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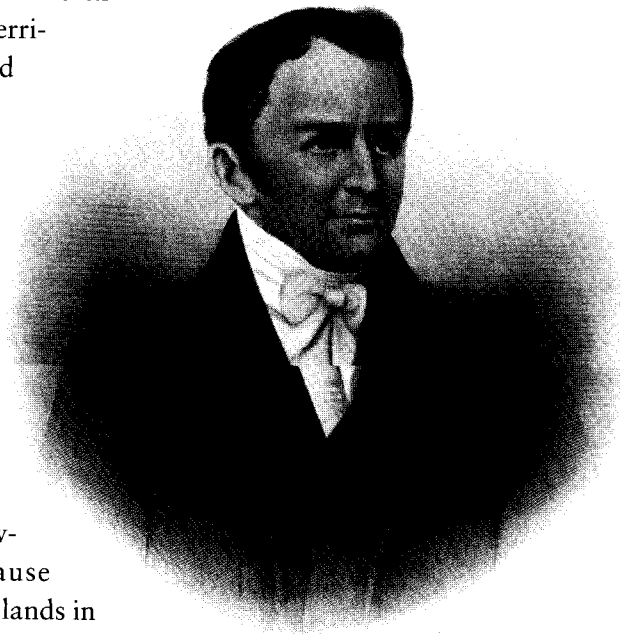
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Thomas Worthington and the Great Transformation: *Land Markets and Federal Power in the Ohio Valley, 1790-1805*

GAUTHAM RAO

In the Ohio Valley of the early republic, the volatile interaction between economies of governance and economies of the frontier transformed both the capacity of the federal government and the landscape of the Ohio frontier. At the center of this interaction lay competing notions about how best to administer markets in America's first national commodity—land. To the south of the Ohio River, Kentucky possessed a relatively unregulated land market, inherited from colonial Virginia. North of the river, in the Ohio lands of the Northwest Territory, however, the federal government regulated and administered a very different type of land market. As the unregulated system in Kentucky fell prey to political profiteering and judicial instrumentalism, key actors in national politics and law articulated the need for what would become the federal government's more uniform, heavily regulated land system. In moving from the Kentucky Bluegrass to the chambers of the U.S. Supreme Court and Congress, and then to the frontier of the Old Northwest, Thomas Worthington, best known for serving as one of Ohio's first senators and its sixth governor offers an entre into this story. Because Worthington was an avid speculator in Kentucky lands in the 1790s, and a federal land official after 1801, his records and papers suggest a number of interpretive possibilities for understanding how markets and politics enabled a reciprocally generative relationship to develop between the Ohio Valley and the federal government of the early republic.

Thomas Worthington came of age in a world of powerful Virginia landholders who were at the center of their community's legal, political, and social worlds. Born in 1773 in colonial Fairfax County, Virginia, Worthington witnessed how men like his father, Robert Worthington, assembled capital—fi-



*Thomas Worthington
(1773-1826). Cincinnati
Museum Center, Cincinnati
Historical Society Library*

nancial and symbolic—through landed estates.¹ Much like his father, Thomas Worthington would also spend much of his life gaining wealth and status through his lands. Educated in the military art of surveying at a young age, Worthington began speculating around the time of his eighteenth birthday, trading his valuable, inherited lands in Pennsylvania for deeds in Kentucky land. And this took place at the very moment that Kentucky land became the object of speculation throughout the nation.²

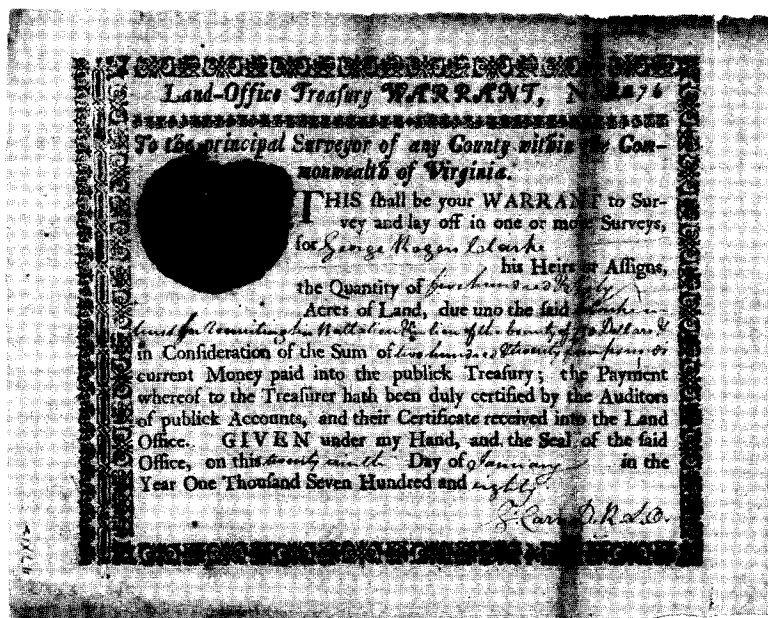
Indeed, by the early 1790s, Worthington was a successful speculator specializing in brokering lands in Kentucky to wealthy clients in Virginia. Relying on tips from his network of contacts and employees throughout Kentucky, Worthington undertook lengthy trips to the fertile Bluegrass region and beyond to conduct surveys and lodge claims on behalf of his clients. Not infrequently Worthington would claim attractive lands for himself. Extensive though they were after years of accumulation, however, Worthington's lands were not quite profitable. In 1796 Worthington would abruptly sever his involvement in the Kentucky market by dumping all his Kentucky holdings at any price, no matter how low.³

Worthington's hasty retreat from the Kentucky land market has rightly been explained away as a case of "Ohio Fever," an affliction that motivated many a speculator to seek out profit—literally 'greener' pastures—by investing rashly on the front lines of westward migration.⁴ In Thomas Worthington's case, those greener pastures lay in Ohio. But the state of the Kentucky land business proved as much a reason for Worthington's decision as any "Ohio Fever." These problems were an amalgam of commercial, legal, and political developments within early Kentucky's land business; more generally, that is, they were problems of the Kentucky land market of the early republic.

