

Emanuel Carpenter, the Law Giver.

BY D. F. MAGEE, ESQ.

In the wise direction of human events as ruled by Divine Providence during the career of this country as a nation, whenever there came a need and a call for men for special service, that same over-ruling power has ever found a man, ready equipped to fulfill the duties of the service required; this truth applies to every stage of our history, and was never more forcefully illustrated than in the life story of the subject of this day's theme—Emanuel Carpenter; "Judge" familiarly and affectionately called "Maunty, the law giver."

It does not belong to my part of the story to tell of the rugged ancestry from which he sprang, Heinrich and Salome Zimmerman, and how from the blood of this worthy ancestry he inherited and absorbed all of that rugged daring, strong will and unbending devotion to liberty, fair play and justice to mankind which throbbed through his veins and impelled his every action.

Suffice for me to say here that as far as we can discover, considering the rugged battling ancestry, wonderfully developed by a comparatively good education to which Heinrich wisely devoted most of his childhood at the school in Germantown, afterwards drilled and trained in the hard school of work and experience in lines that naturally lead to the leadership of men, under Heinrich's vigilant direction, we shall find a very large part of those activities which paced him in the position of eminence in the public life of the community, which he attained.

Of course, we readily understand that the legal talent and learning which is required of the Judge at this day to decide law points and principles, and give opinions that will stand the test of appellate courts, was not required nor possessed by even the presiding Judge of that day. Yet as we look over the many books of record, see the accurate form of writs, judgments, sentences, and decisions "as the Court hath them recorded," we can by no means call them acts of an untrained man or lacking in learning or forms of law.

At that day the common law of England was the law of this and, and it is an axiom that common sense and a strong sense of justice are the main elements required to interpret and apply that law.

Be that as it may we find that Judge Emanuel Carpenter as a Judge or Justice was a preeminent success, honored, trusted by the high officials who handled the offices of this county under the authority of the King of England and the proprietors and their officials at Philadelphia. Loved and respected by the people of this county and relied upon by the leaders of the people within the county and state, who found him both a just Judge and a staunch supporter of law and order, when he held a commission from the Georges of

England. Nevertheless, while holding that commission he was foremost among those who were contending against the oppressions and wrongs committed in the name of the Crown, and bent his every energy toward preparing his people for the battle for freedom and liberty of his country, which no doubt his wise vision clearly foresaw would come.

Thus we find, while presiding as a Judge he became on July 9, 1774, a member of the committee from this county to protest against treatment of the people of Boston and the closing of that Port by England after the tea episode; and we find him soon thereafter named as one of the active members and leaders on the Committee of Safety of Lancaster County.

In the same manner we find him holding Court as President Judge, issuing writs and entering judgments under the caption and by the authority of George III, Sovereign of Great Britain and Ireland, etc., at the August session of 1777, and at the very next session of his court held on the first Monday of November of the same year, 1777, we find all captions, forms, writs, etc., have dropped the name and all mention of the King, the Crown and Sovereign, and issue only in the name "Pennsylvania."

See Docket of Court Quarter Sessions Lancaster County No. 3, August and November terms, 1777.

During his long service as Justice of the Peace and Judge from 1735 to 1780, he lived and made his home in Earl Township, on his farm deeded to him by his father, Heinrich, which the said Heinrich had patented from the Penns about 1726. This farm is at and along Carpenter's Run, where the said Run enters Conestoga Creek.

He and his brother, Gabriel, built their houses on adjoining tracts, about 1729 or 1730, when he was married. Their first houses were but log cabins. His brother Gabriel's farm was further up, Carpenter's Run, where Carpenter's Run and Groff's Run come together, near a large spring.

Emmanuel's farm originally contained 342 acres, but the homestead and site of the original log cabin and the stone house that succeeded it is now a farm of but 69 acres and 80 perches. The property lies to the southwest of Earlville or Talmage and is entered by a lane running westward from the center of this village. It is owned by Simon K. Zook, who lives on it with his wife and daughter and son-in-law. A complete chain of title for the same is recorded at Lancaster and briefly is as follows:

Patented by Heinrich Carpenter, 1733-A-6-239.

