fall an unruly crowd threatened the safety of Governor Saint Clair after he had engineered the passing of a bill in the Territorial Legislature whose purport was, by a new division of the Territory, to delay the approach of statehood for at least several years and return the center of government to either Marietta or Cincinnati. This would have been an economic blow to the citizens of Chillicothe.⁶¹

Thus we see that the forms of behavior associated with community continued to be important during the period in which the state gained predominance under official Territorial government.

The State and Community Life

However the emergence of the state seems to have had

some effect on community life. In order to demonstrate this effect we will once more concentrate on community based enforcement of propriety and morality (an area of social concern in which an agency of the state--the County Court of Quarter Sessions--began to function) and aid extended to newcomers (an area in which the state never functioned). Again our sources are local histories and personal memoirs. The limitations on the usefulness of this material have already been discussed.

From April 1796 to December 1798 there was no official agency charged with enforcing morality and propriety in Chillicothe. On December 28, 1798 the Quarter Sessions Court of Ross County opened and assumed this function. Therefore we will compare the references to the incidence of community based enforcement between April 1796 and December 1798 with such references in a comparable period, between December 1798 and August 1800.

Community based enforcement includes informal neighborhood trials, sometimes conducted by unofficially elected magistrates, and church groups. We expect to find a diminishment of this community activity as the Court began to function.

For the period between April 1796 and December 1798 there are fifteen references to community enforcement of morality and propriety and seven between December 1798

and August 1800. Ten of these references deal with drunkenness, six with theft, and six with assault. It would seem that as an agency of the state began to function in this area of social concern, community involvement lessened.⁶²

Next we consider aid to new settlers. In this area of social concern no agency of the state ever functioned. In the previous two chapters we learned that as the settlements of Marietta and Cincinnati matured, that is, as population increased and along with it the number of merchants and artisans, the references to communal aid offered new settlers decreased. The social and economic maturity of the settlements seemed to be the most important factor in the lessening of community based activity.

In 1796 the population of Chillicothe stood at about forty. There were no skilled artisans and merchants. By late 1798 it had reached six-hundred. By 1800 it was about one-thousand. In 1800 there were eight merchants and approximately the same number of artisans.⁶³

Therefore, if we compare the references to communal aid extended to new settlers between April 1796 and December 1798 to such references between December 1798 and August 1800 we expect them to diminish during the later period. For the first period we find forty-one references to community sponsored aid and for the second period we

find only twenty. It would seem that as the settlement matured and goods and services could be procured from merchants and artisans, aid to newcomers diminished.⁶⁴

The pattern we noticed in Marietta and Cincinnati would seem to apply to Chillicothe as well. As an agency of the state took up a function previously performed within the context of community, community involvement decreased. Where no agency of the state functioned, community involvement was related to other factors (in regard to aid extended to new settlers the social-economic maturity of the settlement appears to have been central.

Conclusion

In Chillicothe, as in the other two settlements we have studied, it has been possible to outline a movement away from community and toward the state. The division of the settlement into classes was the most important social factor fostering this development.

We also briefly studied the effect on community life of the emergence of the state. Here we concentrated on the enforcement of morality and propriety and on aid extended new settlers. In the first case community involvement decreased as an agency of the state began to perform. In the second case community involvement also decreased. But here the important factor seems to have been the increasing social and economic maturity of the settlement.

NOTES

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²Merrill Jensen, The New Nation--A History of the United States during the Confederation, 1781-1789 (New York, 1967), pp. 25-26, 350-52.

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⁴Ibid.; Theodore C. Pease, ed., The Laws of the Northwest Territory, 1788-1800 (Springfield, OH, 1925), p. xii.

⁵Beverley W. Bond, The Civilization of the Old Northwest (New York, 1934), p. 279; Evans, Standard History of Ross County, I:220-21; William Thomas Hutchinson, "The Bounty Lands of the American Revolution in Ohio" (Ph.D. dissertation, University of Chicago, 1927), pp. 78-79; Miller, Genesis of Western Culture, pp. 40-41; Scioto Gazette (Chillicothe), 21 May 1903, p. 9; Sears, Thomas Worthington, p. 24; U.S. Works Progress Administration, Chillicothe and Ross County (Chillicothe, OH, 1938), p. 3.

⁶Hutchinson, "Bounty Lands," p. 105; U.S., The National Archives, Records of the General Land Office, III:82, 83.

⁷Evans, A Standard History of Ross County, I:220-21; Hutchinson, "Bounty Lands," p. 238; David Meade Massie, "General Nathaniel Massie," in Che-le-co-the, Glimpses of Yesterday (Chillicothe, OH, 1896), pp. 15-16; U.S. WPA, Chillicothe and Ross County, pp. 10-11.

⁸Chillicothe News Advertiser, 16 November 1931, p. 10; "First Settlement of the Virginia Military District," The American Pioneer 1 (January 1842): 71; History of Ross and Highland Counties, Ohio (Cleveland, 1880), p. 171; Massie, "General Nathaniel Massie," p. 16.

⁹Chillicothe News Advertiser, 16 November 1931, pp. 10-11; Evans, A Standard History of Ross County, I:221; Massie, "General Nathaniel Massie," pp. 17-18.

¹⁰ Chillicothe News Advertiser, 16 November 1931, pp. 10-11; Evans, A Standard History, I:49; Massie, "General Nathaniel Massie," pp. 17-18; U.S. WPA, Chillicothe and Ross County, p. 10.

¹¹ Evans, A Standard History, I:49, 221; Massie, "General Nathaniel Massie," pp. 17-18.

¹² Chillicothe News Advertiser, 16 November 1931, pp. 10-11; Evans, A Standard History, I:49, 59; Massie, "General Nathaniel Massie," pp. 17-18.

¹³ Chillicothe News Advertiser, 16 November 1931, p. 18; Evans, A Standard History, I:49-50.

¹⁴ Chillicothe News Advertiser, 16 November 1931, p. 11; Evans, A Standard History, I:64.

¹⁵ Ibid., pp. 59, 68-69, 76.

¹⁶ Ibid., p. 263; History of Ross and Highland Counties, pp. 210, 216.

¹⁷ Evans, A Standard History, I:61, 68.

¹⁸ Ibid., I:69.

¹⁹ Ibid., I:71.

²⁰ Ibid., II:857.

²¹ Ibid., I:75.

²² Ibid., I:315; H.W. Biggs, A History of the First Presbyterian Church of Chillicothe (Cincinnati, 1876), pp. 2-3; Henry Howe, ed., Historical Collections of Ohio (Cincinnati, 1848), p. 434.

²³ Chillicothe News Advertiser, 16 November 1931; Evans, A Standard History, I:319, II:803.

²⁴ U.S. WPA, Chillicothe and Ross County, pp. 39, 54.

²⁵ Evans, A Standard History, I:143; History of Ross and Highland Counties, p. 184.

²⁶ Evans, A Standard History, I:143-44; History of Ross and Highland Counties, p. 184.

²⁷ Chester Jacob Attig, "The Institutional History of the Northwest Territory, 1787-1802" (Ph.D. dissertation, University of Chicago, 1921), p. 171; Evans, A Standard History, I:143-44.

