

THE DELAWARE CURVE.

THE STORY OF THE PENNSYLVANIA-DELAWARE CIRCULAR
BOUNDARY.

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This subject, though seemingly one remote in time and interest, is in reality one of live present-day moment, since this unique curved boundary has only just been marked definitely and permanently upon the ground, after more than 220 years of uncertainty. Not since 1701 had the line been run, and then only with primitive instruments and methods, and marked merely by notches on the trees, which of course soon disappeared.

Not till 1892 was the line finally marked upon the ground, by a Joint Commission of the two States. This action was ratified by Pennsylvania in 1897, but Delaware failed to ratify until, through the efforts of the Chester County Historical Society, it was finally ratified by that State and by Congress in 1921.

This curved boundary is a truly unique thing in geography, not only through the existence of the little wedge-shaped tract at its Western end (which by the new survey is given to Delaware), but more especially by the adoption of a mathematical curve as a boundary between States or countries. (See Appendix, *Note A.*)

The existence of Delaware as a separate State is itself an interesting anomaly. The Delaware-Maryland Peninsula is a unit in natural features as well as economically, and yet we find it divided among three States. To understand the reason for this seeming anomaly and for the existence of the circular boundary we must go back into history.

It seems certain there would be no separate State of Delaware today, were it not for two historical facts, (1) the existence in Lord Baltimore's Charter for Maryland of the little clause "Hactenus inculta" (hitherto unsettled), and (2) the failure of the Maryland colonists to settle upon the Western shore of Delaware Bay, but confining themselves to the more accessible inlets and rivers of the Chesapeake shores.

The claims of Lord Baltimore and William Penn (who, it must be remembered, owned Delaware as well as Pennsylvania) were overlapping, and led to border disputes and troubles lasting almost a century, being more prolonged and bitter than in the case of any of the other Colonies.

Lord Baltimore's Charter (1632) extended to "that part of the Bay of Delaware on the North which lieth under the fortieth degree of north latitude."

The maps in existence at that time showed the parallels of latitude as much lower down, or more southerly than their true location as ascertained later. According to those maps, Lord Baltimore thought his province extended only to about the head of the Delaware and Chesapeake Bays.

The true parallel of forty degrees, however, does not touch either of these bays, but crosses the northern edge of Philadelphia. Were the natural bounds to govern, or the astronomical, as later ascertained? It is a well-known rule of legal construction of deeds that where the landmarks or natural bounds upon the ground differ from the mathematical lines in the written instrument, the natural bounds shall govern. In those days of inaccurate astronomical and mathematical instruments especially was this rule a necessity. Here were grounds for a dispute.

Another source of contention was in the language of Lord Baltimore's Charter, which, in the preamble, specified the land granted to him as "Hactenus

inculta'' (hitherto unsettled or uncultivated). Unfortunately for him there had been a settlement by the Dutch the year previous, within the limits of his grant. This was at Swaanendael, near the present Lewes.

The Dutch purchased their lands from the Indians, and also made claim by virtue of Hudson's discoveries, and they later spread along the Delaware shore, consolidating their holdings into a colony. All this was without any effectual opposition from the Marylanders, who were attracted by the more accessible estuaries bordering the Chesapeake.

This title of the Dutch, whatever it was, to the western shores of the Delaware passed by conquest to the English under the Duke of York in 1664. The Dutch in the meantime, had (in 1655) acquired by conquest the holdings of the Swedes who had also from 1638 on, been extending their settlements along the Delaware shore, claiming by Indian purchases.

Thus we have, on the one hand, the Maryland claim, never effectually asserted, to these western shores of the Delaware; and on the other hand, the Duke of York's claim to the same areas through the Dutch and Swedes, by right of conquest and prior settlement.

Now comes William Penn upon the scene. In 1681, in consideration of a debt to his father, Charles II agreed to grant him a charter for the region lying north of Lord Baltimore's grant.

In view of the previous troubles arising from vague and indefinite grants in the New World, the agents both of Lord Baltimore and of the Duke of York were called in, to ascertain how this proposed grant might comport with their claims. Several months of negotiations followed.

