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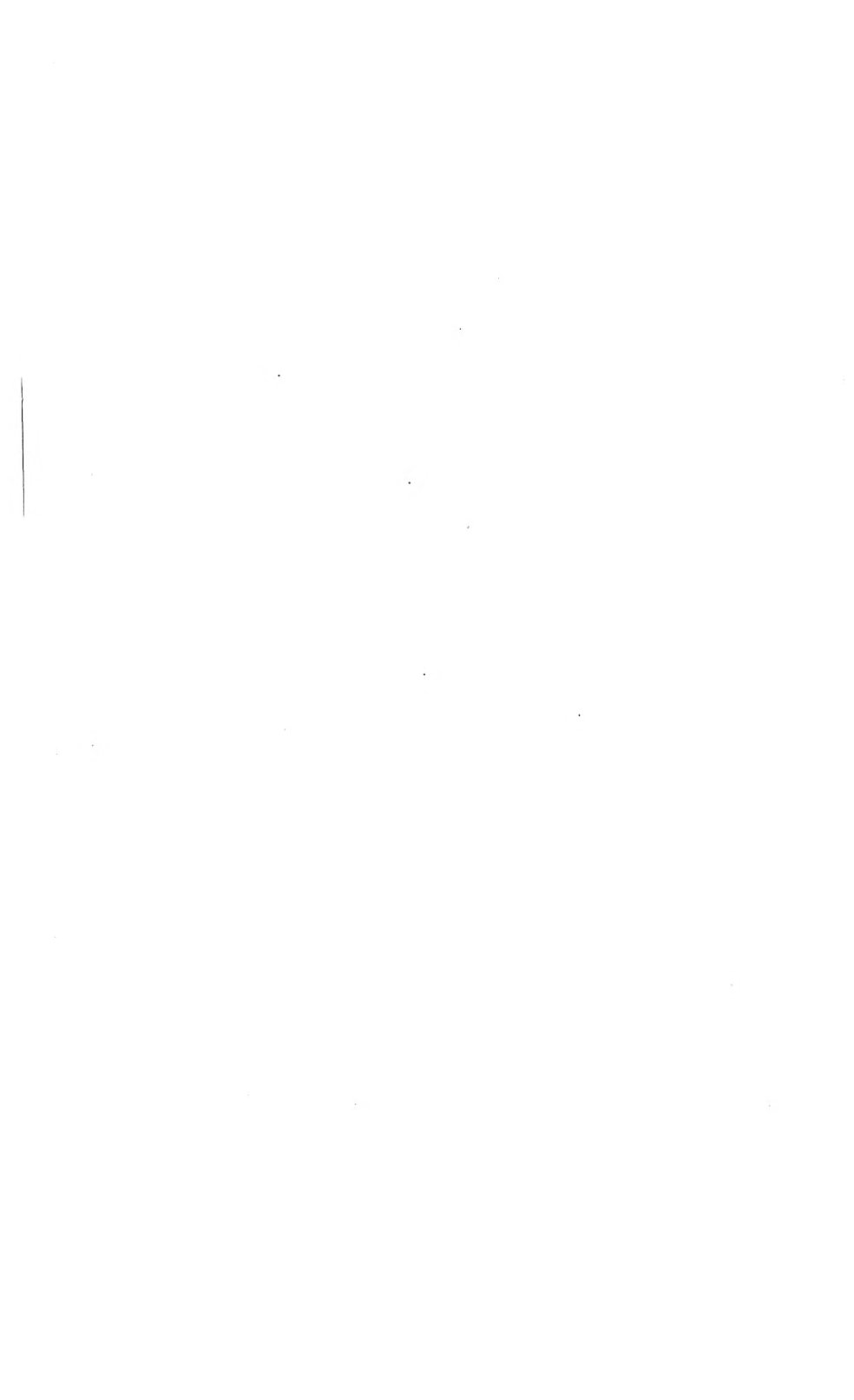
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Book 1



THE
TRENTON DECREE OF 1782

AND THE PENNAMITE WAR



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BY

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THE TRENTON DECREE OF 1782

AND THE PENNAMITE WAR

In 1782 Trenton was selected as the meeting place of a Court of Commissioners appointed by the Continental Congress, to hear and determine a controversy which involved a claim on the part of Connecticut to the ownership and jurisdiction of a considerable portion of northern Pennsylvania. The court consisted of seven members, and convened in Trenton on November 12, 1782. It had all powers incident to a court, and was established by Congress under the authority of Section 9 of the Articles of Confederation.