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- ²⁹ Ibid., pp. 92, 95-100, 143-45.
- ³⁰ History of Ross and Highland Counties, p. 76; U.S. WPA, Chillicothe and Ross County, p. 29.
- ³¹ Evans, A Standard History, I:49; Massie, "General Nathaniel Massie," p. 19.
- ³² Evans, A Standard History, I:142, 228; Margaret C. Gilmore, "Edward Tiffin," in Che-le-co-the, Glimpses of Yesterday (Chillicothe, OH, 1896), p. 33; Eleanor W. Piatt and Thomas Walsh, "Thomas Worthington, the Pioneer," in Che-le-co-the, Glimpses of Yesterday (Chillicothe, OH, 1896), p. 44.
- ³³ Evans, A Standard History, I:144; U.S. WPA, Chillicothe and Ross County, p. 3.
- ³⁴ Evans, A Standard History, I:144.
- ³⁵ Ross County, Ohio, The Minute Book, Court of Quarter Sessions of the Peace, Ross County, 1798-1815.
- ³⁶ Chillicothe News Advertiser, 16 November 1931, p. 10; Evans, A Standard History, I:50, 259; History of Ross and Highland Counties, p. 167. U.S. WPA, Chillicothe and Ross County, p. 11.
- ³⁷ Pease, Laws of the Northwest Territory, p. xxxi.
- ³⁸ Ibid., pp. 20, 42-43, 143-44; Ross County, The Minute Book, 1798-1815.
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- ⁴⁰ Evans, A Standard History, I:152; History of Ross Highland Counties, p. 70.
- ⁴¹ Evans, A Standard History, I:183.
- ⁴² Chillicothe-Scioto Gazette, 28 April 1900, pp. 18, 20.
- ⁴³ Ibid., p. 28.
- ⁴⁴ Ibid., pp. 82-92, 136-38.
- ⁴⁵ Ibid., pp. 118-20.

⁴⁶Richard C. Wade, The Urban Frontier--The Rise of Western Cities, 1790-1803 (Cambridge, 1959), pp. 106-107.

⁴⁷Pease, Laws of the Northwest Territory, pp. 124, 125, 126.

⁴⁸Evans, A Standard History, I:225; Massie, "General Nathaniel Massie," pp. 21, 31.

⁴⁹Evans, A Standard History, I:127; Sears, Thomas Worthington, pp. vii, 41, 43; William Thomas Utter, "Ohio Politics and Politicians" (Ph.D. dissertation, University of Chicago, 1929), p. 132.

⁵⁰Evans, A Standard History, I:54; History of Ross and Highland Counties, p. 68.

⁵¹Ross County, The Minute Book, 1798-1815; Idem, Ross County Deed Records, 1798-1809.

⁵²Evans, A Standard History, I:225; Archer Butler Hulbert, ed., "The Records of the Original Proceedings of the Ohio Company" (Marietta, OH, 1917), pp. 172-73; Ross County, The Minute Book, 1798-1815; Idem, Ross County Deed Records, 1798-1809.

⁵³Ross County, The Minute Book, 1798-1815.

⁵⁴Evans, A Standard History, I:59-61, 64, 68-69, 71, 75, 76.

⁵⁵Chillicothe News Advertiser, 16 November 1931, p. 2; Evans, A Standard History, I:319.

⁵⁶Ibid., II:857-58.

⁵⁷Chillicothe News Advertiser, 16 November 1931, p. 6; Evans, A Standard History, I:255-56, II:625.

⁵⁸Chillicothe News Advertiser, 16 November 1931, p. 12; Evans, A Standard History, I:390.

⁵⁹Chillicothe-Scioto Gazette, 28 April 1900, p. 28.

⁶⁰Ibid.

⁶¹Ibid., pp. 2, 28.

⁶²The American Pioneer 1 (January 1842): 106-109, 186; Biggs, History of the First Presbyterian Church, pp. 37-40, 54, 99; Chillicothe News Advertiser, 16 November 1931, pp.

20, 24, 31-34, 44; Chillicothe-Scioto Gazette, 28 April 1900, pp. 17, 29, 30, 38; Evans, A Standard History, I:74, 95, 108-11, 143-44, 246, 382, II:674-83, 744, 819; Gilmore, "Edward Tiffin," p. 35; History of Ross and Highland Counties, pp. 67, 72-74, 192, 194, 203-205, 316; Howe, Historical Collections of Ohio, pp. 45-48, 54, 63, 71-74, 111-13, 236; Scioto Gazette (Chillicothe), 21 May 1903, pp. 16, 19, 24; U.S. WPA, Chillicothe and Ross County, pp. 8, 10-11.

⁶³ Chillicothe News Advertiser, 16 November 1931, pp. 10-11; 12; Evans, A Standard History, I:50; History of Ross and Highland Counties, p. 167; Lulu Merle Johnson, "The Problem of Slavery in the Old Northwest, 1787-1858" (Ph.D. dissertation, University of Iowa, 1941), p. 13; Sears, Thomas Worthington, p. 17; U.S. WPA, Chillicothe and Ross County, pp. 6, 12, 13.

⁶⁴ The American Pioneer 1 (January 1842): 93-95, 108, 112; Biggs, History of the First Presbyterian Church, pp. 106-108; Chillicothe News Advertiser, 16 November 1931, pp. 25, 38; Chillicothe-Scioto Gazette, 28 April 1900, pp. 19, 23, 30; Evans, A Standard History, I:85, 101-104, 235, II:450, 543-47, 742; History of Ross and Highland Counties, pp. 164, 259, 448; Howe, Historical Collections of Ohio, pp. 251-60, 274-79, 301; "Papers of Edward Tiffin, Letter of July 25, 1802, to George Tod, Roll, Box 1, Folder 1" (Columbus: Ohio Historical Society, Manuscript Collection); Piatt and Walsh, "Thomas Worthington," pp. 42-43; Scioto Gazette (Chillicothe), 21 May 1903, pp. 21, 24; U.S. WPA, Chillicothe and Ross County, pp. 6, 12, 13.

Chapter VI
THE STATE AND THE SACRED

Introduction

Thus far we have discussed the state as it arose in the Northwest Territory by focusing on certain empirical indicators. These indicators, in turn, involved certain forms of practical, observable behavior. But the state also takes on another significance.

Many writers have noted that the state is more than a practical, functioning, social institution. They try to indicate its symbolic significance. It symbolizes and therefore re-enforces the idea of the unity of society and even of society's collective will and intelligence.