The duke of York was willing that the grant be made, providing the newcomers be kept at least twenty miles from his capital, New Castle. Finally this

distance was reduced to twelve miles. It is as though the Duke, with a truly ducal or princely gesture, were to swing his great arm in a semi-circle about New Castle, proclaiming that the territory for twelve miles on all sides was to remain his, and that thus far and no farther should the new province extend.

Putting this thought into the language of a charter, Penn's grant was specified as bounded on the south by a "circle to be drawn at twelve miles distance from New Castle, northward and westward unto the beginning of the 40th degree, and thence by a straight line westward," etc.

Here then was the origin of the unique curve that is the subject of this sketch.

When in 1682, Penn arrived in his new province, he was disappointed that it lay so far from the sea. Moreover, recent observations had seemed to indicate the 40th parallel lay much farther north than the earlier maps had shown. Penn accordingly entered into negotiations with the Duke of York for a transfer to him of the possessions on the West Shore of Delaware Bay to which the latter laid claim as above narrated.

This transfer was made the same year by two deeds of feoffment, one conveying the town of New Castle and the region lying within twelve miles about the same, and the second the land extending south from this Circle to Cape Henlopen. Under the first deed livery of seizin was made to Penn of "twig and turf" and also of "water and fowl of the river Delaware." (See *note B*, Appendix.)

By these two deeds Penn succeeded to the "Three Lower Counties," as they were called, or the "Territories," now the State of Delaware.

The inhabitants, almost entirely of Dutch and Swedish blood, accepted peaceably their transfer of allegiance to the new proprietor. Several attempts

were made by Penn and Lord Baltimore to agree upon their boundaries; all of which came to naught.

In 1683 Lord Baltimore petitioned the King urging his claims, and in the same year sent agents to demand the territories in dispute.

At length, in 1685, the controversy was referred by the King's Council to the Committee of Trade and Plantations, which found that Lord Baltimore's grant was only for unsettled territory, whereas the Dutch had settled there prior to his grant and had since developed a separate colony. They accordingly gave their decision, splitting the difference between the two sides, directing that the Peninsula "be divided into equal parts by a line from the latitude of Cape Henlopen, to the 40th degree of North latitude."

Before anything was done to run the lines thus decreed, came the Revolution of 1688, as a result of which the proprietary governments of both Pennsylvania and Maryland were overturned. Penn's government, however, was soon restored to him.

The story is a long one, of the attempts to run the boundary line between their respective possessions, with the interminable disputes and border troubles resulting therefrom. Neither Penn nor Lord Baltimore lived to see their end. Finally in 1732, Penn's sons and the then Lord Baltimore came to a compromise agreement, each party yielding somewhat from their extreme positions. (See Appendix, *note D.*)

By this agreement a line was to be run across the Peninsula westward from Cape Henlopen (not the present Cape of that name but one farther south bearing that name on some of the earlier maps). From the middle point on this line, the boundary was to run in a northerly direction until it should strike at a tangent a circle having a 12-mile radius from New Castle; thence to run due north until it reached the same latitude as 15 miles south of the most southern

part of Philadelphia. This point was to be the north-east corner of Maryland, and the boundary was thence to be run due westward. These directions account for the present southern and western boundaries of Delaware.

While these limits might seem clearly enough expressed, it still required over thirty years of wrangling, of abortive surveys, of repeated resorts to the High Court of Chancery in England and of still another agreement (1760) expressed in much more elaborate terms, before these inter-colonial lines were finally run, in 1764–1767, by two mathematicians and surveyors of note from England, Charles Mason and Jeremiah Dixon. The lines were completed but a few years before the Revolution, when, by what might seem the strange irony of fate, both proprietors lost their colonies, and at the same time Delaware broke away from Pennsylvania to form a separate State.

In this long story of boundary disputes and troubles along our Borderland, there are a multitude of interesting and stirring incidents that await but the magic pen of a Scott to be woven into a narrative little inferior in interest and romance to those of his own famed Borderland.

