SQUATTERS AND TITLES TO LAND IN EARLY WESTERN PENNSYLVANIA (a)
or
An Introduction to Early Western Pennsylvania Land Titles

The subject of Squatters and Titles to Land is one of the most fascinating topics imaginable, especially as it is related to the early history of Pennsylvania. From our modern point of view we are very likely to consider the term “squatter" as a title somewhat questionable and surely one which does not command the highest degree of respect. And we shall be more inclined to look upon the term with less respect after we consider the following definition, namely,

“A squatter is one who settles upon a piece of land without having any legal claim to it.”

However, the barren phrases and the cold words in such a definition are apt to be misleading. In order to understand just what the term implies, particularly as it is related to Western Pennsylvania, two things are absolutely necessary. First, we must know the type and general characteristics of the people who settled upon the virgin soil of this state, the circumstances which brought them here and the conditions which influenced their lives after they had settled. Secondly, we must have a general knowledge of the workings of the early land system of Pennsylvania.

In the early years of the 18th century Pennsylvania became the scene of great waves of immigration. Thousands of settlers entered the colony of the Quakers at this time due to several causes. It is well known that Wm. Penn upon acquiring the charter to this vast tract of land endeavored to attract settlers to his province in order to develop its great natural resources. The “Free Society of Traders" was organized to promote this movement. Pamphlets were prepared by Penn himself and were circulated in England and Wales as well as in Holland, Germany and France. According to the information contained in these pamphlets, religious freedom and civil liberty were offered

(a) Paper read before the Society, May 29, 1923.
to those who were unhappy and for various reasons were oppressed in their native countries. (1)

The most numerous people belonging to this class were the Scotch Irish and the German Palatines. Both had suffered bitter oppression and privation. Both were driven almost to desperation. More especially was this true of the Palatines during the winter of 1708-1709.

Unable to bear up under these conditions, thousands of them fled from the Palatinate in search of food and shelter and many of them finally landed in England. (2) At this time England was struggling herself with conditions growing out of an overcrowded population, with many poor and unemployed. The sight of these homeless wonderers, however, touched the deep sympathy of Queen Ann and she began making plans to provide for their passage to America. (3) Here they had been led to believe they could erect homes and enjoy absolute freedom from religious and political persecution. They had little idea of any exact location in the new world and they had less in the way of finances with which to purchase land. A certain Wm. Penn had invited them to come over and it was to his colony they wished to go.

That the Penns ever had any intention of giving away land except for certain fixed prices cannot be verified. Their whole land system was planned solely as a profit-making venture. Thus at the beginning of this influx of foreigners we can discern from these two opposing ideas with regard to the land situation that a clash of some sort was inevitable. We cannot help but feel that the poor land policy of the Penns was very greatly responsible for the attitude which many of these German and Scotch Irish immigrants assumed after reaching the colony.

There were several well defined methods of acquiring land in the colony. First, there were the proprietary grants which were, generally speaking, very irregular and informal. There was no definite rule either as to the method of granting the land or as to the extent of the grant. For various considerations, valuable or personal, large tracts quite frequently resulted. Several proprietary manors, as the proprietor's tenths were called, of 10,000 to 20,000 acres
existed. The usual individual grant however did not exceed 500 acres. (4) Another method of acquiring title to land in early Pennsylvania was through the land office. Such grants as were made through such an office were equally as irregular as those made by the proprietor or his representative. Very early the trend of affairs seems to have forecasted failure for Penn's whole system. Constant reforms were necessary and then they were never wholly successful. A final method of acquiring land existed. It was known as settlement rights and it more directly concerns us in dealing with the subject of Squatters. In fact it was the ultimate outgrowth of squatter settlements.

