THE POLITICS OF FAIR PLAY

By George D. Wolf*

BETWEEN 1769 and 1784, in an area some twenty-five miles long and about two miles wide located on the north side of the West Branch of the Susquehanna River extending from Lycoming Creek (present Williamsport) to the Great Island (just east of present Lock Haven), some one hundred to one hundred fifty families settled. They established a community and a political organization called the Fair Play system. This paper concerns these people and their politics.

The political system of the predominantly Scotch-Irish squatters in the Susquehanna Valley along the West Branch offers a vivid

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demonstration of the impact of the frontier on the development of democratic institutions. Occupying lands beyond the reach of the provincial legislature, with some forty families of mixed national origin in residence by 1773, these frontier "outlaws" had to devise some solution to the question of authority in their territory.¹ Their solution was the extra-legal creation of de facto rule historically known as the Fair Play System. The following is a contemporary description of that system:

There existed a great number of locations of the 3d of April, 1769, for the choicest lands on the West Branch of Susquehanna, between the mouths of Lycoming and Pine Creeks, but the proprietaries from extreme caution, the result of that experience, which had also produced the very penal laws of 1768 and 1769, and the proclamation already stated, had prohibited any surveys being made beyond the Lycoming. In the meantime, in violation of all law, a set of hardy adventurers had from time to time seated themselves on this doubtful territory. They made improvements, and formed a very considerable population. It is true, so far as regarded the rights of real property, they were not under the protection of the laws of the country; and were we to adopt the visionary theories of some philosophers, who have drawn their arguments from a supposed state of nature, we might be led to believe that the state of these people would have been a state of continual warfare; and that in contests for property the weakest must give way to the strongest. To prevent the consequences, real or supposed, of this state of things, they formed a mutual compact among themselves. They annually elected a tribunal, in rotation, of three of their settlers, whom they called fair-play-men, who were to decide all controversies, and settle disputed boundaries. From their decision there was no appeal. There could be no resistance. The decree was enforced by the whole body, who started up in mass, at the mandate of the court, and execution and conviction was as

¹Colonial Records (Harrisburg, 1852), X, 95. The Fair Play Settlers were outlawed by a proclamation of the Council signed by the governor, John Penn, on September 20, 1773. The proclamation was issued "strictly enjoining and requiring all and every Person and Persons, already settled or Residing on any Lands beyond the Boundary Line of the Last Indian Purchase, immediately to evacuate their illegal Settlements, and to depart and remove themselves from the said Lands without Delay, on pain of being prosecuted with the utmost rigour of the Law." The "Last Indian Purchase" referred to here is, of course, the Stanwix Treaty of 1768.
sudden and irresistible as the judgment. Every newcomer was obliged to apply to this powerful tribunal, and upon his solemn engagement to submit in all respects to the law of the land, he was permitted to take possession of some vacant spot. Their decrees were, however, just; and when their settlements were recognized by law, and fair play had ceased, their decisions were received in evidence, and confirmed by judgments of courts.\(^2\)

The idea of authority from the people was nothing new; in fact, it is as old as the Greeks. Nor is the concept of a “social compact,” here implied, particularly novel to the American scene. The theory was that people hitherto unconnected assembled and gave their consent to be governed by a certain ruler or rulers under some particular form of government.\(^3\) Theoretically justified by John Locke in his persuasive defense of the Glorious Revolution, it had been practiced in Plymouth, Rhode Island, Connecticut, and New Hampshire where practical necessity had required it for settlements made outside charter limits. The frontier, whether in New England or in the West Branch Valley, was that practical necessity which made popular consent the basis of an actual government.

Although not “covenanters” in the Congregationalist sense of bringing an actual church with them to the Fair Play territory, the Fair Play settlers understood and subscribed to the principle of popular control involved in such solemnly-made and properly-ratified agreements. Separated from the authority of the crown, detached from the authority of God by the Protestant Reformation, possessing no American tradition of extensive political experience, these settlers could only depend upon themselves as proper authorities for their own political system.