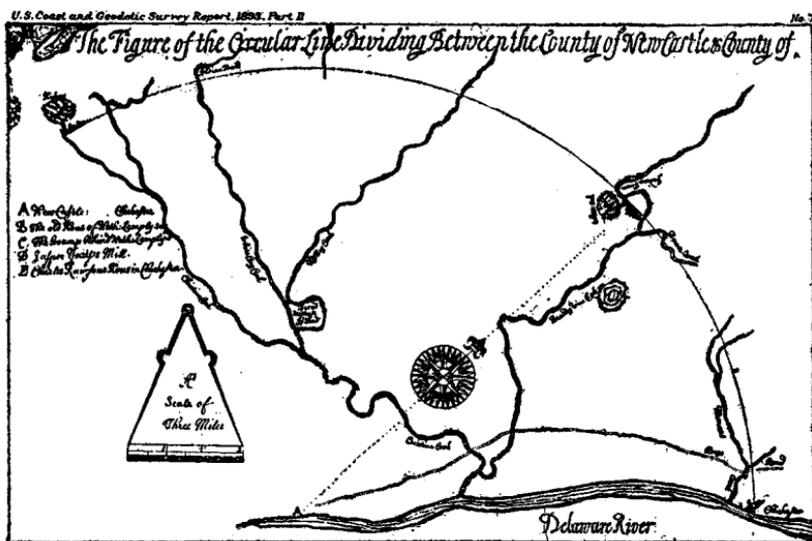
Mason and Dixon, it must be remembered, were employed solely to run the lines between the possessions of the Penns and Lord Baltimore, and so were not called upon to run the curved circular boundary of which we are writing. As a matter of fact, they did run a small section of this circle, viz., the little segment, about $1\frac{1}{2}$ miles long, just north of the tangent point, which was cut off from the circle by the line running due north from the tangent point. Under the agreement this small segment was to belong to Delaware.

THE CURVE.

To revert now to the story of the Curve, which yet remained to be run, this boundary was not of especial

importance so long as Penn owned the territory on both sides of it. It was then merely an inter-County line, between Chester and New Castle Counties.

When, however, the Three Lower Counties demanded and received the right to a separate legislative Assembly, owing to differences in blood and material interests, the question of a boundary between them became of more importance. It was, doubtless, owing to this impending separation of the Assemblies, that the circular line was at last run, in 1701.



Copy of Taylor and Pierson's survey of 1701.

By warrant dated the 28th day of ye 8th month, 1701, Penn directed Isaac Taylor, of Chester County, and Thomas Pierson, of New Castle County, to accompany the Magistrates of each County or any three of them to "admeasure and survey from ye town of New Castle the distance of twelve miles on a right line by ye river Delaware upward and from the said distance to divide between the said Counties by a circular line extending according to ye Kings' letters pattents and

deeds of enfeoffment from the Duke, and ye said circular line to be well marked two-third parts of ye semi-circle." (See Appendix, *note C.*)

Taylor and Pierson's original draft of this survey, together with their field notes and return to the warrant, are among the archives of the Pennsylvania Historical Society. They are excellently preserved, and make most interesting reading for the student of this subject.

This return, together with the certificate of the Magistrates who accompanied the two surveyors, follow:

"These are to Certifie that on ye twenty fifth Day of ye Ninth Month 1701 Wee met at New Castle with Cornelius Empson, Richard Halliwell and John Richardson, Justices of ye County of New Castle, and Caleb Pusey, Philip Roman and Robert Pile, Justices of the County of Chester, who Did Unamously Conclude that the Beginning should be at the End of the Horse Dike next ye said Town of New Castle and from thence to Measure Due North the said Distance of twelve miles and at the Extent thereof to Run the said Circular Line first Eastward Down to the River and then to Return to ye said Extent of twelve Miles North, and to Run the said Circle Westward until it should Compleat the two third parts of the said Semicircle, And Accordingly the Twenty sixth Day of ye said Month we did begin in ye Presence of ye said Justices at ye said End of ye Horse Dike and Measured Due North twelve Miles to a White Oak Marked with twelve Notches Standing on ye West Side of Brandywine Creek in the Land of Israel Helm, and from the said White Oak Wee Ran Eastward Circularly changing our Course from the East Southward one degree at the End of Every Sixty Seven Perches, which is the Chord of one Degree to a twelve Miles Radius, and at ye End of forty three Chords wee Came to Delaware River on ye upper side of Nathanel Lamplly's Old Hous at Chichester and then wee Returned to the said White Oak in Israel Helm's Land and from thence we Ran Westward changing our course one Degree from the West Southward at ye End of Every Sixty Seven Perches as before until we had extended Seventy Seven Chords, which being Added to forty three Chords make two third parts of the Semicircle to a twelve Miles Radius, all which said Circular Line being well marked with three Notches on Each side the Trees to a Marked Hickery Standing Near ye Western Branch of Christina Creek.