Harold Laski has made this distinction very explicit. He names government as the practical, functioning institution that makes and administers laws and the state as the symbol of final and ultimate authority, collective intelligence, and social unity. In making this distinction Laski draws on the work of such writers as Aquinas, Bodin, Hobbes, Rousseau, Hegel, Marx, Weber and Simmel.¹ Rousseau certainly sees the state as the embodiment of collective wisdom: "We see by this that the sovereign power, all absolute, all sacred, all inviolable as it is, neither will, nor can, exceed the bonds of general convention."²

Max Weber points out that the state symbolizes and puts in practice the individual's subservience to the interests of the whole. He connects the state's right to demand that the individual die in its service or as punishment for violation of its rules with the powerful feelings that the state elicits as the symbol of final unity: "The individual is expected ultimately to face death in the group interest. This gives to the political community its particular pathos and raises its enduring emotional foundations."³

Marx maintains that the state represents itself as an institution that functions in behalf of the entire society. He sees the state as at least appearing to be above the conflicts between individuals and classes that occur in "civil society," a term which Marx takes to mean the actions and activities of men in society unadorned by the symbolism of religion and the state. The state, says Marx: "...stands in the same opposition to civil society, and overcomes it in the same manner as religion overcomes the narrowness of the profane world."⁴

Perhaps the source of the state's power as a symbol as well as an institution lies in this hint of an analogy between the sacred's separation from the profane and the state's from civil society. Marx is not the only writer to have noticed this analogy.

Emile Durkheim has defined the sacred as the symbolic embodiment of collective authority and unity, experienced by the individual as coercive and external. For Durkheim the distinction between the sacred (society symbolized) and the profane is the basis of religion. Religious rituals prescribe the reverent manner in which the profane approaches the sacred or enters the realm of the sacred.⁵ Durkheim, in addition, notes that the representatives of the authority of the state are also approached with ritualistic caution, suggesting that the state, itself a symbol of collective unity, commands a similiar sense of reverence:

And the fact that it is society alone which is the author of these varieties of apotheosis is evident since it frequently chances to consecrate men thus who have no right to it from their own merit. The simple deference inspired by men invested with high social functions is not different in nature from religious respect. It is expressed by the same movements: a man keeps at a distance from a high personage; he approaches him only with precautions; in conversing with him, he uses other gestures and language than those used with ordinary mortals. The sentiment felt on those occasions is so closely related to the religious sentiment that many people confound the two. In order to explain the consideration accorded to princes, nobles, and political chiefs, a sacred character has been attributed to them...⁶

Murray Edelman's description of the state as symbol is very similiar to Durkheim's idea of the sacred. He says: "It is central to its potency as a symbol that it is remote, set apart, omnipresent as the ultimate threat or means of succor, yet not susceptible to any effective

influence through any act we as individuals can perform."⁷

The anthropologist Robertson Smith claims that the two ideas develop simultaneously and are historically inter-dependent. Only as dispersed and isolated tribes become a unified people under a sovereign state does the idea of a single, all powerful God emerge. Before that the separate gods of the isolated tribes compete and struggle in a manner similiar to that of their worshippers.⁸

In the work of Ernst Cassirer we find an analysis of myth and religion as attempts to resolve the fear of death and the need of the individual to identify with a larger significance than his own finite life. Myth and religion serve to draw him into an identity with nature and with the collective life of his society. This larger life is brought together and symbolized by the close association of the institutions of the state and religion.⁹

It seems, then, that the state and the sacred are both symbols of the moral force of society. This is the source of their power and significance. Laski has summarized Rousseau's thoughts on the state in these terms: "The state, for him, was the collective moral person formed by the whole body of citizens."¹⁰

Durkheim describes the sacred in very similiar terms: "In a general way, it is unquestionable that society has all that is necessary to arouse the sensation of the divine

in minds merely by the power it has over them.¹¹

It is also interesting that a social psychologist has found a similarity in the nature of the inner attitudes that cluster around political and religious ideas: "The collectivity of psychotherapeutic experience suggests that the areas of politics and religion are for most of us more deeply immune to the rational processes than any other portions of our conscious beliefs and value systems."¹²

Thus the realm of the sacred and the state are felt to be analogous. They both exist on a plane of reality apart from the ordinary. In religion this duality is expressed by the distinction between the sacred and the profane. In political theory the duality has been variously expressed. We have mentioned Laski's idea of the state as opposed to government, Marx's opposition of the state and civil society, and Durkheim's observation that political personages are treated with what appears to be religious awe.

Both the sacred and the state call forth feelings of reverence. They command respect, obedience, and self sacrifice. Their relationship may derive from the fact that both embody and symbolize the collective moral force, unity, and wisdom of society.

The Historical and Anthropological Background

The integral connection between the realm of the sacred and the realm of the state has deep historical and anthropological roots.

The investing of the ruler or sovereign with an aura of the sacred is, as Durkheim and his pupil Roger Caillois have shown, very common in primitive societies. In Australia and Polynesia, for example, the chief is considered the highest repository of the sacred. In order to protect him from contamination, he is surrounded by minute regulations governing his intercourse with the profane world.¹³

Sir James George Frazer, in his important work on the state and the sacred, The Golden Bough, discusses a prayer ritual performed by the Matabele tribe in the southern Pacific: "This last example is instructive because it shows that the king is something more than a priest. He prays not only to the spirits of his fathers but to his own spirit. He is clearly raised above the standards of mere humanity; there is something divine about him."¹⁴

More directly in the western cultural tradition, the earliest governments recorded were theocratic. The Egyptians believed that the Pharaohs were living gods and the ceremony of coronation marked their final transformation from mortal to immortal.¹⁵

The Hittites considered their king to be the chief

priest of the national cults: "His close connection with the divine rendered his person taboo and he was protected from too close intercourse with his subjects."¹⁶

The Hebrews had gained a clear conception of the king as a secular ruler. Nevertheless they also considered him Yahweh's agent on earth and the chief priest of the nation:

The fact that the king held office as Yahweh's agent or vicegerent is shown quite clearly in the rite of anointing which marked him out as a sacred person...Accordingly the king was not merely the Messiah or the "Anointed"; he was the Messiah of Yahweh; i.e. the man who in thus being anointed was shown to be specially commissioned by Yahweh for this high office.¹⁷

Speaking of the ancients, Frazer notes:

The union of a royal title with priestly duties was common in ancient Italy and Greece. At Rome and in other cities of Latium there was a priest called the Sacrificial King or King of the Sacred Rites, and his wife bore the title of Queen of the Sacred Rites. In republican Athens the second annual magistrate of the state was called the King, and his wife the Queen; the functions of both were religious.¹⁸

Beginning from these roots, the long history of the alliance and, often enough, the unity of the religious and state institutions of Europe is not over yet.

All this indicates that the state has long been associated with the sacred; that area of human thought and experience which purports to interpret the deepest mysteries of creation and the meaning of life. This association, we suggest again, stems from similiar origins of their symbolic

significance. Both symbolize the moral force, unity, and collective wisdom of society.