Furthermore, the great majority of the settlers who came to the Fair Play territory came from families who had been driven from their homes in the old country by political, economic, and social persecutors, only to be hounded from the settled areas in

\(^2\) John F. Meginness, Otzinachson (Philadelphia, 1875), pp. 169-170. The contemporary is Charles Smith and his Laws of the Commonwealth of Pennsylvania (Philadelphia, 1810), II, 195 was Meginness’s source.

their new homes by those who found them undesirable. Displaced persons of this new country, they were forced by lives of conflict to seek better opportunity in underdeveloped lands. As a result, they settled along the West Branch of the Susquehanna, beyond the malice of the crown and outside the pressures of the provincial legislature.

If man is a predatory beast in his natural state, a belief some frequently expressed in the eighteenth century, then it follows naturally that every society must have some agency of authority and control. The universally standardized solution to the problem of social control is government. The Fair Play System was the answer on this Susquehanna frontier to the need for some legitimate agency of force. This system sustained the people as the source of authority through annual elections of a tribunal of three of their number who were given quasi-executive, legislative, and judicial powers over all the settlers in the West Branch Valley "beyond the purchase line."

Although no record of any of these elections has been preserved, the composition of the Fair Play Tribunal in 1776 has been established and verified by subsequent reviews of land claims in the county courts. Also, two of the members of the Tribunal

4 This Fair Play System was certainly not unique, for other frontier societies employed the same technique, even down to the ruling tribunal of three men. See Solon and Elizabeth Buck, *The Planting of Civilization in Western Pennsylvania* (Pittsburgh: University of Pittsburgh Press, 1939), pp. 431 and 451. However, it must be pointed out that the Bucks' "Fair Play" reference is based upon *Smith's Laws*, II, 195, which Samuel P. Bates used in "a general application of the practice to W. Pa. areas after 1768," in his *Greene County* (Chicago, 1888), according to Dr. Alfred P. James. This was the interpretation given me in a letter from Dr. James, dated July 16, 1963. Dr. James also states that "It is possible that there are evidences of Fair Play Men titles in the court records of Washington and Greene Counties."

5 This designation was often employed to classify those settlers who took up lands beyond the limits of the Treaty of Fort Stanwix in 1768; that is to say, west of Lycoming Creek on the north side of the West Branch of the Susquehanna.

6 Helen Herritt Russell, "Signers of the Pine Creek Declaration of Independence," *Proceedings of the Northumberland County Historical Society*, XXII (1958), 5. Mrs. Russell, whose historical accuracy can be verified through her indicated sources, refers to old borough minutes of Jersey Shore as her source for the names of the Tribunal of 1776, namely, Bartram Caldwell, John Walker, and James Brandon. Upon discussing the matter with her, I learned that a clipping from an old Jersey Shore paper, now lost, which described the minutes was her actual source. Furthermore, Bratton Caldwell (he signed his name Bartram) is also labeled a Fair Play official by John B. Linn in his "Indian Land and Its Fair-Play Settlers, 1773-1785."
of 1775 are identified in a pre-emption claim made before the Lycoming County Court in 1797.

Lacking returns of the annual elections of the Tribunal and minutes of its actual meetings, we have only Smith's Laws, petitions from the Fair Play settlers, and the subsequent review of land questions by the Northumberland and Lycoming County Courts to evaluate the Tribunal, its members, and its procedures. However, these data are more than adequate in giving us a picture of this de facto, though illegal, rule which existed in the West Branch Valley until the Treaty of Fort Stanwix in 1784 brought the territory under Pennsylvania jurisdiction. The composition of the electorate varied with the fluctuations in population influenced by the two Stanwix treaties, the Revolution, and the Great Runaway.

Since property and religious qualifications were the primary prerequisites to voting at this time, it seems logical to assume that a similar basis for suffrage operated in the West Branch Valley. Having no regular church, the first (Presbyterian, of course) not being organized until 1792, property qualifications appear to have been the basis for what, in this area, was practically universal manhood suffrage. Due to the fact that the entire population was a squatter settlement, all of the heads of households were property owners regardless of the questionable legality of their holdings. The tax lists indicate holdings of some one hundred to three hundred acres on the average, so it is difficult to interpret whether or not a minimal holding requirement prevailed. The provincial suffrage requirement in this period was generally fifty acres of land or £50 of personal property.