Surveyed the 4th day Of the 10th Month 1701 By us

Isaac Taylor
& Thomas Pierson.

"These may Certifie that Isaac Taylor and Thomas Pierson Did accompany Us at ye Town Of New Castle ye 25th Day of ye 9th month 1701, together with Richeard Halliwell, being all Justices of ye Peace, where we did unanimously agree and conclude that in order to Ad-measure and survey the twelve Miles Distance from New Castle Town for the Dividing the County of New Castle from the County of Chester according to ye Proprietary's Warrant the Beginning should be at ye End of ye Horse Dike next the said Town and then to Run Due North twelve Miles and from ye Extent thereof to Divide the Said Counties by a Circular Line as is above Certified, and that at ye End of the said Horse Dike ye said Isaac Taylor and Thomas Pierson did begin to Measure the said twelve miles in ye Presence of us all together with Richard Halliwell, and from that time we were sometime five but never less than four all ye running ye said North Line and also the two thirds of ye Semi-circle till it was compleated according to ye above Certificate and ye whole was finished ye 4th of the Instant, to this Certificate we do Subscribe our Names ye 13th of ye 10th month 1701.

Cornelius Empson
John Richardson

Caleb Pusey
Philip Roman
Robert Pile."

This survey of the curve was made in rather crude fashion. It was run with an ordinary chain and compass, and but nine or ten days were spent upon the work. When the line was attempted to be relocated in 1892, as will hereafter appear, it was found that Taylor and Pierson's north line ended about a mile too far west, and overran some 2000 feet.

These early surveyors make return as above that they had "well marked" the curve with three notches on each side the trees. No doubt a modern surveyor's ideas of a line being "well marked" would differ widely from this primitive conception.

In 1701, when this survey was made, the settlements extended only along the eastern part of the curve. Its farther end, near the western branch of the Christiana Creek, was merely a marked hickory tree. No one now can determine its location, but it is supposed to be within the present limits of Maryland.

The notches on the trees of course quickly disappeared, with the result that the western end of the

line became a mere tradition, slumbering on in obscurity, through the decades, until interest in it was revived in recent years by the efforts to relocate the old curve.

Along the eastern end of the line, which was earlier settled, some of the boundary lines in land patents and deeds followed the circular boundary and helped to preserve the memory of its location. Along its western portion, however, there were no marks upon the ground to indicate its direction, and the boundary line there, as above stated, became a mere traditional one.

The points at which the repair of the roads passed from the township supervisors of one State to those of the other, were handed down by mere tradition. The location of farms for the purposes of taxation, school attendance, voting, etc., was handed down from father to son and from public officials to their successors in office, in the same way, merely by tradition.

If one were traveling by road from one State to the other, he had no means of knowing in which State he was, save by inquiry. There was nothing whatever upon the ground, nor in the public archives at Harrisburg or Dover, that would give him this information.

As between two important States of the Union, this condition of things was surely an anomaly, calling for early remedy; and yet affairs remained in this state as late as 1892, indeed down until 1921 if we consider the final ratification of the newly run line.

THE WEDGE.

The curious little wedge-shaped territory of about 800 acres at the west end of the curve, forms another unique feature of this unique State boundary. (See Appendix, *note E.*) Until the ratification of the new line in 1921 (which gave the wedge to Delaware) it was so colored on the maps as to indicate it belonged to Pennsylvania. And yet, so curious is the fact,

Delaware had always exercised jurisdiction over the wedge. Its inhabitants always paid taxes and voted in Delaware. Within the wedge is located an entire village, Mechanicsville, which once sent as a member to the Delaware Legislature a certain William Smith, by whose vote, it is said, Delaware was prevented from freeing her slaves. Why this interesting anomaly?

The explanation, as suggested by Cope and Futhey (*History of Chester County*, p. 161), is as follows: In 1701, when the curve was first run, the region at its western end, as already stated, was unsettled. As the land at this western end came many years later to be gradually taken up—the settlers had no way of knowing on which side of the curve their farms lay; and when Mason and Dixon came along, in 1764, and established the northeast corner of Maryland, the land-owners no doubt supposed the curve to end at or near this corner. The Delaware settlers accordingly occupied the land clear up to the corner, and continued to exercise jurisdiction over it from then on. This explanation seems most plausible.