After the year 1769 we find that the tendency toward small holdings became almost a fixed rule. This was not due to any law with regard to such holdings but rather it was due to the practice of the colonists in actual occupation of the land. Squatting though discouraged by the proprietors, since it defrauded them of their quit rents, soon became the most popular method of acquiring lands. James C. Ballagh, discussing the land system in his monograph entitled, "Introduction to Southern Economic History" says,

"Squatter's rights forced their way from presumptive titles to an established position first as personality and finally as reality. They became the basis of land transfer through the customary alienation of improvements instead of legal title." (5)

With these general ideas of early land conditions in mind let us take up more in detail the characteristics of the people whom we are to designate as squatters. We have briefly reviewed conditions and circumstances in Europe at the beginning of the 18th century when thousands of Palatines, "with poverty and misery for companions" braved the perils of the ocean "in order to seek a home in America" the land of plenty and an asylum for the oppressed. (6) These people, unable to come directly to Pennsylvania, had to be contented with landing in New York, since this was the main port of entrance into this country at that time. But, finding demands, charges and unexpected conditions in general, out of harmony with their fondest dreams and which, if submitted, to would have
meant practically serfdom, they cast about for a new place to settle. (7)

Having previously heard of land on Swatara Creek and Tulpethocken, west of Reading in Pennsylvania, many of them united to cut a road from Sechohary to the Susquehanna River. Carrying their goods to this point they made canoes and floated down the river to the mouth of the creek. Their cattle meanwhile had been driven overland. Thus began a settlement in this interior region of Pennsylvania. Others soon followed and settled without the permission of the proprietary of Pennsylvania or his commissioners. Nor indeed did they even have the consent of the Indians. (8)

Upon the alleged invitation of Governor Keith of Pennsylvania many more settlers came into this region. Their cabins had scarcely been constructed when the Indians informed them that their land had not been purchased by the government. They of course insisted that Gov. Keith had given his permission. (9) In 1717 Secretary Logan, becoming somewhat incensed over conditions wrote,

“We have of late a great number of Palatines poured in upon us without any recommendation or notice, which gives the country some uneasiness, for foreigners do not so well among us as our own English people.” (10)

About the year 1718 the Scotch Irish immigration to Pennsylvania became very pronounced. From the advent of this class into the colony the frontiers were pushed steadily westward. They were a restless adventurous type and did not mix well with the German element. (11) They settled in large numbers in Conestoga Manor, a tract of 15,000 acres reserved by the Penns near the Maryland line where no lands could honestly be sold because of the disputed boundary line. (12) James Logan again writing to the Penns in 1724 calls the Irish, “bold and indignant strangers.” Continuing in the same letter he says,

“We have from the north of Ireland great numbers yearly, eight or nine ships this fall discharged at New Castle. It looks as if Ireland is to send all her inhabitants hither, last week not less than six ships arrived. In one year’s time 5,605 Scotch Irish landed in Pennsylvania.” (13)
The deeds of the Scotch Irish and their influence upon the development especially of Western Pennsylvania are well known. When appealed to for appropriating these lands their reply was that, "it was against the law of God and nature that so much land should be idle while so many Christians wanted it to labor on and to raise their bread." (14) They pressed into the interior of the province beyond the settlements of other immigrants because land was more easily acquired even if they did take it without the formality of securing a title to it. (15) For this apparent disregard of existing land laws and for their courage and spirit of reckless adventure we are indebted to them for frustrating an absentee landlord system in America. (16) Experiences in Ulster when rents had been raised after they had settled the country and made the lands valuable through their industry, had created in these people an almost inherent hatred and disregard for rents of any kind whatsoever. (17)

The proprietors were slow to recognize the type and character of people with whom they were to deal. The Penns were little concerned about conditions so long as revenue poured in. Changes in the land system were therefore necessarily slow. On the part of the German settlers there seems to have been an inclination to make good their titles for their children's sakes. They desired them to have a settlement that they could depend upon and at the same time be freed from any pretended Indian rights. (18)

At an early period there was an inferior kind of title invented by the rude squatters of the border known as a "tomahawk title." This seems to have consisted in deadening a few trees near a spring and marking others by culling the bark. This procedure while not legal was respected by the settlers as establishing a priority of claim with which it was a grave dishonor to interfere. (19) Such rights as these were often bought and sold among the settlers themselves especially among the poorer class of immigrants who came to the province without means of securing a title by immediate payment. (20)

In 1743, the proprietors began to eject squatters in Southern Pennsylvania. As a preliminary measure they
ordered all land to be carefully surveyed. As matters turned out, however, it proved much easier to give orders than to have them executed. The surveyors and their assistants were resisted, their instruments were broken and they were compelled to withdraw. The Scotch Irish insisted that the land was theirs; they had devoted time and labor to its improvement. In the face of legal proceedings, however, many of them submitted and in the end purchased the land.

