

*This Land is Your Land,  
This Land is My Land:*

*A Brief Introduction  
To Historic  
Pennsylvania Land Records*

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**W**hen William Penn received Pennsylvania as a royal grant from Charles II of England in 1680 he became the largest private landholder in the history of the world. But Penn was faced with an awkward problem. What was he to do with this largely unexplored expanse of uncounted acres of forested land on a distant continent? Under the terms of the royal grant he was expected to sponsor a settlement of this vast new land, but he was deeply in debt to men in England who were demanding repayment, and colonization schemes took large sums of money.

Penn began, within days of receiving the royal grant, giving parcels of this land to his creditors in payment of debts. Most of the men to whom these grants were made never set foot in Pennsylvania and usually sold their rights to other men or land companies for considerably more money than

Penn had owed them. Thus speculation in Pennsylvania land began at a very early date. These earliest grants later caused considerable confusion and trouble to the first true settlers in the colony since these early tracts had been stated in the broadest of terms with very little knowledge of the actual physical geography of the region. These land holdings, after the organization of the proprietor's land office became known as *Old Rights*, and there is a separate series of land records in the State Archives in Harrisburg encompassing these grants. There are two of these early English documents in the Millersville University manuscript collection. One is signed by William Penn; the other is an English deed transferring rights from one man to another. Neither of the men probably had ever seen the land in question or had anything but a vague idea of where it was located.

Another group to whom William Penn made early land grants was his fellow Quakers or Friends: English, Welsh, Irish and Dutch. Many of these pious folk were seeking a place where they could escape the repression of the restored Stuart monarchy and the State Church of England. Penn granted large blocks of acreage both in the Philadelphia area and in the backcountry to these Friends. From this land the Friends' mercantile prowess were fashioned considerable fortunes built by these early English/Irish/Welsh families. Many of the early German settlers in Lancaster, York, Berks, and Chester Counties obtained their first land in this colony from these early Quaker land brokers, rather than directly from the Penn proprietary land agents.

In the very beginning William Penn created a *Land Office* to manage the traffic in land and placed his secretary, James Logan, in charge. The land system this office managed was adapted from the system used in the English colonization of Ireland and other similar wilderness areas. The proprietor through his land agents, or Land Office issued *warrants* to settlers wanting to acquire land. These warrants, issued in Philadelphia, granted permission to settlers to take up a given number of acres at a very vaguely stated location, e.g. "200 acres near the Cocalico Creek in Lancaster County," or "200 acres on the east bank of the Susquehanna above John Harris' land." The settlers' responsibility was to find 200 acres in that generally circumscribed area to which no one else had laid claim. This was no mean feat considering the land was still heavily wooded with no clearly defined or mapped physical landmarks. Furthermore the settler standing in the middle of a vast forest could not easily see landmark streams, hills, or valleys. Nor did he arrive in this howling wilderness with a map in hand showing where the boundaries of his neighbors' lands were located, nor did the streams carry name signs like city streets. It must, of course, be explained that more often than not a new settler would have carefully scouted an area in advance and knew what land was available. So when he applied for a warrant he knew with fair certainty where he wanted his land to be located and that his

brother, uncle, cousin, or a former friend or neighbor from the old country had the adjoining tract of land and had tipped him off about his tract's availability.

With a warrant in his pack the settler then had to *make improvements* on the land, i.e. clear some land and build a cabin. Not only was this a condition of the terms by which he received the warrant to take up land, but one must keep in mind that most of these settlers had wives and children to provide for immediately. So land-clearance, field-planting, and cabin building was a very pressing matter.

For many of the early settlers this is where the land system ended. The next step in the process was tough, and required payment for the land. Many settlers who were simple scratch farmers could not come up with the surplus cash to pay for the land they were working. Instead they moved on to greener fields, selling their *warrant rights* and improvements to the next group of settlers. It was often the next settler, or even a later generation of one of the settler's families who proceeded to obtaining a *clear title* to the land. This involved going to Philadelphia and requesting the Land Office to make a survey of the land. At this point the landholder had to make arrangements to pay off the land at a preset price of so much per acre. There also had to be a settlement of the *quit rent* which was calculated retroactively to the year the settler first took up the land. Time or installment payments were always available, and then there were interest payments to be considered.