Although the members of the court were all eminent jurists and men of high standing in the colonies; and although the court was attended by distinguished counsel from Connecticut and Pennsylvania, and sat for forty-five judicial days in the hearing of an interesting and important controversy arising between two sovereign states, the record of the trial is scant and unsatisfactory. With the assistance of Dr. Godfrey, I found a short record of the proceedings of the Court in the Pennsylvania Archives, but the place of meeting in Trenton, and many important details, are left to conjecture.

The decision in the case was rendered on December 30, 1782, and is known in history as "The Trenton Decree." It terminated a dispute that began in 1757, which caused intense ill feeling between the two colonies. In local history it is known as the Pennamite War.

In order to explain the dispute between these states, and how Jersey men became involved, it is necessary to go back more than a century to the days when the lands on the eastern part of this continent were parcelled out by the British Crown. Generous grants were made, always vague in description and usually overlapping, due to ignorance of the geography of America.

This resulted in confusion, and in a number of instances to bitter strife and bloodshed.

Connecticut claimed ownership to the portion of Pennsylvania located north of the 41st degree of latitude under a grant from Charles II, in 1662, which was confirmatory of a previous grant from James I. It was generally supposed in those days that the North American Continent was no greater in width than the Central American countries, and some of the grants ran from sea to sea. The Connecticut charter included the land now embraced within the boundaries of Connecticut, extending westward the same width to the ocean. That is to say, "from the said Narragansett Bay on the east to the South Sea on the west"—the South Sea being the name then applied to the Pacific Ocean. The charter excepted any land then actually inhabited by any other Christian Prince or State. Basing their contention on these words, it was claimed that the lands in Pennsylvania, bounded on the south by the 41st degree of latitude—(about the vicinity of Stroudsburg) and extending from the Delaware to the western boundary of the state, were under the jurisdiction of Connecticut.

The charter granted to William Penn in 1681 by Charles II included a tract of land which had for its northern boundary the 42d degree of latitude, thus overlapping by one degree the grant made 19 years before to Connecticut.

For nearly a century Connecticut neglected to make any active claim to the land, and it was only after all the land within her undisputed boundary had been pre-empted that she turned her eyes to the westward.

While Connecticut claimed priority, the proprietors of Pennsylvania maintained that when their charter was granted the eastern boundary of New York State had been decided by the Attorney-General of England to be the western boundary of Connecticut, and this decision restored the lands westward to the Crown, and laid them open to a new grant.

Connecticut also claimed priority by reason of a deed from the Indians in 1754, and by actual settlement in 1762; while Pennsylvania did not purchase from the Indians until 1768, and did not effect any settlements until a year later.

In 1753 two land companies were formed in Connecticut,

one called the Connecticut-Susquehanna Company, and the other known as the Delaware Company. The Connecticut-Susquehanna Company included some 800 of the leading men of the colony, subsequently increased to 1,200, and the movement to settle the land was regarded as an unofficial but popular movement on the part of the colony itself. They purchased the Indian title for 2,000 pounds, and the deed included the land north of the 41st degree of latitude, and extended a considerable distance west of the Susquehanna. Pennsylvania claimed that this deed was obtained by fraud; that undue influence was resorted to, and that rum played an important part in inducing the Indians to execute the instrument. The Delaware Company also purchased land from the Indians, and it was under the auspices of the latter company that the first settlement was made, in 1757, at Cushtunk on the Delaware. The Connecticut agents went so far as to interest some Pennsylvania people in the scheme, but Pennsylvania never admitted the claim of her sister colony, and made grants of the land involved to various persons. This led to conflicts between the settlers. At first this was confined to landowners whose titles conflicted; clashes, however, frequently occurred, and in some cases settlements were completely destroyed. The settlers from Connecticut were called "Yankees," and those who claimed under the grants of Pennsylvania were called "Pennamites," and the conflict has become known in history as the "Pennamite War."

