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**T**HE MONTH of July, 1787, was one of the most momentous in American history. In that month the Philadelphia Convention and the Confederation Congress simultaneously resolved fundamental problems of government leading to the formal organization of the first United States empire. The Philadelphia Convention hammered out the basic provisions for a new constitution to establish a stronger central government. In hatching its plan to replace the Articles of Confederation, the Convention also worked out the ideas and mechanics of federalism between the states, and formulated the concept of a federal empire. Controversy over the exact form of the empire was to result in the unanimous adoption, in August, of Gouverneur Morris' vague proposal, which simply granted the new Congress imperial powers without delimiting or delimiting them, rather than James Madison's more detailed plan.

In the meantime, the Confederation Congress, sitting in New York City, had been moving along a parallel line. On July 13, 1787, after more than a year of sporadic debate, it enacted a relatively precise plan of colonial government for the public domain north of the Ohio River. One of the most significant laws in American history, the Northwest Ordinance prescribed the philosophical and structural framework for a United States colonial system based on that of the old British Empire. The Ordinance defined republicanism and specified it to be the only acceptable form of government for the colonies and future states. Its basic ideas were to be applied more or less successfully

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in the United States possessions for over 175 years and its provisions were to lay the foundation for the governments of the thirty-one public lands states and Hawaii. In short, the Ordinance led to the imposition of a uniform system of politics throughout the American empire. Together, then, the Philadelphia Convention and the Confederation Congress in July, 1787, adopted co-ordinate parts of a system for a federal republican empire that was to shape the course of United States history.

Contrary to standard interpretations, the Ordinance of 1787 was not an adjunct of the Ohio Company's land scheme, designed to promote settlement in the Northwest. Nor did the Confederation Congress enact it precipitously under pressure from the Reverend Manasseh Cutler, the Company's lobbyist. Cutler had little if any influence over the final form of content of the Ordinance. Instead, the Northwest Ordinance had distinct pre-Revolutionary colonial origins and evolved in stages. This evolution was the work of the three men—Thomas Jefferson, James Monroe, and Nathan Dane—who successively dominated the congressional committees charged with devising a frame of government for the public domain between early 1784 and July of 1787.

Jefferson was probably the first man to formulate the basic principles for a United States colonial policy. In 1776 Virginia made extravagant claims of ownership to most of the land west of the Appalachian Mountains. By generously interpreting the "west and northwest" sea-to-sea boundary provisions of the 1609 colonial charter, Virginia claimed title not only to Kentucky but also to all of the land west of Pennsylvania north of the Ohio River—that is, the entire Northwest Territory. But Jefferson believed in the classical idea that republican states are inevitably small and did not think democratic republican institutions could flourish in so large a state. Since he was unable or unwilling at this time to reconcile classical republicanism with imperialism, he feared that unless its size was drastically reduced an undemocratic imperial government would develop as the populated area of Virginia increased.

Early in 1776, when drafting a constitution for Virginia, Jefferson acted to insure the permanence of republicanism in his state. He tried to raise to the sanctity of constitutional law his

even without slavery, as a means to these ends. At the Convention, sanctions for slavery (the three-fifths clause and the slave trade clause) seemed necessary to bring about the same results: protection against emancipation and a Southern majority in the House. In each case the North made the compromises the South demanded, but in Congress, because of the South's mistaken assumptions about the future of the Northwest, an antislavery clause could be included. The fugitive slave clause adopted unanimously by both bodies shows, if not that there was a sectional compromise between Congress and Convention, at least that the makers of both Ordinance and Constitution were ready to compromise the concept that all men are equal. This was the fundamental compromise of 1787.

Exhibit Q-4 p. 1

## Origins of the American Colonial System

Jack E. Eblen

*The American colonial system effectively began with the Northwest Ordinance of 1787. Since that time all colonial policies of the United States, including the recent efforts at commonwealth status for Micronesia, have been modifications of the original ideas.*

*In this essay Jack E. Eblen (1936—) traces the evolution of this famous document through the Continental Congress. Like Professor Berthofer, Eblen sees the Ordinance as the product of several minds and the consequence of a series of developments in Congress. He finds Nathan Dane of Massachusetts and James Monroe of Virginia modifying the Ordinance of 1784 into a workable colonial policy. He calls the final product the "Jefferson-Monroe-Dane Plan."*

*Moreover, Eblen discards as unfounded the interpretation that, as he says in a footnote, "conspiratorial land speculators were behind the writing of the Ordinance of 1787 and that the Ohio Company representatives forced Congress to draft the governmental articles the way it did to serve as a mere adjunct to their land grab." He does see the possibility that the Ohio and Scioto grants may have induced some New England Congressmen to support the Ordinance because these schemes offered a chance for eastern influence in an area supposedly inclined toward the South.*

*For Eblen the 1787 document is not a step backward from the democratic principles of the 1784 ordinance, but rather a constructive solution to the ambiguous and inadequate earlier plan. Of particular importance was Dane's insistence on the inclusion of a list of civil liberties and Monroe's proposals for a limited number of potential states and a precise number of inhabitants required for admission. The coincidence of these developments, combined with congressional insistence on the slavery prohibition, suggests to Eblen the possibility of "logrolling." Nowhere does Eblen see any indication of a conspiracy between Congress in New York and the delegation at the Convention in Philadelphia that Lynd describes in the previous essay.*

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