Although the Fair Play territory, as such, endured for a fifteen-

which appeared in the Pennsylvania Magazine of History and Biography, VII (1883), 422. A series of relevant papers which were read before the Northumberland County Historical Society in 1957, one of which is referred to here, were reprinted in one volume titled The Documented Story of the Fair Play Men and Their Government (Jersey Shore, 1958).

"Eleanor Coldren's Deposition," Now and Then, XII, No. 9 (October, 1959), 220-222. The deposition reads, "That in the Spring of 1775, Henry Antes and Cookson Long, two of the Fair-Play Men, with others, were at deponent's house. . . ."

Oscar T. Barck, Jr., and Hugh T. Lefler, Colonial America (New York: Macmillan, 1958), pp. 258-260. Although Barck and Lefler indicate in this section on "The Colonial Franchise," that universal suffrage did not prevail in the colonies, they do note the significance of "free land," of which Fair Play territory was an excellent example.

Ibid., p. 260.
year period from 1769 to 1784, it appears that the actual operation of a distinctly political system, classified as Fair Play, was for a much lesser period of about five years, from 1773 to 1778. This is due to the fact that only "forty improvements," meaning forty family settlements, existed in the area by 1773; and, following the Great Runaway of 1778, the territory was practically void of settlers. The void was filled when settlers began returning toward the end of the Revolution and following the accession of the territory in the second Stanwix Treaty of 1784; but for all practical purposes, the operation of the Fair Play System is confined to the more limited time. Furthermore, the system was supplemented in 1776 by the introduction of the Committee of Safety, and later in that same year, by the Council of Safety.

As indicated in Smith's Laws, annual meetings were held for the purpose of selecting a governing tribunal for the ensuing year. Generally assembled at some convenient, readily accessible place, these sessions were held in the open or at one of the frontier forts erected in the area: Fort Antes, across the river from Jersey Shore; or Fort Horn, which was located on the south side of the Susquehanna about eight miles west of Jersey Shore. There were frontier forts in the vicinity of the present Muncy and Lock Haven, Fort Muncy and Fort Reed; but Fort Muncy was some twenty-odd miles east of the Fair Play territory, and Fort Reed was beyond the Great Island at its western extremity. As a result, these outposts were unlikely meeting places for the Tribunal or for its election. Unfortunately, there is no recorded evidence of a specific meeting of the Fair Play Men.

The authority of the Fair Play Tribunal extended across the entire territory from Lycoming Creek to the Great Island on the north side of the West Branch of the Susquehanna. However, most of the disputed cases, which can be validated by subsequent court reviews in either Northumberland or Lycoming counties, seem to involve land claims in the area between Lycoming and

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Pine Creeks. The Tribunal accepted or rejected claims for settlement in the area, and decided boundary questions and other controversies between settlers. As to a specific code of laws, there is none of record. However, the cases subsequently reviewed in the established county courts refer to some of their regular practices. For example: any man who left his improvement for six weeks without leaving someone to continue it, lost the right to the improvement; any man who went into the army could count on the Fair Play Men to protect his property; any man who sought land in the territory was obliged to obtain not only the approval of the Fair Play Men but also of his nearest potential neighbors; and, the summary process of ejectment which the Fair Play Men exercised was real and certain and sometimes supported by the militia.

Specific membership of the Fair Play Tribunal is rather difficult to ascertain due to the failure to keep minutes of its proceedings and the absence of any recorded code. However, as indicated earlier, the existence of the Tribunal between the years 1773 and 1778 and its actual composition in 1775 and 1776 have already been established from the review of its decisions by the Circuit Court of Lycoming County. Assuming the principle of rotation from a contemporary description, some eighteen settlers held the positions of authority during the years noted. The Scotch-Irish settlers enjoyed the majority representation on the Tribunal as they did in the population. Consequently, they were, in the main, the political leaders of the area.