The white settlement of "Cantuckey" began in earnest around 1780s as Virginia, following its colonial policy, paid war veterans with land bounties to be redeemed in the vast, "unsettled" lands to the west.⁵ Over the years, the Virginian process for claiming Kentucky lands attained uniformity; claimants gave deeds to surveyors, who "located" (i.e. surveyed and marked) land for the claimant using the old "metes and bounds" method of surveying, initialing physical landmarks, approximating acreage, and very roughly mapping out the property boundaries.⁶ Surveyors then, in theory at least, forwarded the survey plat to the land office at Harrodsburg, Kentucky, where the state stored the claims and maps.⁷

In 1795, the legal underpinnings, political machinery, and economic desirability of the Kentucky land market began to collapse under the weight of conflicting property claims of squatters, legally sanctioned settlers, and speculators. Initially, the Kentucky judiciary turned away from its traditional emphasis on the property rights of those 'first in time,' or of the party with the

earliest claim to a plot of land. In *Ammons v. Spears* (1787), the Supreme Court for the District of Kentucky found against the squatter George Spears, arguing that an older claim to a piece of contested property was “the better right to the land.” About a decade later, however, the same court changed its tune. In *Frye v. Essry* (1795) the court confirmed that the defendant John Essry’s claim to a piece of contested property was indeed of “prior date.” Yet whereas they may have based their decision solely on this criterion ten years before, they now found ways to undermine the old doctrine. They asserted that the relationship between Essry’s warrant for land and his actual survey was “uncertain,” that, in effect, Essry lost his “better rights” for un-specific, technical reasons.⁸ Thus as local and state judges—soon to call themselves Jeffersonian Republicans—adopted redistributive strategies to level the social playing field, they left the Kentucky land market in disarray. In the words of one disgruntled speculator of the time: “Who buys land there buys a lawsuit.”⁹



Land Office Treasury Warrant, January 29, 1778. Those who purchased or were given western land in return for payment or military service received warrants to present to surveyors who would “locate” the land. From the George Rogers Clark Miscellaneous Papers, The Filson Historical Society

This situation in Kentucky most likely accelerated the onset of Thomas Worthington’s “Ohio Fever,” which would become full-blown by 1796. In 1795, Joseph Swearingen, Worthington’s agent in Kentucky, first alerted Worthington to new opportunities for speculation in the Northwest Territory. Writing from Kentucky, Swearingen raved about the profitability of Ohio lands and lamented that Worthington had missed out on some early deals. But Swearingen prophetically reassured his boss that “there will be again time for speculation.”¹⁰ And within a year Worthington had visited the Northwest Territory and, as we have seen, sold his holdings in Kentucky. He would move to the Northwest shortly afterwards, with the words of a new Ohioan friend likely on his mind: “the price of land is rising fast.”¹¹

As Thomas Worthington experienced the tribulations of Kentucky’s land business, key figures in American national political culture began to take notice of the instability of unregulated land markets. In an early treatise the eloquent statesman Pelatiah Webster laid the blame at the feet of speculators, arguing that “one abuse” that should be avoided in the future land policy was “large quantities of land lying unimproved in the hands of non-residents or absentees, who neither dwell on the land, nor cause it to be cultivated at all,

but their land lies in a wild state.” And in his famous “Report on Public Credit” (1790) Alexander Hamilton noted that the twenty-five to fifty percent drop in land prices since the American Revolution constituted a “serious calamity.” Some years later George Washington, himself a minor speculator, warned a friend thinking of investing in Kentucky lands to look instead to Natchez where there were no “clashing interests and jarring disputes.”¹²

Justices on the United States Supreme Court went even further by first identifying the problematic aspects of unregulated land markets, and then, in 1801, criticizing their political and legal foundations. Surveying practices, naturally, were the first to garner attention. In his concurrent opinion in *Sims Lessee v. Irvine* (1796), Justice James Iredell criticized informal and irregular surveys as being solely “the *private knowledge of a few particular persons*.” These were simply inadequate, he claimed, not only because of their accuracy, but because they could not be “officially ascertained, and officially known.” Instead, Iredell urged standardized surveying techniques. If done properly, Iredell wrote, “an actual survey, a regular report, and a correct record, can convey” the precise location of land claims, thereby cutting down the likelihood of legal disputes arising from conflicting claims. Most important, Iredell claimed that the real goal of a land system was to provide to the government “the information of the *public, from whom the grant is to be obtained*.” Iredell therefore claimed that a land market was an institution serving the public, and that as such, it required uniform regulations.¹³

As Iredell’s opinion took aim at the logistical problems that beset unregulated land markets, John Marshall, in his second case as Chief Justice, criticized the political agenda of Kentucky’s judiciary. *Wilson v. Mason* (1801), for example, was a caricature of the standard Kentucky land case of the late eighteenth century. One party, lacking legally sanctioned title, sued the other party, a claimant with an older, registered claim to title, with the first party being awarded the contested land. After an excursus touching on the flawed and impractical system of administration in Kentucky—citing, like Iredell in *Sims v. Lessee*, the lack of public access to records—Marshall got to the heart of the matter and attacked the Kentucky court’s redistributive logic on legal grounds. “The [D]istrict Court of Kentucky has erred,” he wrote, because “a survey not based on an entry is a void act and constituted no title whatsoever.” Marshall was perplexed as to how the Kentucky Court could legitimate a claim to title when no public foundation existed for such a claim. If the state’s land system did not acknowledge the validity of an individual’s claim, then, there was “no title whatsoever.” In Marshall’s opinion, then, a land system required proper administrative oversight, the foundation of which was the idea that, as Iredell put it, private property rights stemmed from a public grant to individuals.¹⁴

For all of this, though, the decline of the Kentucky land market would continue well into the antebellum period. On the other hand, the general political and legal critique of key aspects of unregulated land markets seems to have crystallized in the federal Land Law of 1800, a law that ‘officially’ announced the opening of the land business in the Northwest Territory, beginning with Ohio. The law’s key points were fourfold. First, federal employees would conduct the surveys not land claimants or their contracted employees. Second, all plots of land to be sold, called sections, would be exactly rectangular, replacing the irregularly shaped properties that arose from the metes and bounds method. Third, the state would value all land equally at \$2.50 per acre. Finally, and perhaps most important, land sales would take place at auctions conducted in federal land offices throughout the frontier.¹⁵ Although the federal government had previously attempted to sell land, the Land Law of 1800 would serve as the foundation of the federal land system throughout the nineteenth century. For the United States, as historian Paul Wallace Gates has shown, raising public revenue remained the paramount interest. Yet the new federal land market would have far reaching effects beyond the sphere of national finances. As in Kentucky, market, state, and society would become inextricably intertwined in Ohio, albeit with more positive, generative effects.¹⁶