How then did the wedge come to be shown on the maps as being part of Pennsylvania? This was the result of the work in 1849-50 of Col. Graham, of the United States Topographical Engineers. He was secured by a joint Commission of the three States, Pennsylvania, Maryland and Delaware, to replace the stone at the northeast corner of Maryland which had disappeared. After doing this work he proceeded to survey the lines about the wedge, and he then found that a true twelve-mile radius from New Castle would bring the circular boundary some three-quarters of a mile eastward from the Maryland corner, which would result in giving the wedge to Pennsylvania.

The report of this Commission was joined in by the Delaware Commissioner, George R. Riddle, Esq., but as it would have given this territory to Pennsylvania,

Delaware refused to ratify the work of the Commission, though Pennsylvania did take steps towards re-running the line by Act of April 22, 1850, and also by Act of March 20, 1869. The change was accepted on paper (in the maps) but was ignored in fact, Delaware continuing to exercise jurisdiction over the wedge. Thus we have the anomaly of the wedge being a part of Pennsylvania on the map, and yet being occupied and governed by Delaware.

This action of the Joint Commission, while thus abortive, resulted at least in bringing to the attention of the public the unmarked condition of the circular boundary; and as the value of the lands concerned increased, there was a renewed agitation from time to time to have the old line relocated.

Finally in 1889 Pennsylvania and Delaware appointed a Joint Commission for this long-delayed purpose. Able men were named upon this Commission, Ex-Attorney General Wayne MacVeagh, Robert E. Monaghan, Esq., and William H. Miller, from Pennsylvania, and Ex-Senator Bayard, B. L. Lewis and John H. Hoffecker from Delaware. Each Commission named a surveyor, Benjamin H. Smith for Pennsylvania and Daniel Farra for Delaware.

The Joint Commission, in order to obtain the best expert assistance, secured the co-operation of the United States Coast and Geodetic Survey, which detailed from its force Captain W. C. Hodgkins. The latter has written a detailed account of the work, which was done in 1892, as well as a historical account of the boundary line. These are published in the Appendix to the Report of the United States Coast Survey for 1893, pages 177 and 202.

To describe fully the work of the surveyors would be beyond the scope of this paper. Suffice it to summarize the matter in brief.

This accurate survey in 1892 established the fact

that a true twelve-mile measurement from the spire of New Castle Court House (the centre of the circle as fixed by the final Penn-Baltimore agreement) fell over three thousand feet short of the traditional circle at its eastern end. If corrected this, we are told, would give nearly five thousand acres to Pennsylvania. (See Appendix *note F.*)

With all their efforts these surveyors could find only three points on the entire curve that could be identified:

1. The site of Lamplugh's house on the Delaware.
2. The great curve in the Brandywine near Cossart.
3. The stump of an old hickory tree at the south corner of Kennett and Pennsbury Townships.

All of these three points were on the eastern half of the curve. Along the western half there was nothing remaining to guide the Commission. True, a few deeds did mention certain stones as being on the State line, but these deeds date long since the 1701 line was run, and merely represent where the settlers as they later took up their lands supposed the line to be. The Commission could in no way connect these deeds with the line of 1701, and so had to reject them as evidence.

The statutory instructions to the Commission of 1892 were to "re-establish" the old boundary line, and not run a new one. They wished, moreover, to disturb as few of the land-owners as possible. They therefore adopted the above three points which alone could be verified, running the new curve through them and so disturbing practically no land-owners along this eastern half of the line.

When it came to the western half, as above stated, there were no controlling land-marks to guide the Commission. Now a true circle can of course be run through any three points that are not in a straight line. Had the Commission extended to the westward this curve which they had adopted through these three

points, it would have taken them over into Maryland. This manifestly could not be done.