The State and the Sacred in the Northwest Territory
Political Rites of Passage and Oaths of Office

The separation of the state from ordinary society in a manner similiar to the separation of the sacred and the profane can also be observed in the early Northwest Territory. We have already described the various rituals that occurred in Marietta, Cincinnati, and Chillicothe upon such occasions as the arrival of important political figures, their commencement in office, July fourth and Washington's birthday celebrations, and the opening of official agencies like the Courts of Quarter Sessions and Common Pleas. That on these occasions rituals, processions, and speeches served to re-enforce the idea of the alliance between the sacred and the state can be readily seen in this excerpt from a speech of Supreme Court Justice Varnum delivered at Marietta's first July fourth celebration. Varnum refers to Governor Saint Clair in these terms: "Religion and government commenced in these parts of the globe, where yonder glorious luminary first arose in effulgent majesty. They have followed after him in his brilliant course; nor will they cease until they shall have accomplished, in this western world, the consummation of all things."¹⁹

At Marietta's next July fourth celebration R.J. Meigs, the clerk of Washington County's Court of Quarter Sessions and a future governor of Ohio, recited a poem of his own composition. The poem concluded:

Here, may religion fix her blest abode
 Bright emanation of creative God;
 Here, charity extends her liberal hand,
 And mild benevolence o'er spread the land.
 In harmony and social virtues blend
 Joy without measure, rapture without end.²⁰

The division of the sacred from the profane is very obvious in religious worship during the initiation ceremonies meant to assure the individual's movement from one realm to another. Emile Durkheim has said: "This is not equivalent to saying that a being can never pass from one of these worlds into the other: but the manner in which this passage is effected, when it does take place, puts into relief the duality of the two kingdoms. In fact, it implies a veritable metamorphosis."²¹

A similiar process of transformation seems to occur when officials of the state formally assume office. We know that there were impressive ceremonies on these occasions and have described them in Chapters III-V.

The speeches, prayers, and processions that occurred resemble those at ceremonies or religious initiation. For example, below is an excerpt from Rufus Putnam's speech delivered on July 5, 1788 when Governor Saint Clair officially accepted office:

We are fully persuaded, with your Excellency, "that all the nations of the earth will become the kingdom of Jesus Christ." And we exult in the firm belief that the great purpose of Heaven, in perfecting human reason, and attracting all mankind to the standard of one divine control, will be accomplished in this new world. We are equally ravished with the thought that the great Governor of the universe hath raised up your Excellency, as an instrument to open the way to this transcendently glorious event, and that in this life you will anticipate the joys of Paradise.⁴²

It seems fair to say that these ceremonies marked the office holder's departure from ordinary society where nothing more than simple obedience to law in the pursuit of self interest is expected and his entrance into the realm of the state where it is expected that he shed all selfish motives and disinterestedly serve the society as a whole. The religious initiates' movement from the narrow world of the profane into the sacred is analogous.

An integral part of this ceremonial passage is the oath of office. Below is the oath required of all civil officers in the Northwest Territory. It amounts to a promise to God to perform all duties with impartiality: "I _____ being appointed to the office of _____ do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. So help me God."²³

The oath written for the County Commissioners in 1795 even more clearly stresses the need to be above self-interest and favor:

You _____ shall well and truly cause the debts of the county to be speedily adjusted, and the rates and sums of money, by law imposed, to be duly and equally assessed and levied, according to the best of your skill and knowledge; and therein you shall spare no person for favor or affection, nor grieve any person for hatred or ill will: So help you God.²⁴

The oath for the "conscientiously scrupulous to take an Oath in the common form" also written in 1795 unequivocally illustrates the association between entering state office and approaching the sacred: "I _____ do swear by Almighty God, the searcher of all Hearts, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. And that as I shall answer to God, at the Great Day."²⁵

When taking office, then, the ordinary citizen is introduced by various ceremonies and oaths into the realm of the state. He is no longer expected to act on personal and interested motives but impartially in behalf of the whole society. This passage is analogous to the ceremonies of initiation meant to mark the movement from the profane to the sacred. The similarity of the symbolic importance of the sacred and the state, both representing society's moral strength, unity, and collective wisdom seems implied

in the similarity of method by which one is permitted to enter their respective realms.

Official Seals

Even the documents and papers connected with the state or in need of the state's sponsorship or approval are set apart from ordinary papers. They all bear official seals or emblems.

In the earliest Territorial period these seals were so simple (consisting merely of a pencil sketch or a square piece of paper attached with sealing wax) and easily duplicated that they could not have been meant solely as safeguards against fraud and counterfeits. Their purpose must have been to symbolically distinguish official documents from ordinary papers.²⁶

As time went on seals became more elaborate. Marietta's, adopted in 1803, is circular and depicts the sun rising from behind a cloud bank. Beams surround the sun (which is the center of the seal) in a symmetrical pattern.²⁷

The seal adopted by Cincinnati in 1802 encloses a picture of the Roman warrior Cincinnatus in a circular band. Behind him is a plow, a sheaf of wheat, a beehive, and a rising sun. A later seal is in the form of a shield and shows the scales of justice above a sword in a crossed pattern.²⁸

Chillicothe's seal is circular with an eagle holding an arrow in one talon and an olive branch in the other.²⁹

These seals were all symmetrical in design, usually circular, representing, perhaps, the equanimity and universality of the state. They include martial symbolism as well as symbols of balanced justice and peace.

Public Buildings and Buildings
Devoted to the Sacred

The state is also set apart from the ordinary by the structures which house its functions. Murray Edelman has discussed the significance of these structures:

They are unabashedly built up to emphasize a departure from men's daily routine, a special or heroic quality in the proceedings they are to frame. Massiveness, ornateness, and formality are the most common notes struck in the design of these scenes, and they are presented upon a scale which focuses constant attention upon the difference between everyday life and the special occasion when one appears in court, in Congress, or at an event of historic significance.³⁰

Roger Caillois has shown that from primitive villages to modern cities the geographic arrangement of buildings tends to re-enforce the idea that the state is separate from ordinary life and closely allied with the sacred. Of modern cities he says:

The layout of modern cities even makes understandable, through a fixed plan, the part mythical and part objective value of such an arrangement. At the center, the church or cathedral (seat of the divine), the town hall, government buildings, courts (symbols and temples of power and authority), theatres, museums, monuments to the dead, statues of great men (various aspects of the city's sacred heritage) benefit from large squares, broad avenues, and gardens in bloom. At night dazzling lights afford splendor and security to these privileged quarters.³¹

The psychological impact of this clustering together of public and impressive buildings has been analyzed by Georg Simmel in his essay "The Metropolis and Mental Life":

It needs merely to be pointed out that the metropolis is the genuine arena of this culture which outgrows all personal life. Here in buildings and educational institutions, in the wonders and comforts of space conquering technology, in the formations of community life, and the visible institutions of the state, is offered such an overwhelming fullness of crystallized and impersonalized spirit that the personality, so to speak, cannot maintain itself under its impact.³²

Of course, the towns of the early frontier were not nearly as imposing and ornate as those that Caillois and Simmel discuss. But we can at least show the beginnings of a movement in that direction. We will show how the sites of political and religious activities in all three of the settlements we have studied were at first identical, only gradually separating to occupy different buildings near each other and at the center of town. In all three settlements visually impressive public squares were the

result of this process. The buildings that housed the activities of the state, as did the churches, grew progressively more elaborate and substantial. This progressive development of the dignity of state buildings and their close association with buildings devoted to the sacred served, we suggest, to further re-enforce the idea that the state is set apart from the ordinary and symbolizes the collective will, intelligence, and unity of society.