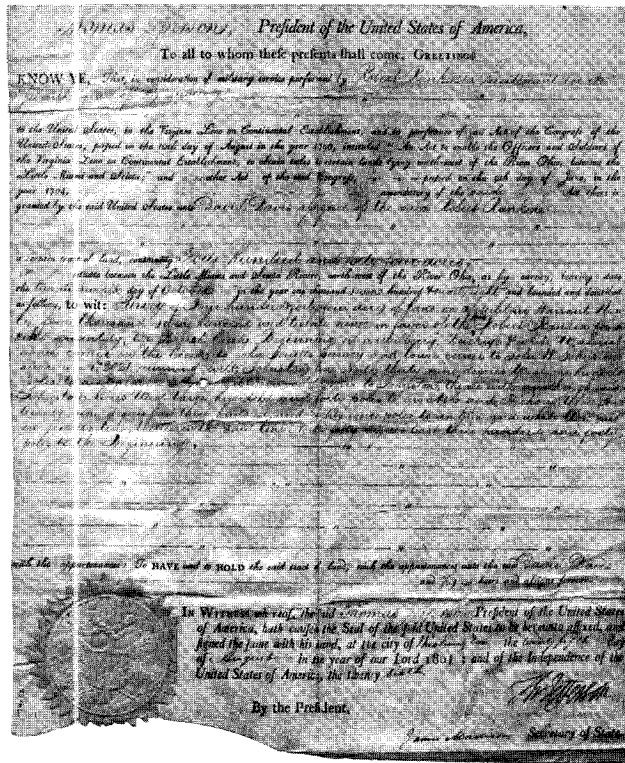
Ohio, ca. 1800 showing the Virginia Military District, west of the Scioto River and east of the Little Miami River. Cincinnati Museum Center, Cincinnati Historical Society Library

As he prepared to depart for the Ohio frontier, Thomas Worthington caught wind of the changing attitudes among national politicians toward land markets, the same attitudes that would generate the federal Land Law of 1800. Sensing opportunity, Worthington began lobbying hard for the prestigious position of Deputy Surveyor, calling on the “influence” of his elite friends. Worthington also wrote directly to the Surveyor General, and even used his January 1797 honeymoon in Philadelphia as an opportunity to curry favor with important congressional figures.¹⁷ His persistence appears to have paid off. Although the current Surveyor General Rufus Putnam had barely settled in to his post, the name Thomas Worthington “was early communicated to me by a gentleman of Virginia on whose recommendation I can rely.” When the time came for surveying, Putnam assured him, Worthington would be assigned as a Deputy Surveyor.¹⁸

In the early spring of 1798, Worthington was to survey lands north of the Ohio River, west of the Scioto River, and east of the Little Miami River. Un-

der this older legislation, surveyed lands would be sold at federal land auctions in Pittsburgh, New York, and Philadelphia, the direct goal of which was to raise money with which to pay down the ballooning national debt.¹⁹ Plagued by poor sales and logistical disasters, the federal government replaced this inadequate model of federal revenue generation two years later with the Land Law of 1800. But while the government learned something about its administrative capacity, Thomas Worthington absorbed a different lesson from his first experience as a federal official: that a federally protected land market posed distinct opportunities for simultaneous public and personal benefit.

In fact, Worthington's first lesson in exploiting a federally subsidized market came from applying an old speculator's mindset to public office. Under the pertinent federal land statute, as we have seen, surveys of Ohio lands were to be perfectly rectangular, with each section occupying precisely sixty-four acres. The bulky federal guidelines for conducting these surveys specified a uniform terminology and provided models for recording survey results. The surveyor would note a landmark and list its distance. Yet Worthington added an important, descriptive element to the federal model. Where the Surveyor General's example may have indicated "timber 20 lengths," Worthington would add a descriptive notation, such as "hilly poor timberland."²⁰ That Worthington's entire survey book is filled with descriptions of land as "good," "excellent," "poor," or even, "extremely poor" indicates his thinking, not simply about federal protocol, but also about the future *value*



Ohio Land Grant, August 25, 1801. Example of a land bounty deeded to Virginians for war service, which were to be redeemed in the unsettled western land. This is also in the area that Worthington surveyed in the spring of 1798. The Filson Historical Society

of these lands.²¹ Indeed, Worthington's flurry of correspondence with speculators from July 1798 to 1800 communicated the locations of these "good" lands, or lands worth investing in.²² Although the government had not yet put up these lands for sale, Worthington's information gave his clients a potential advantage in future federal land auctions.²³ More important, however, Worthington had discovered that well-connected entrepreneurs such as himself stood to gain greatly by working within the federal land system.

Of course, had the federal government not enacted new land legislation, Worthington's discovery might have been for naught. In May 1800, Congress approved the newest land bill and President John Adams signed it into law. The law created several federal land offices and located them throughout the frontier, including one office in the small frontier town of Chillicothe

in the Northwest Territory—not coincidentally, Thomas Worthington’s new home. The administrative historian Leonard White has argued that the Federalists sought well-known and respected local citizens for federal offices, mostly to provide a credible and aristocratic federal voice in individual localities. For the Land Office at Chillicothe, not surprisingly, President John Adams commissioned the Virginian of patrician stock, Thomas Worthington, to be chief officer, or Register.²⁴ If his position as Deputy Surveyor planted the seeds for Worthington’s future prosperity, his tenure as Land Office Register provided regular opportunity to grow those seeds to fruition.