But it was a different type of settler who crossed the Alleghenies and faced the perils of an unknown wilderness depending almost wholly upon his rifle for food and safety. Stringent orders were issued protesting against persons making settlements beyond Lycoming Creek and those who were already there were given orders to depart. No one, however, in these wild unclaimed regions of Western Pennsylvania ever took such orders very seriously. Agents were laughed at and not infrequently they were maltreated. It is estimated that as early as 1726 about 10,000 Scotch Irish and German immigrants had settled along the western frontier region without the shadow of a right. We are also told that in Northwestern Pennsylvania sturdy, self-reliant pioneers hardened in the eternal conflict between man and nature persisted in occupying forbidden lands in defiance of all orders and proclamations. They fully realized that they were beyond the bounds of lawful authority and could expect little either in the way of encouragement or protection from the proprietary government.

And these Northwestern Pennsylvania pioneers were compelled to adopt a system of government of their own. They were solemnly obligated to support and defend their agreement for mutual support and protection. They gave themselves the name of “Fair Play” men and every year they elected three of their number to constitute a court. Newcomers were obliged to appear before this court and promise under oath to submit to the laws of this community. If they agreed to abide by these conditions they were permitted to take possession of unoccupied lands and were assisted in building their cabins.

The Indians were another source of trouble to the proprietors. They desired some faithful people to be stationed
on the ground with power to remove anyone attempting to settle. Colonial authorities had always had trouble in preventing encroachments on the Indian's hunting grounds. The proprietors forbade any one purchasing land from the Indians, and a law was enacted declaring such purchases as entirely void. But such matters were rather immaterial to the squatter. Wherever he found a vacant piece of land he cleared a few acres and erected his home. And, if necessary, he was prepared to protect his home at the point of his rifle. Yet these people were not a belligerent sort. When officials came into Western Pennsylvania in 1750 to remove certain settlers from Indian Territory, most squatters acknowledged that they had no right or authority to take possession of lands as they had done. Some even later admitted having seen one of the governor's proclamations forbidding such action. Their manner was not one of guilt, however. They did resist being taken into custody by a sheriff and called out,

"You may take our land and our houses and do as you please with them; we deliver them to you with all our hearts, but we shall not be carried to jail." (25)

Meanwhile some of the Indian chiefs communicated with the proprietary of Pennsylvania as follows:

"We have thought a great deal of what you have imparted to us, that ye have come to turn the people off who have settled over the hills. We are afraid notwithstanding the care of the government that this may prove like many former attempts—the people will be put off now and next year will come again * * *" (26)

The result of this plea was of no immediate consequence. True, a number of settlers removed their belongings and their cabins were burned. But ere long they were back on the same spot just as the Indians had prophesied. The rank or standing of the claimant to the land on which they settled meant nothing to them. Washington had been granted a patent to some land around Pittsburgh. But before the patent was issued squatters had settled within the boundaries. Washington entered suit against them but this only served to make them bitter and dangerous. Wash
ington's lawyer wrote to him concerning the matter that, "if he succeeded in his suit against the settlers on his estate, they would probably burn his barn and fences." (27)

So strong in a few years did the westward movement become that it seemed almost an utter impossibility on the part of the proprietors to prevent the occupation of their lands by squatters. Many liberal concessions were made in order to secure some sort of financial return. Lands on the extreme western frontier were permitted to be taken up without a title. This concession was made in order that their might be a line of defense between the settlements and the Indians. Those who wished to secure a title to such lands could do so by paying ten shillings for one hundred acres. Even at such a low rate very few took advantage of the offer. (28)

In the meantime settlers pushed steadily westward. There was some question as to the exact ownership of land in South Western Pennsylvania. The exact extent of Pennsylvania west of the Alleghanies was disputed by Virginia and so long as the dispute remained unsettled neither colony could legally claim the land and grant titles for settlement. Whether these immigrants knew this or not cannot be conclusively proven. Whatever the case may be squatters settled along the Monongahela, and between the rivers and Laurel Ridge. Later they reached the Ohio River. Braddock's Trail, as it was then known, was the route by which the greater number of them crossed the mountains. A smaller number of them came by way of Bedford and Fort Ligonier, the military road to Pittsburgh. They came to Pennsylvania generally from the upper parts of the then colonies of Maryland and Virginia. They were largely Scotch Irish and Germans. (29) Land was the object which invited these people to cross the mountains, for as the saying was, "it was to be had for taking up." (30)