Pennsylvania asserted her jurisdiction, and in 1762 the Sheriff of Northampton County, and three Justices of the Peace, were sent to the Yankees. They denounced them as trespassers and warned them to leave the colony under penalty of arrest. The sturdy pioneers from Connecticut claimed to hold their land by a superior title; they ignored the warning, and the Sheriff returned and reported that the Yankees refused to leave and claimed title under the Connecticut Grant and a deed from the Indians.

Governor Hamilton issued a proclamation warning the trespassers off, and enjoined all state officials to prosecute and bring to justice the intruders. He also communicated with the Governor of Connecticut. The Yankees, however,

were firm and refused to vacate. The Indians in the vicinity, claiming that they had never legally transferred the land, became threatening, and in 1763 they declared war. They fell upon the settlers and killed about 20 men; those who escaped, men, women and children, fled to the mountains, where many died, and some, after enduring great hardships, reached the older settlements and finally returned to Connecticut.

In 1769 another attempt at settlement was made by the Susquehanna Company. A large company of Connecticut people settled at Wyoming with Captain Zebulon Butler, a hero of the French and Indian War, at their head. Settlements were also established at Smithfield and other places. Clashes again occurred with the colonists who claimed title under Pennsylvania, and the result was frequent skirmishes. Arrests were made by the Pennsylvania authorities, but the parties were soon released or rescued. The Sheriff reported to the Government that the Yankees were too strong for him, and for a short time the settlers were unmolested. Later a general warfare was inaugurated between the contending factions in which many were killed. This continued for about three years, during which time Connecticut men held on, assisted at times by citizens of Pennsylvania, who sympathized with them, claiming they were victims of land speculators, and that whatever Pennsylvania did it should recognize their title as legitimate.

In 1773 commissioners were appointed by Connecticut to treat with the commissioners of Pennsylvania, but nothing was accomplished, and the following year Connecticut officially extended her authority over the disputed territory.

The County of Westmoreland was then formed and annexed to the County of Litchfield, Connecticut. This bold action stimulated immigration, and settlers from Connecticut flocked into the territory; towns were established and forts erected. Steps were also taken for the establishment of local government; and the officials appointed, continued to act until the land was finally taken over by Pennsylvania. From this time until the close of the Revolution there was a lull in the strife between the two factions because the more im-

portant dispute with the mother country engrossed the attention of the people.

It was during the period of the war, in July, 1778, that the famous Wyoming massacre occurred, and the settlements in that valley were completely destroyed by the hostile Indians and vicious Tories. The able-bodied men were in the American Army, under Washington, and the valley was defended by the old men and the boys who faced the invading forces. History gives a splendid account of the valor of that little band, outnumbered four to one, and of their heroic struggle. They were surrounded, most of them killed, and after the defeat the Indians destroyed their homes and butchered their women and children. Desolation reigned throughout the valley; but, notwithstanding this terrible visitation, renewed attempts at settlement were made by these hardy pioneers in the following fall and winter. During the ensuing spring the tide of immigration was renewed, when new homes were established, and the valley of Wyoming again became a thriving community. With the close of hostilities the strife between the settlers was renewed. They were armed, and both sides were ready to defend their homes, and skirmishes frequently occurred. Pennsylvania made no attempt during the war to repel the new invasion. As the Revolutionary War drew to a close, she again prepared to resist the aggressions of the Yankees; this time, instead of resorting to force, Pennsylvania took advantage of the Articles of Confederation, the ninth section of which provided that the "United States in Congress assembled shall be the last resort of appeal in disputes and differences now subsisting or that may hereafter arise, between two or more states, concerning boundaries, jurisdiction or any other cause whatever," &c.

On November 3, 1781, a petition was presented by the State of Pennsylvania to the Continental Congress asking that the case be adjudicated by that body. Congress took cognizance of the application and notice was sent to Connecticut. There was some delay in the procedure, but on August 12, 1782, the Agents for Pennsylvania and Connecticut conferred together and agreed upon William Whipple, of New

Hampshire; Nathaniel Greene, of Rhode Island; David Brearly, of New Jersey; William Churchill Houston, of New Jersey; Cyrus Griffin and Joseph Jones, of Virginia; and John Rutledge, of South Carolina, as Commissioners to try the matter in controversy. Later it was learned that General Greene and John Rutledge could not attend, when Thomas Nelson, of Virginia, and Welcome Arnold, of Rhode Island, were substituted.