After a year of preparations Worthington announced the opening of the federal land office in Chillicothe in April 1801, and the first auctions began some weeks later.²⁵ Land located next to water or that was known to have particularly fertile soil generally brought high bidding, as farmers, distillers, and speculators vied for “good land” and its promise of agricultural and commercial benefit.²⁶ Although auctions were generally brief in and of themselves, the ensuing paperwork kept Worthington and his accountant Samuel Findley busy for some time afterwards.²⁷ Indeed, it did not take long for the mountains of work connected with the land office to discourage Worthington. Writing to Gallatin just four months after the commencement of auctions in Ohio, Worthington complained that he had “for some time past intended to resign the office of Register.” “I find the business of the land office,” he continued, “confines me so much as to be injurious to my health.”²⁸

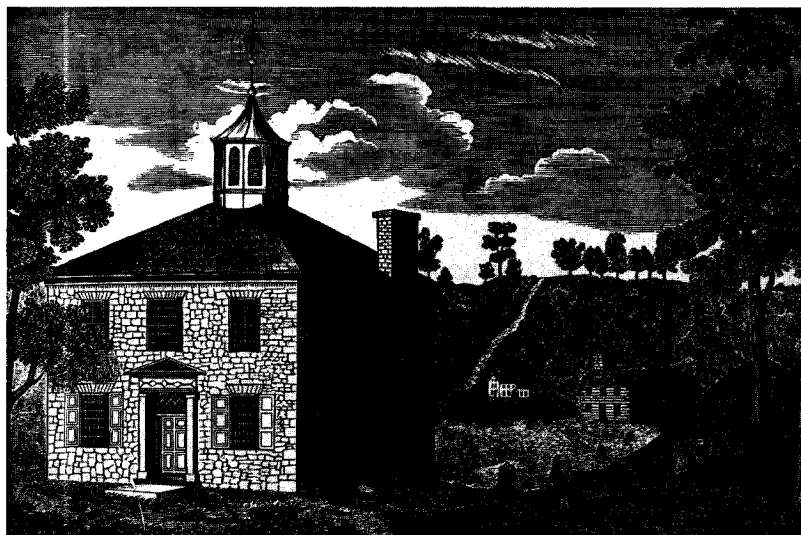
Initially, Worthington’s dissatisfaction with the land business stemmed from problems associated with the unexpected volume of purchasers. In addition to the large amount of paperwork, the office also required cleaning after an auction, as it was not uncommon for garbage to pile up, and worse, for spittoons to spill over. Clearly Worthington could not discourage people from using the Land Office and competing in land auctions, as that would be contrary to his role as a public official. Rather, Worthington complained loudly that staffing at the Land Office was “inadequate to the services rendered the publick.”²⁹

Worthington solved the vexing problem of inadequate personnel, and thus inefficiency, by adapting the Federal Land Law of 1800 to the market demand in Chillicothe through taxation. With absolutely no authority to do so, Worthington began imposing minor taxes on individual land purchases in order to finance the hire of two clerks and a janitor. When Virginian Isaac Van Meter purchased 1,230 acres at the standard \$2.50 per acre, he paid \$128 for the first installment, as specified by the Law of 1800. But Worthington’s tax system added another \$4.80, bringing the total to \$132.80.³⁰ While the precise economic effect of Worthington’s tax system is difficult to discern, once in place, land sales at Chillicothe skyrocketed. Consider that while a year’s worth of auctions at Pittsburgh under the earlier legislation sold 49,000 acres for

\$112,135, in only three weeks of sales in May 1801, Worthington's land office sold and processed 99,058 acres for just over \$220,000. With the tax system in place, Worthington reported \$400,000 in sales, a figure that would more than double by November, with a reported 398,646 acres sold.³¹ In fact in 1801, Worthington's Chillicothe land office sold more acreage (163,262.72) for more federal revenue (\$104,954.90) than would any land office in its first year of operation until well after the War of 1812.³²

A virtuous concern for the nation's fiscal welfare did not drive Worthington's visionary connection between administrative efficiency and public benefit. As an employee of the land office, after all, Worthington profited from its increased sales. According to the 1800 Law, Worthington worked largely on commission; his pay rate was a small fraction of the yearly sales at Chillicothe. More business for the land office thus meant more income for Worthington. Moreover, the law authorized the "private" sales of lands that found no takers at auction, and Worthington taxed these lands as well, often getting high prices from his wealthy friends.³³

Because Worthington's tax system was as legally dubious as it was efficient and profitable, it did not take long for his local political foes to draw attention to his rather expansive understanding of an administrator's discretionary power. Indeed, Worthington's political nemesis in the Northwest Territory, Governor Arthur St. Clair, fired the first salvo, complaining to the U.S. Secretary of the Treasury, Albert Gallatin, Worthington's direct superior, that the Chillicothe land register was



First Ohio State Capitol, Chillicothe. Cincinnati Museum Center, Cincinnati Historical Society Library

charging unmandated fees. When Gallatin asked Worthington for a response, the latter coolly pointed out the inadequacies of the Land Law of 1800. Worthington was "extremely sorry the Law is not more plain & free from doubt," but went to great pains to show that the law's inability to accommodate the Chillicothe market did not mean "I am blameable." So vague was the law of 1800, Worthington continued, that he needed to create ways to execute the law "as directed." In this case, because he was "obliged to keep 2 clerks[,]... , my own services, office rent, and other expenses," taxes were simply a way of defraying the costs of executing the law.³⁴ For Worthington to arrive at the ends of federal land policy, then, he believed he needed a free hand to manipulate the means.

Worthington's logic posed a dilemma for Secretary Gallatin, who clearly sympathized with his successful Ohio agent. On the one hand, it was clear that Worthington had exceeded his authority as Register. On the other hand, a cash-strapped government found Worthington's financial successes very attractive. As such, Gallatin took the path of least resistance, allowing the Ohio money to continue pouring in while asking Attorney General Levi Lincoln to investigate the legality of Worthington's system. When Lincoln found no legality to speak of—Worthington, he argued, had absolutely no authority whatsoever to tax purchasers of federal land without some act of Congress the Ohio agent persisted in making his case that the Land Office needed to be flexible enough to respond to the demands of the local market. In late July, 1801, Worthington tried switching tactics and turned to a legal argument. “[O]n a close examination of this Law (of 1800),” he argued, “it will be found that the duties of the register is [*sic*] so general & applicable to all lands sold” that “if a distinction was made in his duties,” it would be contrary to the terms of the law. Remarkably Worthington read the Land Law of 1800 as giving him autonomy to do as he pleased in order to execute a law “as directed.” Even more remarkable was the fact that Gallatin agreed with him. After a series of exchanges, Gallatin concluded that the attorney general's legal critique of the tax system was “only an opinion, and, that in that vein, it is not to be construed as binding, but merely as advice.” Although “a decision by a court...would be preferable,”³⁵ Gallatin wrote, Worthington was free to continue his tax system.