Deeded to Emmanuel Carpenter, Book E, page 239.

Willed to Emmanuel II. Sept. 5, 1779, Will Book D-1-80.

Sold to David Good April 24, 1800-H-3-371.

David Good's Estate, March 17, 1810, Book 21-278.

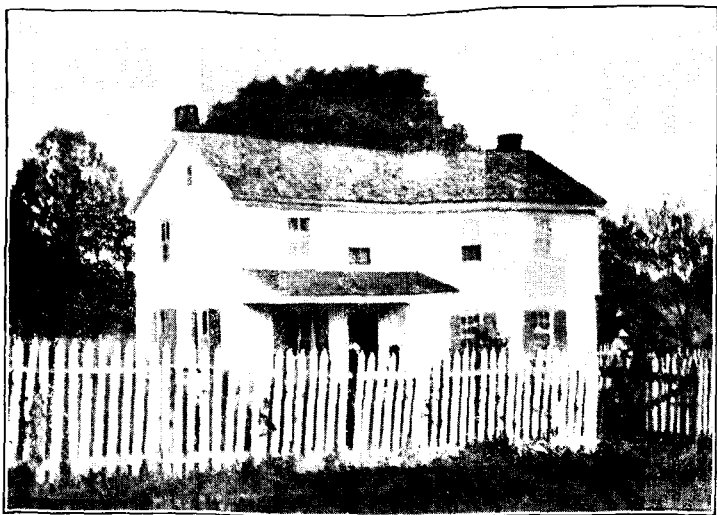
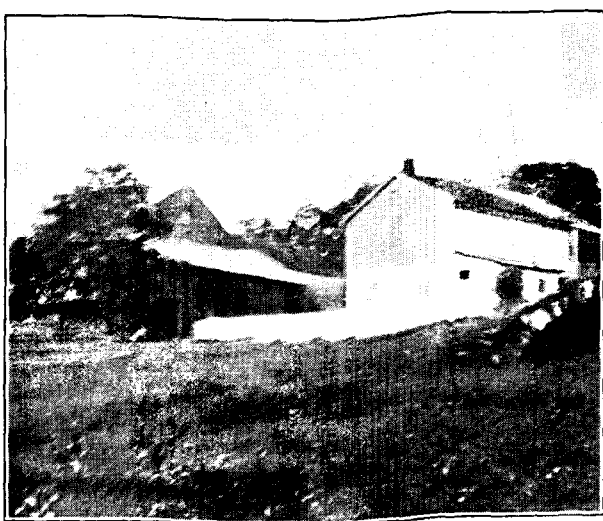
Deeded to Jacob S. Shirk and Cyrus Sheaffer, April 2, 1851 Q-7-375.

Deeded to John Heller, March 22, 1853, Book C-8-244.

Deeded to Simon D. Zook, April 2, 1860, Book H-8-264.

Simon D. Zook's heirs to Simon K. Zook, April 29, 1886, Book Q-12-71.

A very old stone house with a later-built frame end is standing occupied yet and is the last house occupied by the Judge and in it he died; but just North of this house are signs of another small stone house, the arch cellar of which still remains, and it is probably that this was the site of the Judge's first home after the log cabin was abandoned; but sure it is that here was his



This picture represents the house in which Judge Emanuel Carpenter lived on his farm the last forty-two years of his life and died in, in 1780: giving both front and rear view. The house as shown is about one third larger here than when Carpenter lived in it, the old portion being the right end. It has a wonderful old arched top cellar under this end. There is also shown in front of the rear view the remains of an old arched top cellar which is probably the cellar of his original house or log cabin, built in 1730 by him, and later used as a school house, the first in that section.

The farm is now owned by Simon K. Zook, is due west of the village of Earlville and is reached by a lane running from said village.

home during his long life and service as Justice of the Peace, Judge and Representative in the Legislature.