Congress approved of the appointments and constituted them a "Court of Commissioners." In response to the request of the agents to fix the compensation of the commissioners, the Committee of Congress declined to do so, but stated that the usual compensation was one Guinea per day and expenses. Later the agents entered into an agreement under which they fixed the commissioners' compensation at \$10 per day and expenses, and agreed that the commissioners should meet at Trenton, New Jersey, on Tuesday, November 12, 1782.

The members of the Court were selected from the leading men of the country; the members from New Jersey were both members of the New Jersey Bar, and were prominent in the public life of the colony. David Brearly was an Allentown man, born in 1745, and was admitted to the bar in 1767; in the Revolutionary War he became prominent as a sturdy patriot. Because of his outspoken opposition to British aggression he was arrested for high treason; this aroused a deep feeling in the community and a band of sympathizers mobbed the jail and liberated him; later he was called from his command, as Lieutenant Colonel, in Maxwell's Brigade of the New Jersey line, to become Chief Justice at the age of 34, and held that position when appointed as a member of the commission. He was a prominent Mason, and Grand Master of the State. In 1789 he resigned the Chief Justiceship to accept the appointment of Judge of the District Court of the United States, which position he held until his death, which occurred at the age of 45.

William Churchill Houston, the other member from New Jersey, was born in South Carolina in 1746, and came north to attend the College of New Jersey. After his graduation he became Professor of Natural Philosophy in that institu-

tion, which position he held for many years. Upon the breaking out of the Revolution he was appointed Captain of the Militia of New Jersey, and served until March 25, 1777, when he was appointed Deputy Secretary to the Continental Congress. In 1778 he became a member of the Assembly of New Jersey, and in 1779 a member of the Continental Congress. In 1781 Congress elected him Comptroller of the Treasury. He was admitted to the Bar of New Jersey in 1781, and the same year was appointed Clerk of the Supreme Court of New Jersey, which office he held until his death. He also held the office of Receiver of Continental Taxes. After resigning his professorship in the College of New Jersey he became one of the founders and a stockholder of the Trenton Academy. Mr. Houston was also appointed a member of the convention which drafted the Constitution of the United States, and, according to the record, took a prominent part in forming it, although his name is not appended to the instrument. He died at the age of 42.

The Court of Commissioners met at Trenton on November 12, 1782, and continued in session until December 30, 1782. Eliphalet Dyer, Jesse Root and William S. Johnson appeared as counsel for Connecticut, while James Wilson, Joseph Reed, Jonathan D. Sergeant and William Bradford represented the State of Pennsylvania. The Court declined to order notice to be given to the settlers who claimed the land, holding that the right of soil did not come before them; that the question they were empowered to decide was solely that of jurisdiction. With this preliminary ruling, the parties proceeded with their several allegations and pleas, and, after sessions covering 41 consecutive days, the Court, on Monday, December 30, 1782, gave its decision in these words:

“We are unanimously of opinion that the State of Connecticut has no right to the lands in controversy. We are also unanimously of opinion that the jurisdiction and pre-emption of all the territory lying within the charter boundary of Pennsylvania, and now claimed by the State of Connecticut, do of right belong to the State of Pennsylvania.”

When the decree was promulgated, Connecticut withdrew her officials and the County of Westmoreland ceased to exist.

The Yankee settlers accepted the result as determining only the question of jurisdiction; that the decision did not in any way affect the title or right to the soil. They acquiesced in the verdict, their understanding being that they were not to be disturbed in their holdings, but were amenable to the Laws of Pennsylvania; they cared not under what jurisdiction they lived so long as they were protected in their rights.