15 Ibid., 422. Bratton Caldwell, one of the Fair Play Men indicates this practice in his deposition in the Greer v. Tharpe case. See also, Toner, Thomas v. Morgan Sweeney, No. 5, May 1783, in the Appearance Docket for Northumberland County, May 1776-August 1783.
16 "Eleanor Coldren's Deposition," Now and Then, XII, No. 9 (October, 1959), 220-222.
17 Linn, "Indian Land and Its Fair-Play Settlers, 1773-1785," PHLB, VII (1883), 422-424. William King, in his deposition taken March 15, 1801, in Huff v. Satcha [sic], in the Circuit Court of Lycoming County, notes the use of a company of militia, of which he was an officer, to eject a settler. Linn errs in his reference to the defendant as "Satcha." The man's name was Latcha according to the Appearance Docket Commencing 1797, No. 2, Lycoming County.
18 See footnotes 6 and 7 above.
19 Smith's Laws, p. 195.
A search of some sixty cases in the Court of Common Pleas in both Northumberland and Lycoming counties yielded some documentary evidence regarding the procedures of the Fair Play Tribunal. Three cases in Lycoming County and two from Northumberland County contain depositions which describe the activities of the Fair Play Men in some detail. One case, Hughes v. Dougherty, was appealed to the Supreme Court of the Commonwealth. All of the cases deal with the question of title to lands in the Fair Play territory following the purchase of these lands at the Treaty of Fort Stanwix in 1784. The depositions taken in conjunction with these cases indicate the processes of settlement and ejectment in addition to the policies regarding land tenure. The justice of the Fair Play decisions is noted by the fact that the regular courts concurred with the earlier judgments of the Tribunal.

An anecdote involving one of the Fair Play Men, Peter Rodey, illustrates the nature of this frontier justice. According to legend, Chief Justice Thomas McKean of the State Supreme Court was holding court in this district and, curious about the principles or code of the Fair Play Men, he inquired of Peter Rodey, a former member of the Tribunal. Rodey, unable to recall the details of the code, simply replied: “All I can say is, that since your Honor’s courts have come among us, fair play has entirely ceased, and law has taken its place.”

The justice of “fair play” and the nature of the system can be seen from an analysis of the cases reviewed subsequently in the established courts. As mentioned previously, these cases describe the procedures regarding settlement, land tenure, and ejectment. Although no recorded code of laws has been located, references to “resolutions of the Fair Play Men” regularly appear in the depositions and summaries of these cases.

20 The Appearance Dockets and Files were checked for Northumberland County from 1784 to 1795 and for Lycoming County from 1795 to 1801. These records, obtained in the offices of the respective prothonotaries, produced thirty-eight cases in Northumberland and twenty-two in Lycoming County dealing with former Fair Play settlers. Unfortunately, only five were reviews of actual Fair Play decisions.

21 Northumberland County originated in 1772 and Lycoming County in 1795. Clinton County was not created until 1839.

22 The cases referred to here are: Hughes v. Dougherty, Huff v. Latcha, Toner v. Sweeney, and Grier v. Tharpe. They were located in the Appearance Dockets of Lycoming and Northumberland Counties in the respective
According to James G. Leyburn, a customary "law" concerning settlement rights operated on the frontier, particularly among the Scotch-Irish. This "law" recognized three settlement rights: "corn right," which established claims to one hundred acres for each acre of grain planted; "tomahawk right," which marked off the area claimed by deadening trees at the boundaries of the claim; and "cabin right," which confirmed the claim by construction of a cabin upon the premises. If the decisions of the regular courts are at all indicative, Fair Play settlement was generally based upon "cabin right." However, the frequent allusion to "improvements" implies some secondary consideration to what Leyburn has defined as "corn right."

In the case of John Hughes v. Henry Dougherty, the significance of "improvements," or "corn rights," vis-a-vis "cabin rights" is particularly noted. Summarized in Jasper Yeates's Pennsylvania Reports, that significance is emphasized in addition to the definition of a Fair Play "code" pertaining to land tenure. An ejectment case, it demonstrates the practicality and justice of a resolution of the Fair Play Men which provided that "If any person was absent from his settlement for six weeks, he should forfeit his right."

James Hughes, a brother of John, had settled on the disputed land in 1773 and made some improvements. Another brother, Thomas, also resided in the Fair Play territory and was at the time one of the Fair Play Men. When, over a year later, James left his property and went to his father's in Lancaster County, Thomas fell heir to the property.