Of course, there were always those settlers who made little or no effort to conform to the proprietor's rules for land acquisition. They assumed *squattor's rights* and simply settled on any unoccupied land not claimed by another settler. Unless challenged by someone with a better claim of title through a warrant, they took up the vacant land, began clearing it and erected the inevitable log cabin. Sometimes squattors would make a later effort to clear the title to their land by seeking a warrant long after they had settled on it. More often, however, when their ownership of a tract of land was challenged, they simply moved further west on the frontier or south down the valley, i.e. the Cumberland or Shenandoah Valley, to Virginia or the Carolinas. The Scotch- and Anglo-Irish settlers were among the most flagrant of the squattors. They could not understand that anyone had to pay an English family, who lived mostly in England, for land that was so obviously free for the taking, so vast, and which they had to clear with their own sweat and muscle. There was continuing conflict between these Protestant settlers from Ireland and the Penn family over squatting, non-payment for land, and quit rent. This conflict is often listed as one of the contributing causes of the frontier's settlers' strong support of the American Revolution.

However, for the legitimate settler with a warrant wanting to establish

title to his land, the Land Office instructed the proprietor's surveyor, or one of his deputies, to go out and make a survey of the tract of land that had been warranted to the settler. Usually the land occupied and reported, or returned, by the surveyor was larger than called for on the original warrant. These surveyors were men of considerable importance and frequently had to resolve on-the-spot disputes between landholders over conflicting claims to warranted land. Land disputes not resolved by the good-offices of the surveyors were arbitrated by a *Board of Property* appointed by the proprietors.

After the surveyor returned the results of his work to the Land Office, including a sketch or plotplan of the tract surveyed showing the adjoining landholders, the proprietor's agents granted a *patent* to the landholder. This handsome document, usually written on parchment for the sake of permanency, granted *clear title* to the *freeholder*, who thereafter could convey that land to other owners as he saw fit. There are a number of examples of these patents held in the Millersville University manuscript collection. The journals and notebooks of the surveyors and the minutebooks and caveat books of the board of property are of considerable value in local and family historical research. The State Archives in Harrisburg is now the custodian of the original records of the Land Office, the Board of Property and the Surveyor-General. The notebooks of the early surveyors are scattered, with some in the manuscript collection of the Historical Society of Pennsylvania and others at the Chester County Historical Society.

Quit rent, or ground rent as it is sometimes called, was to be paid to the proprietors forever, thus providing the Penn family with feudal or baronial rights to the land of their royal grant, and also a tidy annual income.

The payment of quit rent in perpetuity was excellent in concept for the Penn family, but very hard to collect in practice. Very few landholders actually paid it after the first few years of ownership. Efforts to collect this rent was a source of continual friction between the proprietary family and the provincial government. Ground rents continued to be assessed on properties and collected well into the nineteenth century.

Once the freeholder had clear title by patent to his land, any later land transactions, such as sell all or part of it to another owner, or the *partition* or division of the land among his sons after his death, were recorded as *deeds* in the county office of recorder of deeds. It is important to keep several points in mind about deeds. First, a deed is just that; it is a legal action or document describing a legal event. The items recorded as deeds are most often documents conveying property of land from one person, group of persons, or corporation to another. But they can also be documents granting power of attorney; receipts for the sale of cattle, equipment, or furniture; the manumission of slaves; charters for churches, fraternal organizations, or corporations; marriage contracts; property agreements

between divorced couples; support agreements for illegitimate children; releases or receipts by heirs to executors, etc., etc. In other words a deed is simply any legal document that someone wants recorded for safe-keeping *sometimes*.

That leads to a second important point to keep in mind about deeds. There is no requirement that a deed be recorded. The recording of deeds is a public service the state government provides to the prudent citizen at the county level of government. A high percentage of the early deeds in which land or property was conveyed were never officially recorded. This was especially true of deeds for small tracts of land or town lots. Deeds for land in the remoter parts of the county often went unrecorded. For example, land transactions in Bethel, Tulpehocken or Hanover Townships, now in Lebanon, Berks and Dauphin Counties, were seldom recorded since to do so entailed a long arduous round-trip journey of several days over primitive roads or trails to Lancaster Borough, the county seat. People living in the northern and western parts of Chester County, which before 1729 included all of the Conestoga and Pequea Valley settlements that became Lancaster County, were loath to travel all the way down to Chester on the Delaware River to record land transactions. It was far simpler to take the risk of unrecorded or unclear titles.