Not content with Gallatin's approval, though, the crafty Worthington realized that “a decision by a court” would effectively isolate his system, and the Chillicothe Land Office, from administrative interference at the local and federal levels. As a result, in July 1802, Worthington, in collusion with his local allies, decided to manufacture judicial approval of his fee system.³⁶ He persuaded Noah Lane—one of the largest benefactors of Worthington's “private” sales—to file suit against Worthington in the Fairfield County Court of Quarter Sessions.³⁷ Emanuel Carpenter, another close political ally, presided on the bench. Not surprisingly, the court unanimously decided in *Lane v. Worthington* that Worthington “was authorized to recover the fees and gave judgment in favour of the Defendant.”³⁸ It was, after all, a simple matter, as the court's decision confirmed an arrangement that seemed to work in the best interests of all involved.³⁹

Thomas Worthington's manipulations of market and public office for the mutual benefit of himself, third parties, and the federal government did not end with his tax system. Perhaps most important was Worthington's expansive reading of the federal mill preemption policy. Regarding preemptions, or discounts, for those that built mills, the Law of 1800 stated:

That each person who, before the passing of this act, shall have erected, or begun to erect, a grist-mill or saw-mill upon any of the lands herein directed to be sold, shall be entitled to the pre-emption of the section including such mill, at the rate of two dollars per acre: *Provided*, the person or his heirs, claiming such right of pre-emption, shall produce to the register of the land office satisfactory evidence that he or they are entitled thereto.⁴⁰



This grist mill in Fayette County, Kentucky, circa 1775, supposedly one of the oldest in northern Kentucky, would have been similar to grist mills built by settlers who wished to improve the value of their property. The Filson Historical Society

Read precisely, the law of 1800 entitled anyone who built or began to build a grist- or saw-mill to preemption if they could “produce to the register” some form of “satisfactory evidence” that the mill did or would exist. Mill preemptors then had a chance to lay claim to their land during the auction, or at any time the land office was open. Once approved, their claim allowed preemptors to purchase the land at a massively discounted rate. Preemptions were supposed to be subsidies to settlers who had “improved” the value of their land.⁴¹

For Worthington the language in the law raised another issue about the extent of the preemption for mills. The

law stated that if a person built a mill, the owner “shall be entitled to the pre-emption of the *section* including such mill.” Under the 1800 law a “section” was a unit of sale containing exactly 640 acres. Was this the same “section” mentioned in the mill-preemption clause? Worthington was unclear on the matter and wrote the Secretary of the Treasury, Oliver Wolcott, mentioning that such an interpretation might stimulate economic growth, or “policy,” by encouraging mill construction. For his part, Wolcott admitted the attraction of Worthington’s rationale. “[J]ustice and policy recommend,” he wrote, “that the Act should receive an interpretation favorable to the claimants.”⁴²

Indeed, Worthington would consistently interpret the mill preemption clause in favor of the preemptor, often with thin ‘evidence,’ in an attempt to encourage the development of the local and territorial economy.⁴³ As with his tax system, however, Worthington’s policy for mill preemptions eventually drew the attention of the Treasury Department. In 1802, Albert Gallatin acknowledged that mill preemptions were “provided for by the law,” but argued that “no precedent can be drawn” to support Worthington’s interpretation of the law. In Gallatin’s opinion, and that of the Attorney General, Levi Lincoln, Worthington had “followed a practice different from that which I consider as the most consistent with the law.” Attorney General Lincoln

also demanded that Worthington maintain a higher standard of evidence when issuing preemptions. “Most clearly,” Lincoln wrote, “none but such, who had actually made improvements” should be able to enter a “claim by the operation of this law.”⁴⁴

Again, however, Gallatin yielded to his subordinate Worthington, thinking it “better that you should on your own responsibility adopt...the same practice as had been pursued by you in similar cases.” So long as Worthington was consistent in his rulings in preemption cases, Gallatin claimed, no real problem existed. Whether or not Gallatin, like his predecessor Wolcott, saw the economic advantage of Worthington’s policy, he had given Worthington *carte blanche* to continue his practice of favoring personal and regional interests over the letter of federal statutes.⁴⁵

Worthington’s “designs” for expanding the number of mills in the Chillicothe land district enjoyed very little success. Settlers registered only a few preemptions under the sixteenth section of the Law of 1800, and none of these mills appear to have lasted very long.⁴⁶ Ironically, Worthington’s own mill holdings expanded rapidly from 1800 to 1802, so much so that a year later he would hire a staff to run his day-to-day businesses. Worthington also effectively recycled part of his profits back into the mills, thereby assuring they would be an enduring source of income.⁴⁷ As Worthington profited from these improvements, so would the area around Chillicothe, for through his mill-preemption policy, Worthington interpreted federal land policy to his and his constituents’ own advantage, benefiting his and his community’s business interests.

Thomas Worthington’s land business offers fascinating interpretive possibilities for making sense of the rise of the federal land business in the early nineteenth century. The beginnings of “mixed enterprise,” or the use of federal institutions to create improvement projects and commercial opportunity in the states, is clear. Worthington’s later political career only confirms his commitment to legislation that encouraged economic growth, whether personal or national. As an Ohio senator, he cast his first vote in favor of Jefferson’s Louisiana Purchase. He largely devised the legislation behind the Cumberland Road, not to mention the idea of using funds from the land business to cover construction costs. Finally, Worthington served as a commissioner for the Ohio Canal, perhaps the crowning achievement of the “mixed-enterprise” approach.⁴⁸

Most important, Worthington’s actions illustrate the interaction between land markets—local and national—and governance that decidedly shaped the Ohio Valley of the early republic. Politically-motivated legal entanglements in Kentucky affected the land market so drastically as to influence the construction of a vastly different type of market at the national level. With the failure of unregulated land markets the federal government sought to closely regulate land markets, and that formed a part of a larger, conscious effort to “subsidize economic growth.” Yet the larger

goal of the federally protected land market was to introduce stability and reliability into a market of great public importance in the early republic.⁴⁹ Taken together these interpretations suggest the possibility of a revision of key national narratives of the early republic in the areas of law, politics, nation-building at regional, and even local levels in light of the history of the Ohio Valley. Indeed, the national story does not make sense without studying the role that the Ohio Valley played in shaping national narratives. Yet neither does the national narrative of development make sense without taking into account self-interested individuals like Thomas Worthington who played a crucial role in applying national policies at the intersections of markets and governance, of private and public interests, and of personal economies and the exigencies of locality, state, region, and nation. ❧

The author would like to thank Kathleen Niels Conzen, William J. Novak, Edward Cook, Amy Dru Stanley, Jon Levy, Kyle Volk, Martin Tuohy, and Nerissa Hamilton-vom Baur for reading and commenting on this essay at various stages.