Subsequently, Henry Dougherty came to the territory and was prothonotary's offices. Hughes v. Dougherty appears in the Northumberland County Docket for November 1783 to August 1786 in the February term of the Court of Common Pleas, file No. 2. Toner v. Sweeney, also from the Northumberland County docket, was located in the docket for May 1776-August 1783, No. 5. Both the Huff and Grier cases were found in the Lycoming County Docket No. 2, commencing 1797, court terms and file numbers indicated as follows: Huff v. Latcha, February, 1799, No. 2, and Grier v. Tharpe, May 1800, No. 41. A partial deposition by Eleanor Coldren, which was published in Now and Then, XII, No. 9 (October, 1959), 220-222, was also employed. Although the case appears to be Dewitt v. Dunn, I could not locate it in the Appearance Dockets. Depositions taken in the Huff and Grier cases were published in Linn, "Indian Land and Its Fair-Play Settlers, 1773-1785," PMHB, VII (1883).


advised by the Fair Play Men to settle on the Hughes improvement. This occurred in 1775. After building a cabin on the premises, he was driven off by John and Thomas Hughes. However, not to be denied his right, Dougherty returned with some friends and drove the Hughes brothers from his property which he continued to improve until he himself was routed in the Great Runaway of 1778.

After the Revolutionary War, both John Hughes and Henry Dougherty sought to take possession of the disputed 324 acres and, in fact, Hughes received a warrant for the land which both were claiming under the pre-emption right of the act of the General Assembly of 21 December 1784. This act provided that the Fair Play settlers, by virtue of "Their resolute stand and sufferings during the late war . . . should have the pre-emption of their respective plantations."\(^{26}\)

Which of the Fair Play settlers, John Hughes or Henry Dougherty, was entitled to the land? The Fair Play Men, despite Thomas Hughes's personal involvement, said it was Henry Dougherty on the basis of their resolution concerning land tenure. The Northumberland County Court, where the case was entered in 1786, agreed. Dissatisfied with the decision, Hughes appealed to the State Supreme Court, which decided against him in 1791.

The completeness of this case marks its usefulness. Its summary runs the gamut of Fair Play procedures from settlement, through questions of tenure, to ejectment. Partial and occasional depositions in other cases help to round out the picture of the Fair Play "code."

For example, the right of settlement included not only the approval of the Fair Play Men but also the acceptance of the prospective landholder by his neighbors. Allusions to this effect are noted in the Coldren deposition as well as in the case of Huff v. Latcha. Eleanor Coldren's deposition, made at Sunbury, June 7, 1797, concerns the disputed title to certain lands of her deceased husband Abraham Dewitt opposite the Great Island. Her comments about neighbor approval demonstrate the point. She says, for instance, that "in the Spring of 1775, Henry Antes and Cookson Long, two of the Fair Play Men, with others, were at the deponent's house, next below Barnabas Bonner's Improvement,

\(^{26}\) Smith's Laws, p. 195.
where Deponent's Husband kept a Tavern, and heard Antes and Long say that they (meaning the Fair-Play Men) and the Neighbors of the Settlement had unanimously agreed that James Irvin, James Parr, Abraham Dewitt and Barnabas Bonner should . . . have their Improvement Rights fitted, . . .” She speaks of the resolution of the claims problem “as being the unanimous agreement of the Neighbors and Fair-Play Men. . . .”

William King, who temporarily claimed part of the land involved in the dispute between Edmund Huff and Jacob Latcha, also refers to neighbor approval in his deposition taken in that case. He said: “I first went to Edmund Huff, then to Thomas Kemplen, Samuel Dougherty, William McMeans, and Thomas Ferguson, and asked if they would accept me as a neighbor. . . .”

Land tenure policy is noted by this same William King in the case of James Grier v. William Tharpe. Repeating what we have already pointed out in the case of Hughes v. Dougherty, King testified that “there was a law among the Fair-play men by which any man, who absented himself for the space of six weeks, lost his right to his improvement.” In Huff v. Latcha, King recounts the case of one Joseph Haines who, “had once a right . . . but had forfeited his right by the Fair-play law. . . .”