The second house which Gabriel built to replace his log cabin is still standing on his homestead farm, which is entered by a long lane off of the Mechanicsburg State Road near the present residence of Benjamin E. Rupp. It is close to a magnificent big spring and close to the Forks of Carpenter's and Groff's Run, which are referred to in the first deed to this property. Two or more additions have been built to it of stone, but the portion built more than 165 years ago still remains as the center of the house, and this portion is of log originally, covered with weatherboard.

This property remained in the Carpenter family for about 160 years, the last Carpenter owning it being Miss Mary Carpenter, of Lancaster, a great-great-granddaughter of Gabriel Carpenter. It is now owned by Isaac Zimmerman, who occupies it with his family. The third very old house and site about which there is some controversy is the house now owned and occupied by Ezra Zook, located west of and adjoining the present graveyard, at Carpenter's Church, to which the buildings are quite close. Col. Carpenter, the historian of the family, states that this house was built by old Heinrich, the settler who moved there and died in this house. In that we think he is mistaken.

The house itself, as it now stands, is very large, built in an excellent manner of stone neatly pointed and in both the type and manner of construction bears evidence from top to bottom of its antiquity.

The walls of the cellar are exceedingly thick and strong, supporting the floors of the house by a number of stone partitions and heavy foundations. Within a very few years, in fact only last year, there remained an immense fireplace some twelve feet across, built into the center partition of first floor; and all wood parts are of fine workmanship. But all of these things go to show that the house was entirely too big, fine and expensive to have been built by old Heinrich in his last years when his family was all gone out from his roof, and he was nearing the grave. The writer believes that it was built about in 1769 by old Heinrich's son, Henry, who like himself was a doctor, was a comparatively rich man then and had a family of beautiful daughters, according to the story. There is in one corner of it a small room with door opening out to, the porch said to have been a doctor's office.

In the Recorder's office we find a complete chain of titles to it, starting with the big patent deed in old Hienrich, then to his son Henry when it was a tract of 121 acres, then from Henry II to his son Henry the third, who was likewise a doctor by will in 1772 and the graveyard was sold off of it before that date.

It then passed through John Graybill, 1835, Lewis Diller 1846, Abram Lefevre 1847, John K. Horst 1873, Christia Frankhouser, Rudy Frankhouser his son, George F. Bard and Bards estate, to Ezra B. Zook in 1915, Book D, 22-555. Since 1846 it has had but 59 acres 80 perches in it.

The very earliest official appointment of which we find record was given to Emmanuel Carpenter at the first Court held for Lancaster County at Postlethwaite May 10, 1729, with Justice John Wright presiding, when the name of Emmanuel Carpenter was among the 12 Constables appointed by the Court, he being named for Cocalico Township.

No. 1 Record Book of Quarter Sessions Court of Lancaster County, page 4.

In 1735 we find of record his first appointment and commission of Justice of the peace in Lancaster County, and it is interesting to read in detail the first official act performed by him, of which we find record, when he performed a marriage ceremony, uniting in wedlock his own sister, Mary Carpenter, to Daniel Fierie (Ferree), Jr., which marriage certified in full was as follows, together with the names of the witnesses appended thereto:

"WHEREAS Daniel Fierie of the County of Lancaster and Province of Pennsylvania, yeoman, and Mary Carpenter, daughter of Henry Carpenter of the County and province aforesaid, spinster, having made due publication of their intention of marriage as the law directs: These are therefore certified, all to whom it may concern, that on the first day of May, A.D., 1739, before me, Emmanuel Carpenter, one of his majesties Justice of the Peace, of the said county, they, the said Daniel Fierie and Mary Carpenter, appeared in a public and solemn assembly, for the purpose appointed and met together at the dwelling house of the aforesaid Henry Carpenter, when he the said Daniel Fierie did openly declare that he took the said Mary Carpenter to be his wife, promising to be unto her a loving and faithful husband till death should separate them; and the said Mary Carpenter, then and there in the assembly did in like manner openly declare that she took the said Daniel Fierie to be her husband, promising to be unto him a loving, faithful and obedient wife till death should separate them, and for a further confirmation thereof both the said parties to these presents have hereunto interchangeably put their hands, she after the custom of marriage assuming the surname of her husband, and whose names are hereunto subscribed being witnesses present at the solemnization thereof the year and day first above written.