Afterwards it developed that Pennsylvania regarded the Trenton Decree not only as a settlement of the jurisdiction but also of the titles to the land. This was not made public, and when the Yankees learned that the troops that were sent to Wyoming to guard them against the Indians, were also present to protect the settlers under Pennsylvania titles as against those derived from Connecticut, the conflict was again reopened. This in local history is known as the "Third Pennamite War." No acts of violence were committed until May, 1784, when the troops were ordered to disarm the Yankees, who resisted the mandates of the alleged "Mock Tribunals of the Pennsylvania Magistrates." It was in reality the beginning of the end. The "Mock Tribunals" were resorted to and decided against the Yankees and troops were ordered to evict them. One hundred and fifty families were turned out of their homes, reduced to destitution and compelled to leave the Wyoming Valley. They were driven from their homes and compelled to find their way through the wilderness of the Lackawaxen to the Delaware Valley, a distance of about eighty miles, and attended with great suffering. Miner, in the History of the Wyoming Valley, described the sufferings of the fugitives—men, women and children—as they were urged forward by the armed troops who followed them across the mountains to the Delaware.

The methods of the military powers produced reaction in Philadelphia and throughout Pennsylvania; and the action of the government was denounced as cruel and uncalled for. In view of later developments, the action of the Pennsylvania authorities has been severely criticised. The Trenton Decree had been published as the only finding of the commissioners. In a technical sense this is true, but accompanying their decision was a letter from the commissioners as individual citi-

zens to the Governor and the Executive Council of Pennsylvania, in which they expressed their views as to the title of the settlers. For some unexplained reason this paper remained in the office of the Secretary of State, in Harrisburg, unnoticed and unknown to the public. Had it been published at the time, the conduct of Pennsylvania toward the hardy pioneers who settled northern Pennsylvania, in view of the recommendations of the commissioners, would no doubt have been different. Public opinion would not have permitted the harsh methods which the officials of Pennsylvania adopted. Nor can the conduct of Connecticut receive the approval of history. They had sold this land to the settlers, and, upon the promulgation of the Decree, retired from the controversy, leaving the Yankees to fight for the possession of their homes. In some accounts of the affair it is hinted that Connecticut was to receive in compensation for her loss a portion of the territory of Ohio, which has ever since been known as the western reserve. Be that as it may, it seems that these settlers had rights which should have been safeguarded either by Pennsylvania or Connecticut, and if they had taken steps in that direction, all the suffering and distress which fell to their lot would have been avoided. The letter in question was written on December 31, 1782, and the commissioners, referring to the settlers, state: "Their individual claims could in no instance come before us, not being in the line of our appointment," but they suggest that these people be permitted to remain undisturbed in possession "until proper steps can be taken to decide the controversy respecting the private right of soil, in the mode prescribed by the confederation." The letter evinced a deep sense of justice and humanity, and a thorough understanding of the settlers' claim to the soil. They were under the jurisdiction of Pennsylvania, and they at least had a right to a trial by jury.

The letter of the commissioners was first brought to light in the trial of the case of *Van Horn v. Dorrance* (2 Dal. 304), in the U. S. Court, in 1795. This was an ejectment suit brought against Dorrance, who held under a Connecticut title. The Court charged against the defendant, and held that the Connecticut title had no validity; the defendant also

claimed under some act of the legislature of Pennsylvania, which sought to confirm their titles, but this act was held to be unconstitutional.

Later on many of the fugitives again returned and endeavored to regain their former homes. They reached Wyoming in some force; fighting again occurred between the opposing claims and hostilities continued for nearly two years. By this time public opinion had become thoroughly aroused. It was recognized that these settlers were desirable citizens; that they had been the innocent victims of land schemers, and steps ought to be taken to permit them to remain and make some satisfactory adjustment. The sympathy of the people of Pennsylvania turned strongly in their favor. A plan was suggested for the carving out of a new state, consisting of what was then known as Westmoreland County, and, although it found some favor, Pennsylvania would not consent. In 1787 a compromise was effected, by granting to the settlers 17 townships in which settlements had been made before the Trenton Decree, they to relinquish their claims to the other lands; this and the passage of a number of acts by the Pennsylvania legislature, and the appointment of a commission, finally adjusted the matter.

It is not the purpose of this paper to go into details of just how the matter was finally arranged, but many of the Connecticut settlers remained, and their descendants to-day are found not only in the Wyoming Valley, but in the entire section eastward to the Delaware. The ill-feeling between the settlers gradually disappeared and peace reigned in the region which for more than a quarter of a century was the scene of skirmishes and bloodshed.

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