1. For the standard interpretation of Worthington, see Alfred Sears, *Thomas Worthington: Father of Ohio Statehood* (Columbus: Ohio State University Press, 1958). On the patrician world of colonial Virginia, see A.G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia Legal Culture, 1680-1810* (Chapel Hill: University of North Carolina Press, 1981), 136; Gwenda Morgan, *The Hegemony of the Law: Richmond County, Virginia, 1692-1776* (New York: Garland Publishing, 1989), 71, 72, 80. More generally see Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W.W. Norton & Co., 1975).
2. Sears, *Thomas Worthington*, 14. Worthington also displayed an early knack for business, as he successfully applied speculative profits toward a mercantile venture with Jon Blackford, a Baltimore merchant and old family acquaintance. Worthington was so successful in his mercantile and speculative projects that, by 1796, he employed a full time land agent, and sent Blackford in search of "fine china and mahogany" for his home. Jon Blackford to Thomas Worthington, January 6, 1796, Thomas Worthington Papers [hereinafter cited as WP], box 1, folder 1, Ohio Historical Society, Columbus, Ohio [hereinafter cited as OHS]. Sears summarizes this early history in *Thomas Worthington*, 16-17.
3. Joseph Swearingen to Worthington, February 8, 1796, WP, box 1, folder 1, OHS.
4. Sears, *Thomas Worthington*, 13. For literature on speculation practices, see Malcolm J. Rohrbough, *The Land Office Business: The Settlement and Administration of American Public Lands, 1789-1837* (New York: Oxford University Press, 1968), 301. Paul Wallace Gates' claim that speculators "contributed nothing" to the development of the frontier strikes a similar tone. See Gates, "Land Policy and Tenancy in the Prairie Counties of Indiana," *Indiana Magazine of History* 35 (Spring 1939): 25. See also Paul Wallace Gates, *Fifty Million Acres: Conflicts over Kansas Land Policy, 1854-1890* (Ithaca: Cornell University Press, 1954), 3-12.
5. Benjamin Horace Hibbard, *A History of Public Land Policies* (New York, 1924; reprint Gloucester, Mass.: Peter Smith, 1939), 116. King George III had issued the Proclamation of 1763, halting all western surveys and settlement until negotiations with hostile Native American tribes were complete. It was only in 1774, with "Lord Dunmore's War," that Virginian settlement in the west received royal sanction again. See Amelia Clewley Ford, *Colonial Precedents of our National Land System as It Existed in 1800* (Madison: University of Wisconsin Press, 1910). According to Paul Wallace Gates, Kentucky settlement in this period first clustered around the Bluegrass area, and then spread to the Green River. See Gates, *The Farmer's Age: Agriculture, 1815-1860* (New York: Harper and Row, 1960), 11. On the advantages this system posed for the wealthy, see Roy M. Robbins, "Preemption—A Frontier Triumph," *Mississippi Valley Historical Review* 18 (December 1931): 334.
6. Other than land bounties, there were two other major types of claims. Treasury payments were similar to war land bounties, except they were given for mercantile services instead of military services. Private claims were of two sorts. Foreign nationals who were landholders under a previous government needed only to present proof of title in order to have their holding validated by the United States. Also (and more commonly) squatters who had 'improved' land by building on it received their deeds for a small fee in what was known as preemption. See William Thomas Hutchinson, "The Bounty Lands of the American Revolution in Ohio" (Ph.D. diss., University of Chicago, 1927), 5-43 *passim*.
7. For a summary of surveying procedures, see John P. Snyder, *The Mapping of New Jersey: The Men and the Art* (New Brunswick: Rutgers University Press, 1973), 47-84 *passim*. If surveys themselves were problematic, the four-step process of gaining title was chaotic. First, claimants needed to purchase (or trade for) a land warrant from either the U.S. Treasury, U.S. military, or by preemption. The second step was to file an entry for the desired land with the county surveyor. Here, as in the actual surveying process, specific places were located with physical landmarks in the frontier landscape, such as trees, streams, and cabins. Within a year of the actual survey, the land office at Harrodsburg would receive the plat notes and a copy of the entry. Both the complexity of this process and the lengthy travel involved in visiting Harrodsburg discouraged small farmers from acquiring legal title and as a result, many squatters inhabited the Kentucky frontier. On the other hand, however, speculators stationed agents in Harrodsburg and environs. The Virginia Land Law of 1779, therefore, produced a situation wherein absentee landowners possessed land on which squatters were residing. Lowell H. Harrison and James C. Klotter, *A New History of Kentucky* (Lexington: The University Press of Kentucky, 1997), 16-55.
8. Thomas Ammons v. George Spears, in James Hughes, ed., *Report of the Cases Determined by the Late Supreme Court*