Unfortunately, we have no evidence regarding the psychological impact on the settlers of the impressiveness, size, and proximity to buildings reserved for the sacred of the buildings devoted to the state. Neither do we have any evidence to show that these buildings were erected with the specific intention of creating imposing symbols. And, of course, it can be argued that to assign any significance to large size beyond that implied in the necessity of accomodating large numbers is merely speculative. Thus we found our assumption that these buildings were symbolic of the state's extra-ordinary and even, in Durkheim's sense of representing the collective moral force of society, sacred status on the findings and observations of Simmel, Callois, and Edelman and on the other material presented in this chapter which seems to suggest an association between the state and the sacred.

Marietta

In Marietta the site of the first political events was a large oak on the shores of the Muskingum River. There, in July 1788, the first town meeting was held. At this meeting the Board of Police was established and the Territorial commissions of the Governor, Secretary, and Supreme Court Justices were read. The meeting ended with a prayer.³³

The first July Fourth celebration was also held under this tree as was the ceremony marking Governor Saint Clair's commencement in office. On July 20, 1788, the tree was the site of the first formal church service and the first sermon to be delivered in Marietta. All the early political leaders attended this service.³⁴

By the summer of 1789 Campus Martius was built. This was a hybrid structure which functioned as a fort for the civilian militia and also housed the offices and private residences of Ohio Company and Territorial officials. As it has already been described, it was square with fortified blockhouses at each corner, residences and offices between the blockhouses, and a large court and parade ground in the center. In a letter home a visitor from Connecticut called Campus Martius "the handsomest pile of buildings on this side of the Allegheny mountains."³⁵

The political and religious activities that first

took place under the oak on the Muskingum now moved to the northwest corner blockhouse of Campus Martius. Court sessions, town meetings, church services, and the meetings of the essentially religious Masonic Society took place there. In the context of our contention that buildings housing the state and the sacred grew gradually more impressive it is probably significant that this corner blockhouse was approximately twice as high as the other three and that the fort's flagstaff was atop it, making it easily the tallest structure in the settlement.³⁶

In 1791 church services and school sessions (which were also held in the northwest corner) moved to a separate log building, near Campus Martius. In 1793 both moved to an even larger log building, still near Campus Martius. (The church and school were forced back to the northwest corner blockhouse during the height of Indian hostilities, 1793-95). Also in 1793, a log jail was constructed near Campus Martius.

By 1798 the church and school had become an institution known as the Muskingum Academy and occupied a substantial frame building, still in the vicinity of Campus Martius. In the same year the first courthouse, a rather unassuming log structure, was constructed adjacent to the Muskingum Academy.³⁷

In 1800 a new court house, this one larger than the first, along with a new jail, whipping post, pillory, and stocks were completed. The court house was two stories high with the court room on the second floor. It was forty-five feet in length, thirty-nine feet wide, and made of double tiers of yellow poplar logs. Aside from Campus Martius, the new court house was the largest structure in the village at this time. The jail was also larger than the first had been. Its walls were three feet thick and a contemporary observer notes that "the whole was built in a most substantial manner."

A bell hung from a cupola atop the roof of the new court house. The symbolic identity of the state with the idea of the unity of society can be noted in the fact that this bell marked the divisions of the day for the inhabitants of Marietta and informed them of all deaths that occurred in the settlement. It rang regularly at nine in the morning, twelve noon, six o'clock and when any resident died.³⁸

By 1800, then, Marietta had a substantial public square in the center of the village. This square consisted of Campus Martius, the Muskingum Academy, the jail, whipping post, pillory, stocks, and court house.

Cincinnati

In Cincinnati, shortly after the first landing in December 1788, hymns were sung under a large oak tree on the shore of the Miami River. Soon after that the first town meeting was held under the same tree. Some simple rules for the settlement's government were formulated and a magistrate and sheriff elected to serve prior to the start of official Territorial government.³⁹

Fort Washington was completed late in 1789. The fort was located near the center of town at Broadway and Fourth Street. Construction was supervised by the same man who had built Fort Hamar at Marietta, a Major Doughty. It was a substantial structure with fortified blockhouses at each corner, picket walls, guard posts, and bastions between the blockhouses and a large parade ground and flagstaff (the tallest structure in the village) in the center.

The fort was surrounded by an eighty foot wide esplanade enclosed with a large paling fence. One historian of Cincinnati, Henry A. Ford, tells us that "The exterior of the building and stockade was white-washed, and presented from a distance an imposing and really beautiful appearance."⁴⁰

Between 1788 and 1790 the unofficial government of Cincinnati held its sessions in the cabin of the magistrate

(William McMillan) and in two Inns (Avery's and Martin's) located near Fort Washington at the center of town. Town meetings and Presbyterian church services were also held in these Inns.⁴¹

In 1789 the United States Army authorities at Fort Washington began to use a room in Avery's Tavern for court martials. The pillory, stocks, and whipping post for army men convicted at these proceedings were constructed outside the tavern door.⁴²

In 1790 local Territorial government officially began in Cincinnati. A log cabin was built near Fort Washington for the official court sessions. Church services and school were held in this cabin as well.⁴³

Also in 1790, Cincinnati became the capitol of the Territorial government. Governor Saint Clair and Secretary Sargent took up residence at Fort Washington and the General Court and the Legislature of the Territory (then consisting of the Governor and three Supreme Court Justices) began to hold its sessions at the fort.⁴⁴

Two years later school was held in a separate cabin apart from the church services and the Quarter Sessions Court. In 1793 the church occupied a separate cabin, but remained close to the cabin which continued to house the Quarter Sessions Court. Indeed, on occasion court sessions were held in the church. In the same year a jail, pillory, and whipping post was erected near this

church.⁴⁵

In 1795 a more substantial log court house, a new and larger jail, a larger frame school house, and a new Presbyterian church were erected, all in the same central vicinity. Also in 1795, near the court house, church, school, jail, and Fort Washington, a large inn called Yeatman's opened. It soon became a sort of public building. (In 1796 when a now unspecified disease ravaged Cincinnati Yeatman's served as a makeshift hospital. In 1800 there was a meeting at Yeatman's to discuss securing an act of incorporation for Cincinnati from the Territorial Legislature and another to discuss the merits of forming a public corporation for the purpose of investing in a new invention called a "steamboat." The Cincinnati Public Library began with a meeting at Yeatman's in 1802. On drill days the local militia assembled at Yeatman's.⁴⁶)

In 1796 a log cabin for the post office was built near the court house. Thus, by that year Cincinnati, a wilderness settlement with a population of approximately nine hundred and sixty, had a substantial public square at the center of town. On the north side of this square was the jail and court house. Across from them was Avery's Tavern with the pillory, stocks, and whipping post reserved for military offenders at the front door. The rest of the buildings on the square were Fort Washington with its flagstaff in the middle of the parade ground, the

school house, the Presbyterian church with the pillory, stocks, and whipping post for civilian offenders near its front door, the post office, and Yeatman's Tavern.⁴⁷

In 1802 the log court house on this square was replaced with a larger stone court house.⁴⁸