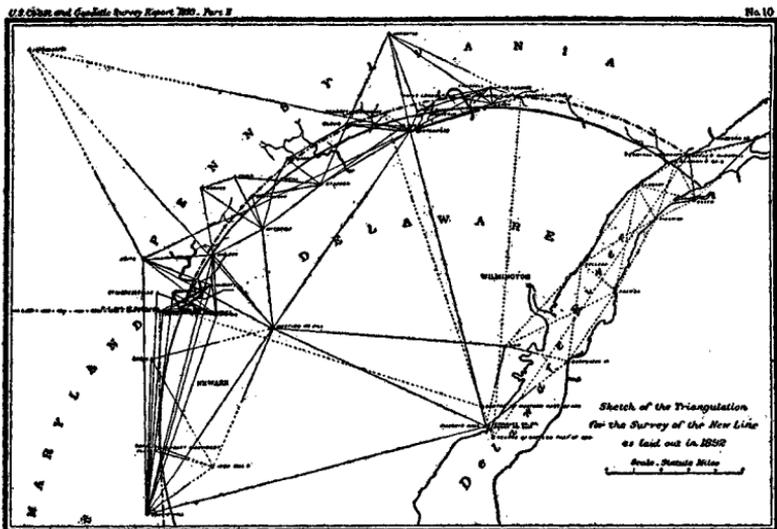
What then were the Commission to do? In order not to encroach on Maryland territory the radius of the western half of the curve must evidently be shortened, and that was what was done. The new circular boundary was thus made up of two separate arcs having different centers, and this was necessary from the conditions upon the ground.

But how fix the ends of this new western arc? Manifestly its eastern end must be at the stump of the old Kennett-Pennsbury Hickory, where the eastern arc ended, so as to connect with the latter. As to its western end, this was controlled, in the opinion of the Commission, by a circumstance already explained, viz., the work of Col. Graham about the wedge, in drawing the western end of the curve in eastward to the true twelve-mile radius.

The map and report of this work of Col. Graham, as already stated, were signed by the Commissioners of the three States, including the Commissioner from Delaware, though not ratified by Delaware. This would have pushed back the Delaware boundary to the theoretical twelve-mile circle, and would have given all the Wedge to Pennsylvania.

However, as Delaware had always occupied the Wedge, the Commission of 1892, wishing to disturb the land-owners as little as possible, now decided to recognize Delaware's title thereto and gave the Wedge absolutely to Delaware,—at the same time adopting the other feature of Col. Graham's map, viz.: accepting as the western end of the new western arc the point where the north line of Maryland, projected eastward, would intersect the true twelve-mile circle. This they found to be 4169 feet east of the Maryland corner, and there the Commission planted the "Initial Stone" of the new boundary line.

The net result, so far as this western end of the circle is concerned, is that Delaware gets the Wedge while Pennsylvania gets a narrow, curving horn-shaped strip of land north of the wedge tapering to a point at the corner of Kennett and Pennsbury. As Judge Hemphill said when passing on the legality of the new line, this in his opinion was a "fair and equitable exchange." It is in this horn-shaped strip that the properties of a few land-owners lie, who have been protesting against the transfer of their citizenship to Pennsylvania.



Work of U. S. Coast Survey, 1892. Dotted line is the compound curve finally adopted.

The Commission, after adopting this line, marked it with 46 substantial stone monuments. Twenty-two were placed at intervals of a mile, with the letters P and D on the respective sides and the date 1892. Twenty-two smaller stones were placed half-way between the milestones and were marked simply $\frac{1}{2}$. In addition to these are the initial monument at the west

end of the curve, and the terminal one at the east end, near the Delaware River.

The net result is that the new boundary line commences at the northeast corner of Maryland, and extends thence due east 4169 feet to the "Initial Monument," and thence northeastwardly following these stones along the curve to the "Terminal Monument" on the bank of the Delaware.

All this elaborate and technical work, however, threatened for a time to go for nothing. One of the land-owners near the west end of the curve, named Johnston, who by the new line was thrown into Pennsylvania, wished to remain one of the "Blue Hen's Chickens" still. Accordingly when the tax-collector of London Britain Township, Chester County, called upon him for tax as being now in that Township, he refused payment. A levy was then made for the tax, and he applied for an injunction to the Court of Common Pleas of Chester County.

After hearing the case fully, Judge Joseph Hemphill in a very interesting decision (in 6 Pa. District Reports Page 184) held the new line to be illegal and sustained the injunction. This he was compelled to do because of the language of the Acts creating the Commission, which authorized them to "re-establish" the old circular boundary and not to lay a new one as they had in part done.