- of Kentucky, and by the Court of Appeals (Lexington: James Bradford, 1803) [ABA cited as 1 Ky (1 Hughes) 1787], 13; Benjamin Frye v. John Essry, 1 Ky (1 Hughes) 1795, 107. See also McClannahan v. Litton, in *ibid.*, 344.
9. Harrison and Klotter, *New History of Kentucky*, 54. Mary K. Bonsteel Tachau attends to the legal basis of the collapsing market in *Federal Courts in the Early Republic: Kentucky, 1789-1816* (Princeton: Princeton University Press, 1978), 169-90.
 10. Swearingen to Worthington, August 8, 1795, WP, box 1, folder 1, OHS.
 11. MacArthur to Worthington, February 4, 1797, WP, box 1, folder 1, OHS.
 12. Pelatiah Webster, "An Essay on the Extent and Value of our Western Unlocated Lands and the Proper Method of Disposing of Them, So As to Gain the Greatest Possible Advantage from Them," *Political Essays on the Nature and Operation of Money, Public Finances and Other Subjects* (Philadelphia: 1791; reprint New York: Burt Franklin, 1969), 494; Washington to Alexander Spotswood, November 23, 1794, in John C. Fitzpatrick, ed., *The Writings of George Washington from the Original Manuscript Sources* (Washington: Government Printing Office, 1958), v. 28, 182-90; Alexander Hamilton, "Report Relative to a Provision for the Support of Public Credit," in Harold C. Syrett, ed., *The Papers of Alexander Hamilton* (New York: Columbia University Press, 1962), v. 6, 72. For a discussion of other concerned voices criticizing unregulated land markets in national politics see Paul Wallace Gates, *History of Public Land Law Development* (Washington, D.C.: Government Printing Office, 1968), 123-25.
 13. Sims, Lessee v. Irvine (1796), in James Dallas, ed., *United States Reports* (Philadelphia: J. Ormond, 1799), v. 3 [ABA cited as 3 U.S. (3 Dallas) 1796], 456, 460-64. See also *Pennsylvania v. Tench Coxe, Esq.* (1800), in James Dallas, ed., *United States Reports* (Washington City: Fry and Kramer, 1807), v. 4 [ABA cited as 4 U.S. (4 Dallas) 1800], 204-5., where the Court opined that "innumerable mischiefs, and endless confusion, would ensure, from individuals taking upon themselves to judge when warrants and surveys cease to have validity, and making entries on such lands at their will and pleasure."
 14. *George Wilson v. Richard Mason* (1801), in William Cranch, ed., *United States Reports* (Washington City: Fry and Kramer, 1807), v. 5 [ABA cited as 5 U.S.(1 Cranch) 1801], 45, 94, 95. Marshall's ruling fits into what historian William J. Novak has persuasively argued was the broad vision of the public responsibilities of private property-holders that dominated antebellum law. See William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth Century America* (Chapel Hill: University of North Carolina Press, 1997), 128-48.
 15. "An Act to amend the act entitled 'An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky River,' Act of May 10, 1800, 2 Stat 73, May 10, 1800 (hereinafter Land Law of 1800); Rohrbough, *Land Office Business*, 21-23.
 16. Gates, *History of Public Land Law Development*, 121-22. Both Gates and Malcolm Rohrbough provide good summaries of earlier federal land legislation.
 17. Recounted in Sears, *Thomas Worthington*, 16.
 18. James Woods to Worthington, December 16, 1796, WP, box 1, folder 1, OHS; Rufus Putnam to Worthington, December 1, 1796, WP, box 1, folder 1, OHS; Sears, *Thomas Worthington*, 17.
 19. Oliver Wolcott to Rufus Putnam, March 31, 1798, Record Group 49: Letters Sent by the General Land Office to the Surveyor General, 1796-1901, National Archives Microfilm Publication, reel 27, National Archives and Records Administration, Washington, D.C. [hereinafter cited as RG 49, M27, NARA, DC]; Putnam to Worthington, April 7, 1798, RG 49, M27, NARA, DC. See also, Putnam to Worthington, February 17, 1798, WP, box 1, folder 2, OHS. The earlier legislation is "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky River," Act of May 18, 1796, in Richard Peters, ed., *United States Congress: The Public Statutes at Large of the United States of America* (Boston: Charles C. Little and James Brown, 1845), v. 1 [ABA cited as 1 Stat 1796], 464, 467. See Putnam to Oliver Wolcott, March 9, 1798, *Territorial Papers of the United States* (Washington: Government Printing Office, 1934), v. 2, 643.
 20. "General Instructions to Deputy Surveyors," WP, box 15, folder 15, OHS; "Form of Chain Carrier's Oath, Signed by HB and DL," WP, box 15, folder 15, OHS.
 21. In his earlier travel through the Ohio lands, Worthington also took notes on another considerable advantage of the lands between the Scioto River and the Miami River; they were well supplied by salt mines. Alexander White III to Worthington, April 15, 1797, WP, box 1, folder 1, OHS.
 22. Creighton to Worthington, July 21, 1798, WP, box 1, folder 2, OHS; J. Brown to Worthington, July 6, 1798, WP, box 1, folder 2, OHS. On the "informational" role of surveyors see Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987), 41.
 23. See for example, Worthington's correspondence with the wealthy senator from Pennsylvania, James Ross. James Ross to Worthington, March 6, 1799, WP, box 1, folder 3, OHS.
 24. Israel Ludlow to Thomas Worthington, May 15, 1800, WP, box 1, folder 4, OHS; Rufus Putnam to Thomas Worthington, June 6, 1800, WP, box 1, folder 4, OHS. On the selection of land personnel, see Leonard D. White, *The Federalists: A Study in Administrative History* (New York: MacMillan, 1948), 317, 384-85.
 25. *Scioto Gazette*, April 30, 1801.
 26. Richard Scamyhorn and John Steinle, *Stockades in the Wilderness: The Frontier Defenses and Settlements of Southwestern Ohio, 1788-1795* (Dayton, Oh.: Landfall Press, 1986), 13. On the effect of the opening of the federal land office on speculators in general, see Randolph Chandler Downes, *Frontier Ohio, 1788-1803* (Columbus: Ohio State Archaeological and Historical Society, 1935), 64.
 27. If a purchaser lodged a successful bid, he received a receipt from the crier indicating the location of the land. The purchaser then took this receipt to the Receiver of Public Monies, Samuel Findley, who would take either the first payment or a statement of credit, stipulated by the 1800 Law to be a quarter of the total price. He issued a second receipt and the purchaser took both to the register, who would mark the sold lands on a map of the entire district. As this map was open for scrutiny even when auctions were not underway, the office received a fair amount of traffic on a daily basis. See Worthington to Gallatin, July 2, 1801, in *Territorial Papers*, v. 3, 149; see also Rohrbough *Land Office Business*, 43; Land Law of 1800, in Richard Peters, ed., *United States Congress: The Public Statutes at Large of the United States of America* (Boston: Charles C. Little and James Brown, 1845), v. 2 [hereinafter cited as 2 Stat], 73, 77.