The forfeiture rule was tempered, however, in cases involving military service. Bratton Caldwell’s deposition in Grier v. Tharpe is a case in point. Caldwell, one of the Fair Play Men in 1776, declared that “Greer went into the army in 1776 and was a wagon-master till the fall of 1778. . . . In July, 1778, the Runaway, John Martin, had come on the land in his absence. The Fair-play men put Greer in possession. If a man went into the army, the Fair-play men protected his property.” A similar decision was made in the case of John Toner and Morgan Sweeney. Sweeney had attempted to turn a lease for improvements in Toner’s behalf

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27 Eleanor Goldren’s Deposition, Now and Then, XII, No. 9 (October, 1959), 220-222.
29 Ibid.
30 Ibid.
31 John F. Meginness, Otzinachson (Williamsport, 1889), p. 469. Toner v. Sweeney is found in the Northumberland County Appearance Docket for November 1786-February 1787, No. 79 in the November term for 1787. The case is also fully described in Smith’s Laws, pp. 196-197.
to possession for himself, but the Northumberland County Court honored the Fair-play rule considering military service and decided in favor of Toner.

The summary process of ejectment utilized by the Fair Play Men, occasionally with militia support, is evident from William King's deposition in Huff v. Latcha. King, having sold his right to one William Paul, recounts the method as follows:

William Paul went on the land and finished his cabin. Soon after a party brought Robert Arthur and built a cabin near Paul's in which Arthur lived. Paul applied to the Fair-play men who decided in favor of Paul. Arthur would not go off. Paul made a complaint to the company at a muster at Quinashahague that Arthur still lived on the land and would not go off, although the Fair-play men had decided against him. I was one of the officers at that time and we agreed to come and run him off. The most of the company came down as far as Edmund Huff's who kept Stills. We got a keg of whiskey and proceeded to Arthur's cabin. He was at home with his rifle in his hand and his wife had a bayonet on a stick, and they threatened death to the first person who would enter the house. The door was shut and Thomas Kemplen, our captain, made a run at the door, burst it open and instantly seized Arthur by the neck. We pulled down the cabin, threw it into the river, lashed two canoes together and put Arthur and his family and his goods into them and sent them down the river. William Paul then lived undisturbed upon the land until the Indians drove us all away. William Paul was then [1778] from home on a militia tour.

Although land disputes offer documentary evidence of the Fair-Play System, it seems quite likely that the Tribunal's jurisdiction extended to other matters. A few anecdotes, obviously based quite tenuously upon hearsay, will suffice to illustrate. Joseph Antes, son of Colonel Henry Antes, used to tell this story: It seems that one Francis Clark, who lived just west of Jersey Shore in the Fair Play territory, gained possession of a dog which belonged to an Indian. Upon learning of this, the Indian appealed to the Fair Play Men, who ordered Clark's arrest and trial for the alleged

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33 Now Linden in Woodward Township a few miles west of Williamsport.
34 King refers here to the Great Runaway of 1778.
35 Linn, "Indian Land and Its Fair-Play Settlers," PMHB, VII (1883), 423-424.
theft. Clark was convicted and sentenced to be lashed. The punish-
ment was to be inflicted by a person decided by lot, the responsi-
bility falling upon the man drawing the red grain of corn from
a bag containing grains of corn for each man present. Philip
Antes was the reluctant “winner.” The Indian, seeing that the
decision of the “court” was to be carried out immediately, magnan-
imously suggested that the banishment would serve better than
flogging. Clark agreed and left for the Nippenose Valley, where
his settlement is a matter of record.36

Another anecdote, if true, gives further testimony to the justice
of fair play. In this instance, a minister and school teacher named
Kincaid faced the Tribunal on the charge of abusing his family.
Tried and convicted, he was sentenced to be ridden on a rail for
his offense.37 Here again, the tale, though legendary, is made
plausible by the known fact of Kincaid’s existence in the area.38