In other words, the Commission had exceeded their powers, though, as we have seen, this was necessarily so, inasmuch as it was a physical impossibility to re-establish the old line. Judge Hemphill accordingly recommended that this defect be cured through a ratification, by the two States, of the work of the Commission.

Pennsylvania did so ratify, with promptness, by the Act of June 22, 1897, but Delaware, largely by reason of the opposition of this Mr. Johnston and some of his

fellow land-owners, refused to ratify. Once more the situation relapsed into the old condition of uncertainty and oblivion.

As the years passed by, the whole matter was in danger of being utterly forgotten, and the careful and expensive work of this able Commission and their placing of these permanent monuments were in danger of going for nothing. Apart from these markers there was no record of the interstate boundary either on the ground or in the public archives of either State. As between two great Commonwealths, in these modern days, such a state of things surely seemed an anomaly. Soon the generation that saw the new line run would have passed along, and with less and less knowledge of the history of this long-standing controversy, it would have been harder and harder to set it right in the future. The Chester County Historical Society, realizing this, and that it was a matter of public interest in which no private citizen would be apt to move, took the initiative in having the new line ratified by Delaware, which was finally done by Act of March 28, 1921.

Under the Federal Constitution every compact between States must be ratified by Congress. Again through the efforts of the Chester County Historical Society, an Act of Congress was secured to this effect, June 30, 1921, and thus the new line was finally made the legal boundary from thenceforth.

Some of the land-owners who were transferred to Pennsylvania by the new line still protested against this transfer without their consent. They called a public meeting in June last, which was held at the village of Union, Delaware, close to the boundary line. To this were invited the tax authorities of New Castle and Chester Counties, a representative of the Chester County Historical Society, and others.

Addresses were made on the legal and other phases of the subject. All were given an opportunity to

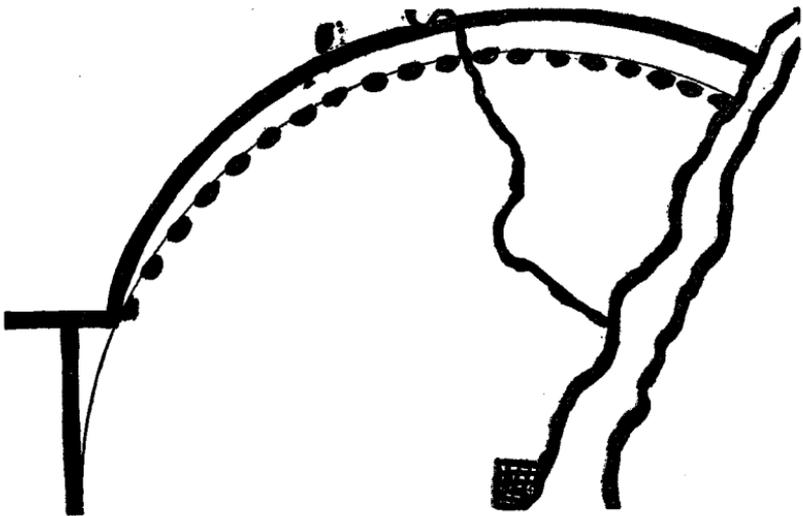
express their views, and a few of the protesting land-owners assumed the rôle of the "embattled farmers" who "stood and fired the shot heard round the world," or rather round the Curve, in this case. It proved to be a sort of "town meeting." Some strong language was used, such as "liberties" and "revolution." Threats of resistance were made, and of an appeal to the United States Supreme Court.

This opposition will, I believe, gradually die away as the facts are fully understood, and the unusual difficulties that confronted the Commission. This body, as already stated, was made up of an equal number of representatives from the two States. Ex-Senator Bayard, of Delaware, was made Chairman. They were men of conspicuous ability and impartiality. Their records show they gave a hearing to the farmers affected. Moreover in securing the aid of the United States Coast Survey they were assured of the best surveying talent in the land. There could hence be no possible bias or partiality towards either State. Let all of us, on each side of the line, remember that our ancestors on both sides of the boundary were once in a single Province, under the great, broad-minded Penn. Let us, therefore, in the broad spirit of Penn, live side by side, in mutual amity and respect.