28. Worthington to Gallatin, July 2, 1801, in *Territorial Papers*, v. 3, 149. According to Verne Chatelain, land officers were often unhappy with the stress of their occupation. See Verne E. Chatelain, "The Public Land Officer on the Northwestern Frontier," *Minnesota History* 12 (1931): 379.
29. Worthington to Gallatin, August 21, 1801, *Territorial Papers*, v. 2, 168.
30. "Tiffin, VanMeter, Massie," Selected Records of the Land Office, Land Patents, WP, box 15, folder 22, OHS. See Sears, *Thomas Worthington*, 41. The staffing shortage under the Land Law of 1800 is what John Lauritz Larson has called a "problem of implementation" endemic to early federal statutes. While the ends of public legislation aligned with larger political programs, the means were often vague and unspecific. John Lauritz Larson, *Internal Improvements: National Public Works and the Promise of Popular Government in the Early United States* (Chapel Hill: University of North Carolina Press, 2001), 4.
31. Rohrbough, Land Office Business, 44.
32. "Exhibit D," United States Congress, *American State Papers: Documents, Legislative and Executive of the Congress of the United States, Selected and Edited Under the Authority of Congress, Public Lands* (Washington, D.C.: Gales and Seaton, 1832-1861), v. 2, 372. This figure is after deductions for paying surveying expenses.
33. Land Law of 1800, 2 Stat 73, 77. It was this type of enterprise that Randolph Downes calls speculation in "the true sense," as Worthington, Massie, and MacArthur were able to deploy "hard-earned knowledge of the geography of the country, the soil, the course of trade and other factors influencing the general trend of settlement." See Downes, *Frontier Ohio*, 75.
34. Worthington to Gallatin, July 2, 1801, in *Territorial Papers*, v. 3, 149; see also Worthington to Gallatin, May 11, 1801, discussed in Sears, *Thomas Worthington*, 40. Interestingly, Worthington also complained that St. Clair had no jurisdiction over the land office.
35. Gallatin to Worthington, August 15, 1801, Record Group 49: Miscellaneous Letters Sent by the General Land Office, 1796-1889, National Archives Microfilm Publication No. 25, reel 1, National Archives Records Administration, Great Lakes Branch, Chicago, Illinois [hereinafter cited as NARA, Great Lakes].
36. No federal guidelines for administrative review existed. Indeed, as this affair shows, the federal government solved logistical and administrative problems by trial and error. This seems to point all the more toward a history of federal administration that compares statutory language with the day-to-day affairs of offices and officers dispersed throughout the country.
37. Noah Lane logged seventeen separate entries in the register's ledger book for 1801. Five were purchases of lands on "Worthington's Survey," and each was the only entry made for that business day, an indication that Worthington offered the land only to Lane. Lane's purchases tended to be in ranges that had already been auctioned to the public. For example, his purchase on July 21, 1801, was for land in Range 17, whereas public auctions had already moved forward to Range 20. Record Group 49: Records of the General Land Office—Ohio—Chillicothe, 1801-1824, Credit Applications, 1801-1803, Chillicothe, v. 81, NARA, Great Lakes.
38. "July, 1802," Fairfield County Court of Quarter Sessions & Common Pleas, Minute Book, 1801-1817, item GR 3542, 9, OHS. Noah Lane logged seventeen separate entries in the register's ledger book for 1801.
39. It is worth noting that Worthington and his coterie complained to President Jefferson when Territorial Governor Arthur St. Clair began charging fees to process marriage, mill, and tavern licenses. Writing to Massie in January 1802, Worthington claimed that "The recurring fees by him in any case not authorized by law is a proper object of complaint." While this episode, and the enormously popular anti-St. Clair movement in general, was motivated by party politics, the tactic and the timing are interesting. See Worthington to Massie, January 17, 1802, WP, box 2, folder 1, OHS. Generally, see Beverley W. Bond, Jr., *The Civilization of the Old Northwest: A Study of Political, Social, and Economic Development* (New York: MacMillan, 1934), 117.
40. Land Law of 1800, 2 Stat 73, 78.
41. Robbins provides a useful description of preemption in "Preemption—A Frontier Triumph," 331-49.
42. Wolcott to Worthington, August 21, 1800, WP, box 1, folder 4, OHS.
43. See for example the entries in the Land Office ledgers regarding John Derush, a farmer of some means who Worthington awarded a preemption with absolutely no evidence that he deserved one. Record Group 49: Credit Applications—Chillicothe, vol. 83, NARA, Great Lakes.
44. Levi Lincoln to Secretary of State James Madison, December 29, 1801, Record Group 60: Letters from and Opinions of Attorneys General, 1791-1811, National Archives Microfilm Publications, T326, reel 1, NARA, Great Lakes.
45. Gallatin to Worthington, October 25, 1802, RG 49, M25, NARA, DC. Gallatin more likely did not want continued complaints from the frontier about the land business. See Gallatin to Worthington, August 18, 1801, RG 49, M25, NARA, DC.
46. Bennett, *The County of Ross*, 69.
47. Sears, *Thomas Worthington*, 26; D. Vertner to Worthington, November 18, 1800, WP, box 1, folder 4, OHS.
48. Carter Goodrich, *Government Promotion of American Canals and Railroads, 1800-1890* (New York: Columbia University Press, 1960), 24. On the Cumberland Road project, see Larson, *Internal Improvements*, 54-56. In 1802, Worthington co-authored the Ohio Enabling Act that officially made Ohio a state. The Enabling Act provided that three percent of the revenue of the land offices at Chillicothe, Steubenville, Marietta, and Zanesville would be for "road-building." For a general synopsis of Worthington's career in the Senate, see William A. Taylor, *Ohio in Congress From 1803 to 1901, With Sketches of Senators and Representatives and Other Historical Data and Incidents* (Columbus: Century Publishing, 1900), 33-34. It is worth noting that as the Cumberland Road meandered through the Chillicothe Land District, a number of Worthington's former clients were handsomely paid for their land. Winn Winship, the original beneficiary of Worthington's tax system (he was hired as a clerk), was one of these men, as in 1801 he had purchased land (Section 12, Township 10, Range 21), directly in the path of the Cumberland Road.
49. The instrumental application of law to "subsidize economic growth" in the private sphere is the subject of Morton J. Horwitz, *Transformation of American Law, 1780-1860* (Cambridge: Harvard University Press, 1977), 63-108 *passim*. On the other hand, William J. Novak, shows that legal change at the everyday level in state courts served to provide the type of public standards that I argue for here. Novak, *The People's Welfare*, 19-50 *passim*.