(Signed)

"Daniel Carpenter,
Daniel Fierie,
Mary Fierie,
Henry Fierie,
Henry Harris,
Elizabeth Kemp,
Paulos Peter Affel,
Henry Carpenter,
Salome Carpenter,
Lawrence Hayne,
Daniel Lefever,
Heinrich Zimmerman,
William Buffington,
Daniel Zimmerman,
Hans Hause,
Gabriel Zimmerman,
Jacob Carpenter,
Theopolis Hartman,
Christian Zimmerman,
Hans Hartman,
Isaac Fierie,
Peter Fierie,

Joanna Conrad Kaempf
Isaac Lefever
Daniel Harman
Joannes Volkecummer
George Philip Dollinger
Christian Herman
Maris Herman
Abram Fierie
Philip Lefever
Hester Lefever
Samuel Lefever
Susan Zimmerman
Jacob Fierie
Solomon Harman
Leah Fierie
Rachel Fierie
Isaac Fierie
Mary Hans
Jonas Le Rone Fierie."

¹ History of Carpenter family by Seymour D. Carpenter.

In October, 1730, Emmanuel Carpenter was elected as one of the assessors for the county, the assessors at that time being Joshua Lower, of Hempfield, Emmanuel Carpenter, of Cocalico, Walter Denny, John Caldwell, Gabriel Davis, of Earl, and Thomas Wilkinson, of Donegal.

There are a number of commissions on record in the Recorder's office at Lancaster issued to Emmanuel Carpenter, but his earliest commission as a Magistrate or Justice is not there recorded. Those recorded are as follows:

January 2, 1761, Record F-233, Supersedeas as Judge by George III.

January 12, 1761, Record F-239, Re-appointment by George III as Judge.

October 18, 1762, Record G-407, Appointment as Magistrate.

April 14, 1764, Record L-258, Appointment as Magistrate.

Sept. 18, 1770, Record O-296, Special Commission to a Court for the Trial of Negroes only.

March 31, 1777, Record Q-505, First Commission from the Commonwealth of Pennsylvania as presiding Judge.

His commission as President Judge of the Courts of Lancaster County was issued to him by George II, King of Great Britain and Ireland, etc., and was dated November 1, 1759, and recorded March 2, 1760, in Deed Book D-536, and reads as follows:

"S. S. Pennsylvania. To wit: George II by the Grace of God of Great Britain, France and Ireland King, defender of the faith, etc. to all these present shall come: GREETING: Know ye that we have constituted and chosen our faithful Emmanuel Carpenter, gentleman, presiding Judge of the Court of Common Pleas for the County of Lancaster, to hold the same for so long a time as he shall well behave himself therein.

"IN WITNESS WHEREOF, we have caused the great seal of our said province to be hereunto affixed.

Witness: William Denny, Esq. by virtue of a commission from Thomas Penn, Esq., true and absolute proprietors of the province of Pennsylvania, etc."

However, there seems to be an anomaly in the date and date of recording, as we shall see hereafter, for we find in the Book 3 of the Record of the Court of Quarter Sessions of Lancaster County these facts:

The first Court at which he presided was the February Quarter Sessions held in the Court House at Lancaster on February 7, 1758, and the following minute is made in the docket of said Court on that date:

"The Court being opened a new commission of the peace was presented and read and then the Court adjourned until Wednesday, the 8th, at 10 A.M."

And when Court opened on said Wednesday, February 8, 1758, Judge Carpenter is noted as presiding.

The prior Judge who had presided at the last Session of the Court, being November 2, of 1757, was Thomas Edwards, Esq. Docket 1 of the Court of Quarter Sessions, page —.