Chillicothe

In Chillicothe, from 1796 to 1798, unofficial court sessions (not sanctioned by Territorial Authority,) Presbyterian church services, and school were held in a small log house near the center of the little village. Upon the formation of Ross County by Governor Saint Clair and the beginning of official government all these activities moved to an inn owned by one Reuben Abrams, a prominent local land speculator and among the first justices of the Quarter Sessions Court appointed by Governor Saint Clair. This inn was known as Abram's House.⁴⁹

Abram's House was at this time by far the largest structure in Chillicothe. It was two stories high and had a main building and an annex. During an Indian alarm in 1798 nearly the whole population of Chillicothe (approximately six-hundred) were able to take refuge at Abram's House.⁵⁰

Abram's House, very much like Campus Martius at Marietta, became the center of religious and state activities. Court sessions were held there until 1801. The

Auditor of Public Accounts for the Northwest Territory, Thomas Gibson, had his office in Abram's House and the Legislature of the Territory had its sessions there in 1800 and 1801. Both the Presbyterian and Methodist congregations held their services there between 1798 and 1801. The town's first school met at Abram's House during these years.⁵¹

In 1798, near Abram's House, a headquarters for Governor Saint Clair was built. (Chillicothe had become the seat of Territorial government in that year.) The whipping post, pillory, and stocks were placed near this headquarters.⁵²

In 1801 a permanent stone court house and a separate capital building were erected. The church services, the school, and the court sessions left Abram's House for the new court house. This court house was two stories high, its roof surrounded by a cupola. On top of the cupola was a gilt eagle perched on a golden ball. Until the mid-nineteenth century the court house was the only building other than the Presbyterian church (built in 1807) to have a bell and belfry.⁵³

The capital building or state house was two stories high and located about twenty feet from the court house. The upper stories of the two buildings were connected by a rampway.⁵⁴

In 1802 a strong jail and a one-story brick building for the use of the clerk of the Court of Common Pleas was built near the court house. In the same year a Market House was erected in this vicinity.⁵⁵

By 1802, then, Chillicothe, like Cincinnati in 1796 and Marietta in 1800, had a public square in the middle of the village. This square consisted of the court house, capital building, Abrams' House, the clerk's building, jail, pillory, stocks, whipping post, and Market House.

Thus in all three settlements the activities of the state and of the sacred at first took place at the same sites. They gradually moved to other buildings but remained near each other to form public squares, significantly, at the center of each village. These buildings were all more impressive in scale and architecture than the other buildings in the settlements.

The identity of the early sites of state and religious activities and the fact that the separate buildings which eventually housed them remained near to each other seem to both corroborate and symbolize the idea that the state and the sacred are closely related. The distinction of these buildings from others, both in scale and style of architecture, would seem to re-inforce the notion that the state and the sacred exist on a symbolic plane above the ordinary and mundane. This elevation, if we accept the analysis of, among others, Marx and Durkheim, originates in the idea of

the collective moral force, unity, and wisdom of society which both the state and the sacred embody symbolically.

Conclusion

In this chapter we have attempted to show that there is a strong symbolic connection between the state and the sacred. Both symbolize society's collective will, intelligence, and unity and both, through rituals and symbols, are kept distinct from the ordinary and mundane.

Political processions, rites of passage, oaths of office, official seals, the close physical proximity of buildings housing state activities and those housing the sacred, and the progressive increase in size and elaboration of both are some of the ways by which we notice the removal of the institutions of the state into a symbolic realm closely allied to the sacred.

NOTES

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¹³Roger Caillois, Man and the Sacred (Glencoe, IL, 1959), pp. 51, 91-93.

¹⁴James George Frazer, The Golden Bough, 3 vols. (New York, 1966), I:48.

¹⁵W.H. Fairman, "The Kingship Rituals of Egypt," in Myth, Ritual, and Kingship--Essays on the Theory and Practice of Kingship in the Ancient Near East and in Israel, ed. S.H. Hooke (Oxford, 1958), pp. 75, 78, 79.

¹⁶O.R. Gurney, "Hittite Kingship," in Myth, Ritual, and Kingship--Essays on the Theory and Practice of Kingship in the Ancient Near East and in Israel, ed. S.H. Hooke (Oxford, 1958), p. 121.

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¹⁸Frazer, The Golden Bough, I:44.

¹⁹Thomas J. Summers, History of Marietta (Marietta, OH, 1903), p. 61.

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²¹Durkheim, Elementary Forms, p. 54.

²²The Saint Clair Papers, 2 vols. (New York, 1971), I:56-57.

²³Theodore C. Pease, ed., The Laws of the Northwest Territory, 1788-1800 (Springfield, 1925), p. 12.

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²⁵Ibid., pp. 163-64.

²⁶Chester Jacob Attig, "The Institutional History of the Northwest Territory, 1787-1802" (Ph.D. dissertation, University of Chicago, 1921), p. 154.

²⁷Geoffrey D. Brunton, Mayor of the City of Marietta, personal communication, 11 March 1979.

²⁸ Clara Longworth De Chambrun, Cincinnati: Story of the Queen City (New York, 1939), p. 76; Harrison S. Kerrick, The Flag of the United States (Chicago, 1931), p. 13.

²⁹ Collection of Official Seals of the Cities of the United States, Local History and Genealogy Department, New York Public Library.

³⁰ Edelman, Symbolic Uses, p. 96.

³¹ Caillois, Man and the Sacred, p. 53.

³² Simmel, "The Metropolis and Mental Life," p. 422.

³³ S.P. Hildreth, Pioneer History of the Ohio Valley (Cincinnati, 1848), pp. 248-49; John May, "Side Lights on the Ohio Company of Associates from the John May Papers," The Western Reserve Historical Society, Tract 97 (1917): 111-12; Summers, History of Marietta, p. 72.

³⁴ Hildreth, Pioneer History, p. 162; History of Washington County, Ohio, 1788-1881 (Cleveland, 1881), pp. 356-57.

³⁵ L.A. Alderman, The Centennial Souvenir of Marietta, Ohio (Marietta, OH, 1888), p. 31; Joseph Barker, Recollections of the First Settlement of Ohio (Marietta, OH, 1958), p. 64; Beverley W. Bond, The Civilization of the Old Northwest (New York, 1934), p. 317; Willa Dawson Cotton, "Marietta, The Pioneer City of the West," New England Magazine 37 (1908): 701-702; S.P. Hildreth, "A Description of Campus Martius," American Pioneer 1 (March 1842): 86-87; Idem, Pioneer History, pp. 229-30; History of Washington County, p. 52; Edith S. Reiter, Marietta and the Northwest Territory, 1788 (Marietta, 1960), p. 34.

³⁶ Barker, Recollections, pp. 6, 16-17, 55; Hildreth, "A Description of Campus Martius," pp. 86-87; Marietta, Ohio, Campus Martius Museum and Library, Scale Model of Campus Martius on display at the museum.

³⁷ Israel W. Andrews, Washington County and the Early Settlement of Ohio (Cincinnati, 1877), p. 35; C.E. Dickinson, A Century of Church Life: A History of the First Congregational Church of Marietta, Ohio (Marietta, OH, 1896), p. 25; History of Washington County, p. 109; Josephine E. Phillips, The First Congregational Church of Marietta, Ohio: One Hundred and Fiftieth Anniversary Booklet (Marietta, OH, 1946), p. 1.