This new line will remain the legal boundary unless another Joint Commission be appointed by the two States, and the same lengthy procedure be gone through with. After more than two centuries of uncertainty a definite line has at last been established and marked with permanent markers, and it would undoubtedly take very strong and persuasive arguments to convince the two Legislatures that the involved matter should be once more opened up and the line run all over again. The controversy must end some time. No general law has probably ever been passed that did not affect someone adversely, but in

such cases the few should yield in the interest of the general public.

With the change of State allegiance of these land-owners, there will no doubt result certain legal complications unless statutes be passed to provide for the new situation. Provision should be made for transferring the record of deeds, mortgages and other liens to the new States in each case. Statutes with this end in view should be promptly enacted.



Dotted line represents true 12 miles circle from New Castle Court House.
Heavy line is the Curve as finally adopted.

With this act of simple justice to the protesting land-owners, should end the long story of this unique curved boundary—a story abounding with interesting incidents, and to him who knows to read history aright, almost as fascinating as romance.

APPENDIX.

Note A.

Nowhere have I been able to find a like boundary, save in several county boundaries in Tennessee. In that State there is a Constitutional provision that no new county shall be erected within eleven miles of an existing county seat, so they have evidently in several cases drawn a curve of that radius about the county seat, thus making the inter-county boundary circular in form.

Note B.

This first deed also included "all islands in the said river Delaware, and the said river and soil thereof, lying north of the southernmost part of the said circle of twelve miles." By this conveyance Delaware claimed jurisdiction over the whole width of the river and Bay. This question later was the result of litigation between Delaware and New Jersey in the United States Supreme Court. Francis Rawle, Esq. of Philadelphia, was appointed Commissioner in this case, and heard testimony, but the litigation was finally compromised by the two States agreeing to joint jurisdiction. This agreement is printed in appendix to Delaware Laws 1905. The compact was approved by Congress by Act of January 24, 1907, 34 Statutes at Large 858. See also 205 U. S. Reports 550.

Note C.

The cost of running the curve was divided between the two counties. Chester County's portion was 26 pounds 9 shillings, as appears by the Grand Jury's allowance of the account, ye 24th of the 12th month 1701/2. See page 73 of Court Records in Prothonotary's Office, West Chester, in volume for years 1697-1710.

Note D.

When the Commissioners appointed by Penn's Sons and Lord Baltimore were endeavoring to run these long-disputed lines, many interesting controversies arose between the two sides. The Baltimore party took the position that the twelve miles radius from New Castle should be measured not horizontally but superficially, *i.e.* up and down hill. This plan would have resulted in all the radii being of different lengths, and so preventing the running of a true circle. This seems sufficiently absurd upon its face, and yet it required a resort to the Court of Chancery in England to have this point decided, which of course was done in favor of the Penns. (See 1 Vesey Sr.'s Reports p. 444.)

Another ridiculous position taken by the Baltimore party, was in the controversy over the location of the center of New Castle from which to commence the twelve mile measurement. In John Watson's

Diary (Nov. 22, 1750) in the archives of the Pennsylvania Historical Society, this plan is thus described,—

“Having made an exact plan of the survey of the Town upon a piece of paper, they carefully pared away the edges of the drought until no more than the drought was left, when sticking a pin through it, they suspended it thereby in different places until they found a place whereby it might be suspended horizontally, which point or place they accepted as the center of gravity.”

This center of gravity, it might be observed, would change with the erection of each new building on the edges of the town, and with the opening of each new street. This unique contention proved also of no avail to the Baltimore party, the Court of Chancery deciding that the center of the town was its Court House.

If the reader is minded to pursue these many interesting details, connected with the whole broad subject, he will find a veritable mine of information in the 160 page list of Source Material at the rear of the Report on the Resurvey of the Mason and Dixon Line, published by the Secretary of Internal Affairs, in 1909. This may be had free by sending to this Department at Harrisburg.

Note E.

During the existence of the Wedge, prize fights and other disorders are said to have taken place in and about its boundaries, at various times. Advantage was taken of the uncertainty of the lines by these disorderly characters. When pursued by the officers of one State they could easily flee into one of the others.

Note F.

The discrepancy in these figures is probably accounted for, in part, by the fact that Taylor and Pierson's measurement began at the end of the Horse Dike (wherever that was), whereas the Hodgkins survey of 1892 was from the spire of the Court House, as specified by the final Penn-Baltimore Agreement of 1760.

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