This may have been brought about by the official delays as well as the slow methods of communication, between the heads of Government in the province and the heads of the Royal Governments across the seas.

When Court opened on February 8, 1758, Sheriff Joseph Pugh, Esq., returned the venire with the panel thereto annexed, and the following persons

were sworn or affirmed as the grand inquest, this being the first to sit under Judge Emmanuel Carpenter, to wit:

Isaac Whiteside, Foreman,
Casper Shaffner,
Thomas Thornberger,
Philip Lanhear,
George Reynolds,
John Hart,
Nicholas Job,
Henry Mason,

John Neal,
John MacBride,
Abraham De Huff,
Conrad Young,
Frederick Stone,
George Swope,
Lodwick Byerly,
George Stricker.

The first case tried was the King versus Peter Myers. He pleaded guilty to an assault, was adjudged to pay a fine of 6 pence to the Governor and costs, and stand committed till it was complied with. The first Jury Trial was a felony. Larceny. The following were called as jurymen: Chas. Vance. John Evans, John Force, James Evans, Francis Morgan. Abraham Nelson, George Bruah, George Diffenderfer, John Evans, Theopolis Hartman, John Evans (three John Evans).

He was found guilty and was sentenced to receive 12 lashes at the public whipping post on Friday, next, between the hours of 9 and 12, pay a fine of 8 pounds, make restitution of goods, pay costs and stand committed until the sentence was complied with.

There were eight cases heard, but only one jury trial; balance were submitted to the Judge of the Court, no attorneys apparently being employed. The Judge usually imposed a fine of from 6 pence to 15 shillings.

There were 13 persons who had been summoned to jury duty and failed to attend. Each was fined 10 shillings. Several petitions for public roads were presented and on return of a petition favorably reported. Three Tavern Licenses were recommended and two licenses to sell beer and cider.

May Sessions were much shorter. August Sessions about the same as February and the November Sessions about the same as May in the amount of business done.

Dockets 1, 2, 3 and 4, in Quarter Sessions office, show that he was continuously president Judge from February 7, 1758, to November Sessions of 1779, which was the last Court at which he sat or presided, or just about twenty-two years. At the February Sessions of 1780 Justice Michael Hubley presided and as Emmanuel Carpenter died in 1780 he presumably held his position until the date of his death, when he was seventy-eight years of age, and had continuously held County Offices, beginning as an assessor and constable, supervisor, poor director, justice of the peace and President Judge, and delegate or representative in the State Legislature for fifty-one years.

On January 2, 1761, Deed Book F-233, his commission as President Judge, as well as that of all his six associates were superseded and annulled by King George III, who had just ascended the throne of England. And on January 13, 1761, or two weeks thereafter, new commissions were issued to Judge Carpenter as President, and to most of the others as associates, so that evidently this was done in order that all should hold their commissions from the then reigning King of England.

It is worthy of note that on September 18, 1770, a special commission

as Judge was issued to him and Isaac Saunders, one of the Associate Judges, constituting a special court to try all cases relating to or effecting negroes, both slaves and free, showing how sharply the color line was drawn at that date. Record Book O, page 296.

Under date of March 31, 1777, Record Q, page 505, Judge Carpenter had a commission issued to him to supersede his prior commission from George III. This commission read:

"Under and by authority of the Freeman of the Commonwealth of Pennsylvania, The Supreme Executive Council of said Commonwealth, etc., etc., issue their commission Emmanuel Carpenter and Associates, etc. Also you or any three of you as Justices of Assizes, Justice of Oyer & Terminor and Jaol Delivery to try at certain times and Sessions misdemeanors, felonies, etc., etc., and also as Justices of Court of Common Pleas to hold to bail, etc.

"Given under the great seal of the Commonwealth of Pennsylvania.
(Signed) "THOMAS WHARTON, *President*, F. P. MATLACK, *Secretary*."

This was the commission in effect at the time of his death.