³⁸ Andrews, Washington County, pp. 35, 37; History of Washington County, p. 109.

³⁹Jacob Burnet, "Letters Relating to the Early Settlement of the Northwest Territory," Transactions of the Historical and Philosophical Society of Ohio 1 (1839): 19-20; Randolph C. Downes, Frontier Ohio, 1788-1803 (Columbus, 1935), pp. 62-63; Charles Theodore Greve, Centennial History of Cincinnati and Representative Citizens, 4 vols. (Chicago, 1904), I:308.

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⁴¹Lewis A. Leonard, ed., Greater Cincinnati and Its People (Cincinnati, 1927), p. 84.

⁴²Chambrun, Cincinnati, p. 57.

⁴³Leonard, Greater Cincinnati, p. 84.

⁴⁴Cincinnati Enquirer, 5 May 1953.

⁴⁵Ford, History of Cincinnati, pp. 38, 41, 55; Greve, Centennial History, IV:346; Leonard, Greater Cincinnati, p. 84; Albert I. Mayer, "How Cincinnati Was Founded" (Cincinnati Historical Society, Manuscript Collection, various undated newspaper clippings, vol. 1).

⁴⁶Burnet, "Letters Relating to the Early Settlement of the Norhtwestern Territory," p. 11; Ford, History of Cincinnati, pp. 47, 48, 53, 55, 366; Greve, Centennial History, I:378; Robert I. Vexler, Cincinnati: A Chronological and Documentary History (Dobbs Ferry, WV, 1975), pp. 4, 5.

⁴⁷Ford, History of Cincinnati, p. 55.

⁴⁸Vexler, Cincinnati, p. 5.

⁴⁹Lyle S. Evans, A Standard History of Ross County, Ohio (Chicago, 1917), p. 247; United States Works Progress Administration, Chillicothe and Ross Counties (Chillicothe, 1938), p. 56.

⁵⁰History of Ross and Highland Counties, Ohio (Cleveland, 1880), p. 188.

⁵¹Evans, A Standard History, pp. 126-27; U.S. Works Progress Administration, Chillicothe: Ohio's First Capital (Chillicothe, OH, 1941), p. 3.

⁵²Evans, A Standard History, p. 247; U.S. WPA, Chillicothe and Ross County, p. 56.

⁵³Downes, Frontier Ohio, pp. 154-55; Evans, A Standard History, p. 128; U.S. WPA, Chillicothe, p. 3.

⁵⁴History of Ross and Highland Counties, p. 201.

⁵⁵Ibid., p. 202.

Chapter VII

CONCLUSION--SUMMARY:
THE STATE AND CLASS DOMINATION

In closing we will review this study's main theme and findings. Our most important contention has been that in the early settlements of the Northwest Territory the social form of community began to be supplanted by the state in the course of the increasing ascendance of a dominant class of land speculators. We also suggested some hypotheses about how the rise of the state affected community life.

We used the theoretical constructs of community and state to analyze a specific process of social-historical change. First we chose an area--the Northwest Territory of the United States. There the elements of community predominated at first but the state as a form of social organization began to emerge and gain prominence.

Of course, we make no claim to have traced the appearance of the state from conditions of pure community. The settlers of the Northwest Territory experienced the state in the East and more than likely expected similar institutions to appear in their new environment. Also, the Northwest Ordinance of 1787 to a large extent determined in advance the political development of the Territory

and its settlements. Rather, we attempted to show how, in the Territorial period of what eventually became Ohio (1787--1803), the state began to appear in small societies organized mainly in terms that fit the very different concept of community.

To base this work on explicit theoretical constructs, it was necessary to formulate the concepts of community and state. Accordingly, in Chapter I we presented eight main elements of the concept of community drawn from the literature of social philosophy and political science as well as sociology. A composite portrait of the social life of the settlements of the Northwest Territory showed how closely they approximated our outline of the concept of community.

The concept of the state was also formulated and three indicators of its appearance developed: the exercise of legitimate coercion, minority control, and political ritual and symbol.

To make sure that the settlements studies were representative of most of those in the Territory in terms of the place of origin of the settlers and in social-economic organization, we decided to focus on nine squatter settlements and three legal settlements (Marietta, Cincinnati, and Chillicothe.) For the squatter settlements, which by definition had no legal and formally organized institutions, we used three additional indicators of the state's appearance that

can be assumed to exist in settlements based on legal rights of property. These were the right (exercised by one or very few men) to negotiate with hostile outsiders, protect the territory of the settlement by force of arms, and the acknowledgement by others that some men maintain a permanent leadership role.

After showing, in Chapter II, that the social life of the squatter settlements conformed closely to community we indicated that certain men began to exercise authority in accordance with the concept of the state. Several could negotiate with a potential invading force, direct the use of arms against that force, and were considered leaders by the other squatters. Two had been given the title of "justice of the peace." The size, strength, and fighting ability of five of these men suggested that the exercise of physical coercion was an important aspect of their authority.

It was shown that the need to defend the squatter settlements from both Indians and the United States Army was one social factor contributing to this elementary emergence of the state. It also became clear that the leaders of these settlements were squatter speculator-landlords. These local embodiments of a dominant class related to land as a commodity to be sold and rented for profit and not, as did most of the squatters, as a natural resource to be used in an economy of subsistence agriculture. These

squatter landlords had either arrived in the West with more resources than their neighbors, accumulated more by frontier barter and exchange, or gained land through the exercise of physical coercion. They were able to maintain their holdings beyond the squatter period and into the legal period of settlement in their respective regions.

The rise of a dominant class of land speculators was, then, an important social factor fostering the emergence of the state. Evidence of a squatter statehood movement led us to suggest that the maintenance of property rights by legitimate force and legal title, only possible within the context of a centralized and coercive political organization, would seem to have been an important need upon which the speculator-landlords of the squatter period acted.

Thus, two social factors contributing to the emergence of the state in squatter settlements were discussed. These were, again, the need to defend the settlements from attack and the appearance of a dominant class of land speculators.

The first settlement founded on legally recognized rights of property in the Northwest Territory was Marietta. This settlement grew from a large speculative venture, the Ohio Company, involving many men eminent in New England and national society and politics. The connection between congressmen, Ohio company shareholders, the "funding" of the national debt, the need to appropriate large parcels of

Indian land and prevent the influx of squatters, and the policy of selling land in large tracts to speculators was explored. It was seen how the Northwest Ordinance, at the behest of prominent Ohio Company shareholders, created an appointive, oligarchic government designed to protect large landed property from Indians, squatters, and, possibly, the settlers themselves. This background, favoring the dominance of an elite class of land speculators in the settlements, provided the context for the eventual emergence of the state.

We then described the early social life of Marietta and pointed out its close conformity to the concept of community. However, in the approximately five month period before the beginning of official local government under Territorial auspices we also noted signs of the appearance of the state. The Ohio Company formed an organization known as the Board of Police. The Board, as well as taking certain measures to insure the health, cleanliness, and safety of the settlement, exercised coercive authority, was controlled by a small minority, and engaged in political rituals.