Doubtless the most notable political action of the Fair Play
settlers is their declaration of independence, which Meginness calls
“a remarkable coincidence” because “it took place about the same
time that the Declaration was signed in Philadelphia.”39 Aware,
as were many of the American colonists in the spring and summer
of 1776, that independence was being debated in Philadelphia,
these West Branch pioneers decided to absolve themselves from
all allegiance to the British Crown and declare their own inde-
pendence. Meeting under a large elm on the west bank of Pine
Creek, confusingly known as the “Tiadaghton Elm,” the Fair Play
Men and settlers simply resolved their own right of self-determina-
tion, a principle upon which they had been acting for some time.
Unfortunately, no record of the resolutions has been preserved—if
they were actually written. However, the names of the supposed
signers, all bona fide Fair Play settlers, have been passed down
to the present.40

36 Meginness, Otsinaclhson (1889), p. 470.
37 Ibid., p. 471.
38 D. S. Maynard, Historical View of Clinton County (Lock Haven, 1875),
pp. 207-208. Maynard has reprinted here some excerpts from John Hamil-
ton’s “Early Times on the West Brinch,” which was published in the Lock
Haven Republican in 1875. Unfortunately, recurrent floods destroyed most
of the newspaper files and copies of this series are not now available.
John Hamilton was a third-generation descendant of Alexander Hamilton,
one of the original Fair Play settlers.
40 Ibid. An alleged copy of the declaration published in A Picture of
Clinton County (Lock Haven, 1942), p. 38 is clearly spurious. The language
As every careful historian knows, no declaration was signed in Philadelphia on July 4, 1776, except by the clerk and presiding officer of the Continental Congress. Consequently, the Pine Creek story arouses justifiable skepticism. However, there does seem to be some evidence to substantiate this famous act.

First of all, Philip Vickers Fithian’s journal gives insight into the possible motivation for such independent action. In an entry for Thursday, July 27, 1775, he writes of reviewing “the ‘Squire’s library,’” noting that “After some perusal I fixed on the Farmer’s memorable letters.”

Fithian was reading John Dickinson’s Letters from a Farmer in Pennsylvania, which he had come across in the library of John Fleming, his host for a week in the West Branch Valley. Dickinson’s dozen uncompromising epistles in opposition to the Grenville and Townshend programs both inspired and incited liberty-lovers. Furthermore, Fleming himself was a leader among the Fair Play settlers and may have been aroused to action by the eloquence of Dickinson’s expression. Every idea is an incitement to action, and the ideas of the “Farmer,” which made him the chief American propagandist prior to Thomas Paine, reached into the frontier of the West Branch Valley.

The best contemporary evidence in support of the Pine Creek declaration is found in the widow’s pension application of Anna Jackson Hamilton, daughter-in-law of Alexander Hamilton, who was one of the early settlers and a prominent leader along the West Branch of the Susquehanna. Mrs. Hamilton, whose claim was made in 1858, lived within one mile of the reputedly historic elm. In her sworn statement she says, “I remember well the day independence was declared on the plains of Pine Creek, seeing such numbers flocking there, and Independence being all the talk, I had a knolege of what was doing.”

Her son, John, corroborates this in his statement that “She and an old colored woman are the only persons now living in the country who remembers the meet-

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2 Anna Jackson Hamilton to Hon. George C. Whiting, Commissioner of Pensions, December 16, 1858, Wagner Collection, Muncy Historical Society, Muncy, Pennsylvania.
ing of the 4th of July, 1776, at Pine Creek. She remembers it well.\textsuperscript{12} Mrs. Hamilton was ninety years old at the time of her declaration, which was made some eighty-two years after the celebrated event.\textsuperscript{13}

Following the outbreak of the Revolution and the meeting of the Second Continental Congress, the Fair Play System of the West Branch Valley was soon augmented by another extralegal organization, the Committee of Safety. Ostensibly created for the purpose of raising and equipping "a suitable force to form Pennsylvania's quota of the Continental Army," it soon exercised executive authority dually with the Assembly.\textsuperscript{14} The Council of Safety was instituted as the successor of the Committee of Safety by a resolution of the Provincial Convention of 1776, then meeting in Philadelphia to draw up a new constitution for Pennsylvania. It was continued by an act of the Assembly that same year, existing from July 24, 1776, until dissolved December 6, 1777, by a proclamation of the Supreme Executive Council.\textsuperscript{15} Locally, however, the township branches were still referred to as "committees."