Another point to be kept in mind when dealing with deeds is that legal actions of all kinds were recorded where it was most convenient to do so, not necessarily the most logical place. Therefore, a researcher must always search Philadelphia and Chester County records for the earliest land transactions for Lancaster and Berks Counties, even long after the creation of the new counties. Again, logic to the contrary, the earliest land records for an area created into a new county remained a part of the records of the mother county. The manner in which these land records were kept made it impossible to separate out those pertaining to the area of the new county. So, for the earliest deeds for York, Cumberland, and even Franklin and Bedford Counties, it is necessary to research the records of Lancaster County. For early land records for the area that became Berks County in 1752 one must look in both the Philadelphia and Lancaster County records.

The conveyancing of land has historically been done on a number of kinds of records. The most common form of document conveying land from one owner to another is called an *indenture*. It is a relatively simple document when one gets to know how it works and after one sorts through a vast amount of verbiage. A deed is also often loaded with information or clues of value in historic property and family research. The word *indenture* stems from the Anglo-Norman French used in medieval England and means that the document has teeth or indentures along its top edge. In the history of land conveyancing in medieval England the document was written twice; one copy was given to the prior owner and one copy given to the new owner.

The authenticity of either document was readily established if the two irregularly cut or toothed edges matched.

Indentures, or as they are now more commonly called, property deeds, contain the names of the *grantor* (the seller) and the *grantee* (the buyer) and normally their occupations and places of residence. Under American common law the wife, if any, of the grantor had to give her consent to the sale of any property so her name appears as one of the grantors. The indenture describes the property being sold, giving its physical location, the names of the adjoining property owners, and the *metes and bounds*, i.e. the surveyor's exact measurements and landmarks. Often also included is the *chain or abstract of title*, listing the previous owners, often back to the time of the original patent.

Since deeds were written by scribes who served as *de facto* lawyers in most rural communities and since scribes were paid by the number of words they wrote there is usually a great deal of useless legalese that makes the deed unnecessarily long and wordy. It was not until the mid-nineteenth century that there was an effort to introduce standardized forms for writing deeds. But it took many years for those forms to gain acceptance in the country where the scribes often were the notary public, justice of the peace, surveyor and political leader all at the same time.

Another common form of land conveyance was a *deed poll* or *deed polled* which means again in Anglo-Norman French that the top edge of the deed was a straight edge rather than having teeth or indentures. These conveyances usually served as pro forma documents placing on record some change in the status of property involving only one party. Since only one person was involved in the transaction there was no need for two documents with edges to be matched. This kind of record was frequently used in the partition or division of land among heirs to an estate. It was also used by property owners who were anxious to put on record their ownership of a piece of property which they had acquired in an informal fashion without benefit of a new deed some years before.

A great deal of property exchanged hands in the past for which no record was ever made. Distance from the county seat was only one reason as previously explained. Another reason was the expense, especially when that expense could be avoided by *endorsing* the deed, as one would now endorse a bank check. The owner would sign over the property or lot to a new owner by placing a simple dated statement of intent and his signature on the reverse side of the deed. The old deed was handed to the new owner and that was that; no title search, not title insurance, no concern over clear title, no deed recording. But life was simpler in those days. If all the deeds conveying property, especially town lots in the city and boroughs in Lancaster County, had been recorded it would require two, three or even four times the space recorded deeds presently take up in the county courthouse.

A final small point to be made. The county recorders of deeds do not keep files of original deeds. These elected officials' staffs make copies of the deeds the owners want placed on record (formerly in longhand, now on microfilm) and the recorders certify the authenticity of the document, not the accuracy of its contents. The original deeds are returned to the owners' safekeeping until the property is conveyed to a new owner. However, both the Archives Division at the Lancaster County Courthouse and the Lancaster County Historical Society hold large collections of both unrecorded deeds, as well as collections of deeds that have been replaced by new deeds. Both types of deeds help researchers in the study of the history of property and families in Lancaster County. The Millersville University manuscript collection has in it a number of examples of the various kinds of deeds mentioned above.