We showed that the Board of Police inaugurated its own militia force indicating that the need to maintain military readiness in case of Indian attack was one factor contributing to this early appearance of the state.

The presence of a dominant class was another factor.

All of the members of the Board of Police were Ohio Company shareholders and land speculators. Ohio Company spokesmen had repeatedly urged Congress that a strong toned and resolute government was needed in the Territory in order to guard property rights. Many of the first settlers had accepted donation tracts and therefore might very well have come from New England's poorer classes. Also, Shay's rebellion had occurred in New England about one year before the beginning of the Marietta settlement. All of this, we suggested, led the leaders of the Ohio Company to feel the need for some sort of stable authority and so they organized the Board of Police.

After official government began we showed how minority control, the exercise of legitimate force, and political ritual and symbol continued to develop. Keeping in mind that the government apparatus of the Northwest Territory served to legally sanction and militarily protect their property holdings we also showed how, in the context of a structure of local government which insured the prominence of large property holders, the speculator elite of Marietta controlled political office and used their positions to advance their private interests. This led us to hypothesize that the presence of a dominant speculator class continued to be an important factor in the movement toward the state in Marietta.

The need to defend the settlement during the period

of official government seemed dependent on the Indian's angry reaction to the whites' apparently limitless thirst for land under an authority dominated by land speculators. Therefore, we indicated that defense could now be considered a corollary of class stratification as a factor in promoting the appearance of the state.

Finally we attempted to determine the effect of this movement toward the state on two aspects of community life, the enforcement of morality and propriety and aid offered new settlers. Taking note of all the inadequacies of the data available, we tentatively suggested that as the state became involved in the enforcement of morality and propriety community involvement diminished. Aid offered new settlers by the community lessened with the increasing social-economic maturity of the settlement.

The general patterns established for Marietta seemed to hold for Cincinnati as well. There was, again, the growth of the settlement from a large speculative venture, Congress' sale in the Miami River region in 1788. There were, also, similar connections between these purchasers and the Continental Congress as existed between the Ohio Company and Congress.

In the period of a little over a year before the establishment of official local government in Cincinnati it was seen that community was the central form of social organization. It was also seen that at this time the United

States Army exercised coercive authority, even going so far as to declare martial law in the settlement. The Army, with its minority control, exercise of legitimate force, and various symbols and rituals, represented a form of social organization closely allied to the concept of the state.

One interesting aspect of the political authority exercised in Cincinnati before official government were the several conflicts that occurred between the Army and a civilian authority informally elected by the settlers and therefore probably more closely related to their communal life. Violence occasionally erupted and we suggested that the essential dichotomy between community and state as forms of social organization might have had something to do with with vehemence of the emotions aroused.

Again, the need to defend the settlement was a contributing factor in the development of the state. It was certainly a primary reason for the erection of Fort Washington and the presence of 500 troops. We also showed how forms of the state arose amongst the civilian population of Cincinnati and its outlying stations as well as in response to the social exigency of defense.

We suggested that the presence of the Army was also related to the need of Cincinnati's landlord-speculator class to protect its holdings, not only from Indians and

squatters, but from the poor, unruly Kentucky backwoods-men who made up the bulk of Cincinnati's early population. Class stratification and the dominant position of the landlord-speculators, then, also contributed to the rise of the state in Cincinnati before the establishment of official government.

Even the need to defend the settlement, it was pointed out, would most likely not have been as urgent if western settlement were not premised on the indefinite encroachment on Indian land, mainly for the benefit of the landlord-speculator class. Thus, as in Marietta, the necessity for defense can be considered as a result of class domination and not an equal and independent factor.

After the beginning of official civilian government in January 1790, manifestations of the state continued. There was minority control of power and office, the exercise of legitimate coercion, and political ritual and symbol.

As we have said, Territorial government was in large part designed to protect the landed property of the speculator elite and also to insure its control of political office. This class then used its dominant position to enhance its private interests through patronage contracts and the enforcement of road and militia service. Therefore, the dominance of a speculator elite continued to be an important factor in the emergence of the state during the period of Territorial government in Cincinnati.

As in Marietta, community activity diminished in the area of enforcement of morality and propriety as the Quarter Sessions Court became more involved. Aid to new settlers diminished with the increasing social and economic maturity of the settlement.

Chillicothe also began with a large speculative venture. This time, however, the main speculator did not make his purchase from Congress. He collected military land warrants from ex-revolutionary soldiers and a disbanded frontier unit of the United States Army to found Chillicothe in April 1796.

Again, the early social life of Chillicothe was described. It was seen to conform closely to the concept of community. There were no organizations similar to the Board of Police in Marietta or the Army stationed at both Marietta and Cincinnati. Therefore, before the establishment of official government in August 1798, the state was not as obvious as it was in the first two settlements. Nonetheless, three early leaders of Chillicothe did exercise some authority in a manner corresponding to the concept of the state.

After the beginning of official government, the minority control, exercise of coercion, and political ritual and symbol of the state became more pronounced. By this time the security of Chillicothe from Indian attack had already been assured. Thus the necessity of defense was not

important in the rise of the state in Chillicothe.

However, the speculator-elite class of Chillicothe, as it did in Marietta and Cincinnati, controlled political office. Also as in Marietta and Cincinnati, this speculator elite used its dominant position to further its private interests. Class domination, then, was a major factor in the appearance of the state in Chillicothe.

The state's effect on two aspects of community life--enforcement of morality and propriety and aid to new settlers--followed a pattern similar to that of Marietta and Cincinnati.

The penultimate Chapter VI took up the symbolic similarity of the sacred and the state. There we drew on the work of such scholars as Marx, Simmel, Durkheim, Weber, Caillios, Laski, and Edelman to suggest that both the state and religion symbolize society's collective will, intelligence, and unity. Both are kept separate from the ordinary and mundane through ritual and symbol.

After outlining the historical and anthropological roots of the connection between the state and the sacred we turned to the Northwest Territory. There we found political rites of passage, oaths of office, official seals, political processions, and the progressive elaboration, increasing size, and physical proximity to buildings devoted to the sacred of the buildings that housed state activities. This association between the state and the

sacred, we may now suggest, helps support the position of the dominant class. The state's symbolic connection with the sacred tends to protect it from rational, empirical criticism. Indeed, the charge of being unpatriotic (of being insufficiently attached to the institutions of the state) is one which even severe critics of the state seek to avoid.

Although on the symbolic plane the state represents the unity and collective wisdom of society, we have seen that, at least in the settlements of the Northwest Territory, the main social factor in its emergence is class domination, and the service of the interests of a dominant class. The state's association with the sacred, then, is a contributing force in the perpetuation of class hierarchy, itself an important cause of the state's original appearance.

Thus our study of nine squatter settlements and three legal settlements in the early Northwest Territory indicates that, at first, these settlements conformed closely to the concept of community. In the period studied, however, the state appeared and gained in importance with class stratification and the dominance of land speculators. At each step of the present work we saw this process take the form of a local government designed to assure the control and protect the interests of large landholders moving, at least in this historical case, local group life from community toward state.

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