These early dockets in both the Quarter Sessions Court and in the Prothonotary's office show that during the greater part of Judge Carpenter's term as President Judge, there were but six or seven lawyers apparently of record, to do all the business that required the attention of the lawyer in both Courts, although in very many cases apparently there were no lawyers engaged. These attorneys though few in number were men of note and ability. In number of cases engaged George Ross easily lead all the rest in all Courts and in Common Pleas he apparently represented as many clients as all the others together. Yeates, Atlee, Shippen, Porter and Morris were the other attorneys whose names appear, with only an occasional name of an unknown attorney, among which there occasionally appeared the Attorney General or an attorney representing the State of Pennsylvania.

During all of this period the number of cases docketed ran very high, considering the population of the County, but in most cases they were of small importance and were quickly disposed of in both Quarter Sessions Courts and the Courts of Common Pleas. The cases docketed in the Common Pleas Court averaged about 1200 a year, but 9/10 of them were simply brought for the collection of debts and in results amounted to little more than confessions of judgment, as they were not disputed, and no defenses were offered. In those days the law allowed imprisonment for debt and in many cases it was imposed.

In Criminal Courts about 9/10 of the cases were assault and battery and were heard by the Judge without a jury and usually without an attorney. Felonies which were few in number, being principally larcenies with an occasional case of arson and murder, required juries. The penalty for larceny was usually whipping on the bare back with from 10 to 25 lashes, and women were often whipped.

A very large part of the business of the Court was taken up with work in appointing road viewers and passing upon their reports. These were naturally great in number in that formative period of a new country, and some of the roads laid out during Carpenter's term were highways of great importance and remain so today.

The granting of tavern licenses was another big item of business and they ran into the hundreds in a year. They were not all granted at one Session. The big Sessions for this business seemed to be in August. Judge Carpenter missed but very few sessions of the court, his name almost invariably appearing as present and presiding. He was President Judge for twenty-three years.

Judge Emanuel Carpenter died in April, 1780, leaving a Will under date of September 5, 1779, proven May 8, 1780, and recorded in Will Book D-1, page 8.

At his death he held in one tract of land at the mouth of Carpenter's Run on the east side of the Conestoga four hundred and forty-five acres of land and allowances: and this he had divided into two farms on one of which he lived with his wife, Catherine, in and at the site of his first home together with his son Emanuel II, and his family, but each family living in separate houses, the judge and his wife occupying the smaller and older house. The other farm and portion of his original tract was farther down the Conestoga was built upon and occupied by his other son Jacob Carpenter and his family. He gave to Jacob this farm on which he, Jacob, was living, containing 221 acres, subject to the payment of £600 to his daughter, Catherine Reigert, wife of Adam Reigart, with interest during her lifetime to his widow, Catherine, payment of principal to be made when his widow died.

To his son Emanuel II he gave the homestead of 221 acres subject to the payment of £600 to his daughter, Elizabeth Graf, wife of John Graf, with interest during her life to his widow Catherine during her life. Also reserving from this farm the right to his widow to live in the house in which they then resided, with right to bread, butter, milk, meat and garden for her and her maid during her life.

From his personal estate he bequeathed to his granddaughter, Elizabeth Gibbanee, wife of John Gibbanee, the sum of £800, to Adam Reigart his son-in-law the sum of £50, and all the rest, residue and remainder to his wife Catherine to do with as she wished. He appointed his wife and son-in-law, Adam Reigart, executors.

With this I shall close this paper, which it was only intended should cover the magisterial, judicial and various official activities of this early pioneer and active patriot who so early in our country's history took his place among the leaders of men and the builders of our government and uplift of our County from a wilderness of savages and too often the home of lawless men. We may well feel proud and the people of this community should especially take pride in the fact that this particular community where many of the direct descendants of those early pioneers still remain has furnished to their country one who spent his long life in their midst at his home and yet succeeded in earning the love, esteem and full confidence of the leaders of the nation in the days that he lived in their midst.

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