In 1755 Gov. Morris offered to grant lands west of the Alleghenies free of purchase money and with exemption from quit rents for fifteen years. This offer was extended to all persons in Pennsylvania and neighboring provinces who would join an expedition for the expulsion of the
French. The proprietors for a time seemed inclined to accept this proposition but as they saw the chances of securing any quit-rents from the class of people who would settle there were very small and that if they agreed to forego the legal right of demanding it they would be guilty of an inconsistency which might militate against its collection in more favorable localities, they decided to instruct Gov. Morris to grant lands at the usual quit-rent of a half penny per acre or even a farthing per acre if no more could be obtained. Payment of this rent, however, was not commenced until 1786. The governor was also instructed to provide strict regulations for preventing evasion by the people of the conditions on which the grant should be made. They must actually settle the land and not dispose of it to speculators. (31) The rejection of this offer of so-called campaign lands left little for the proprietors to do but to recognize the squatter's right to the land which he had settled and improved.

In 1768 the proprietary of Pennsylvania purchased from the Indians the country as far west as the Allegheny and Ohio rivers. Before an office was opened for the sale of these lands the governor made a proclamation restricting his surveyors to respect the lands of actual settlers who had improved it to the value of £5. Also they were not to be surveyed on warrants or locations of a date posterior to the settlements, except to those by whom settlements were made. (32) Land acquired in this way was not an absolute right or title such as was acquired by warrant, survey, and patent. It was subject to the payment of the price customary at the time of settlement, with interest on such price until paid, minus the value of the improvements. (33)

An act of Sept. 1794 required the raising of grain as one of the conditions necessary to settlement. Instead of this being a hardship upon settlers it was intended for their encouragement. It served as a means of discriminating between bona fide settlers and those who were not such. Anyone who took possession of vacant land without intending to make it his place of residence was in fact a trespasser. And any encouragement shown to such a person operated to the injury of those who intended in good faith
to settle. It prevented them from going upon lands which by law were open to their occupation. The proprietors had in mind persons addicted to agriculture whose means would not allow them to adopt the usual and more regular method of an application warrant and survey, for official surveys could not be obtained according to the regular course of the land office without payment of purchase money. (34)

Slowly but surely the Penns had been playing a losing game. Managerial affairs were badly confused because of a lack of cooperation between the commissioners, the appointed governors and the Penn heirs. Foreign immigrants came into the colony with false impressions regarding rights to land. So long as they remained in the eastern part of the province they could be managed. But as the strict rules of the proprietors bound them to respect the land laws in the east they moved westward establishing settlements as they went. As the arm of the law reached out they moved farther westward until at last they had crossed the Alleghenies. Among the first settlers in Western Pennsylvania was Christopher Gist who had a small group of dwellings near Laurel Hill in the section now known as Ligonier Valley. The St. Clairs settled very early on the site now occupied by Brownsville. A man by the name of Frazier had a small post near the mouth of Turtle Creek. There were other settlements very early in the Beaver Valley, in Chartiers Valley and near the present site of Pittsburgh. In March 1785 William Butler wrote to John Armstrong from Pittsburgh,

"I presume that Council had been made acquainted with the villiany of the people in this country, they are flocking from all quarters, settling and taking up not only the United States' lands, but also the state's. Many hundreds have crossed the river and are daily going, many with their families. The wisdom of the Council I hope will provide against so gross and menacing an evil." (35)

It finally dawned upon the proprietors that little could be done to eject squatters from their lands. Through a hardy perseverance and industry the squatter gained his point and was given a special legal protection. The old time "tomahawk title" gave way to the "law of improvements"
and the power of preemption protected his rights of priority as a settler. Time has erased to a very great extent the disrespect which the term “squatter” seems to have called forth and we may now justly look upon the squatter as the pioneer among homesteaders who later play such an important role in the development of our nation. As for the part which squatters play in Western Pennsylvania there is much yet to be said. I have hardly touched the surface of the subject. However, if in so doing I have awakened an interest in others which shall lead to a more thorough investigation of this subject then my one aim shall have been realized and my efforts shall not have been in vain.

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James N. Fullerton.

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Squatters in Early Western Pennsylvania

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