It appears from the resolutions and actions of the local committee that the Fair Play Men maintained jurisdiction in land questions but that all other cases were within the range of the committee's authority. In fact, a resolution dated February 26, 1776, asserted that "the committee of Bald Eagle is the most competent judges of the circumstances of the people of that town-

\textsuperscript{12} John Hamilton to Hon. George C. Whiting, Commissioner of Pensions, May 27, 1888, \textit{Wagner Collection.}

\textsuperscript{13} The veracity of the witness is an important question here. Meginness in his 1857 edition votes a footnote, page 168, to this remarkable woman who was in full possession of her faculties at the time. The Rev. John Grier, son-in-law of Mrs. Hamilton and brother of Supreme Court Justice Robert C. Grier, wrote to President Buchanan on November 12, 1858, \textit{Wagner Collection}, stating that "Mrs. Hamilton is one of the most intelligent in our community." Buchanan then wrote an affidavit in support of Grier's statements to the Commissioner of Pensions, November 26, 1858, \textit{Wagner Collection}. Aside from the declarations of Mrs. Hamilton and her son, the only other support, and this is hearsay, is found in the account of an alleged conversation between W. H. Sanderson and Robert Couvenhoven, the famed scout. W. H. Sanderson, \textit{Historical Reminiscences} (Altoona, 1920), pp. 6-8. Here again, the fact that the reminiscences were not recorded until some seventy years after the "chats" raises serious doubts. The collector, in this instance, was the well-known folklorist, Colonel Henry Shoemaker.

\textsuperscript{14} \textit{Pennsylvania Archives}, Fourth Series, Vol. III (Harrisburg, 1900), p. 545.

\textsuperscript{15} \textit{Ibid.}, p. 546.
ship."\(^4\) This resolution was made in conjunction with an order from the county committee to prevent the loss of rye and other grains which were being "carried out of the township for stilling."\(^5\) Although cautioned against "using too much rigor in their measures," the committee was advised to find "a medium between seizing of property and supplying the wants of the poor."\(^\text{16}\) The county committee even went so far as to recommend the suppression of such practices as "profaning the Sabbath in an unchristian and scandalous manner."\(^\text{17}\) In April of 1777, the county committee required an oath of allegiance from one William Reed, who had refused military service for reasons of conscience.\(^\text{51}\)

Although Bald Eagle Township did not, at this time, extend into Fair Play Territory,\(^\text{52}\) it is interesting to note that the local committee, whose three members frequently changed, often included settlers from that territory or those who were in close association with the Fair Play Men.\(^\text{53}\) The Revolution apparently gave a certain quasi-legality to the claims of the "outlaws" of the West Branch Valley.

One further political note is worthy of mention. After Lexington and Concord and the formation of the various Committees of Safety, the civil officers of Bald Eagle Township, that is to say the constable, supervisors, and overseers, were often chosen from among the settlers on the borders of, or actually in, Fair Play Territory.\(^\text{54}\)

The politics of fair play then, was nothing more than that—fair play. It was a pragmatic system which the necessities of the frontier experience, more than national or ethnic origin, had developed. The "codes" of operation represented a consensus, equally, freely, and fairly arrived at—a common "law" based upon general agree-


\(^{17}\) Ibid.

\(^{51}\) Ibid.

\(^{52}\) Ibid.

\(^{53}\) See the map of the Fair Play Territory which accompanies this article.

\(^{54}\) Ibid. *History of Centre and Clinton Counties*, p. 469. See also, John H. Carter, "The Committee of Safety of Northumberland County," *Northumberland County Historical Society Proceedings and Addresses*, XVIII (1930), 33-45, for a full account of the activities of the committee. Carter notes that the county committee consisted of thirty-three members, three from each of the eleven townships, chosen for a period of six months (35).

\(^{54}\) Ibid., pp. 472-474.
ment and practical acceptance. There were subsequent appeals to regular courts of law, but, surprisingly enough, in every instance the fairness of the judgments was sustained. No Fair Play decision was reversed. Furthermore, the frequency of elections and the use of the principle of rotation in office were additional assurances against the usurpation of power by any small clique or ruling class. Popular sovereignty, political equality, and popular consultation—these were the basic elements of fair play.