

William Clark, Colonial Friend

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William Clark of Colonial Pennsylvania and Delaware

William Clark (or Clarke), a contemporary of William Penn, was born during or prior to 1640 and passed away during June 1705, leaving a wife and four children.¹ Clark was one of six Dublin merchants who, during 1677, purchased land in the western part of New Jersey. Moving to the New World five years before Penn, Clark arrived in New Jersey during the latter part of 1677 but “soon made his way across the Delaware River to what is now Sussex County, Delaware.”² Like Penn, Clark was of the generation of Friends following that of George Fox and Margaret Fell.

On March 4, 1681, King Charles II granted some 45,000 square miles to William Penn in payment of the £16,000 claim Penn inherited from his father Admiral Penn. William Penn, having left the amount of land in the New World he would receive for the crown’s debt to the King’s good graces, was well compensated. Eventually, Pennsylvania’s three lower counties – New Castle, Kent and Lewes – would become Delaware.

On April 24, 1682, William Penn sold 500 acres to fellow Quaker William Clark for five shillings. This brought Clark’s estate, which he held until his death, to 800 acres.

The lands that would become the center of Quaker colonial habitation – New Jersey, Delaware and Pennsylvania – first belonged to the Lenni-Lenape Indians who, to some extent, were compensated for their dispossession. Initially paid for their land with iron implements such as scissors, knives and needles, eventually cash became the method of exchange. This allows us to compare the £16,000 Penn paid for Pennsylvania to the one thousand pounds the Indians received for “surrender[ing] all claims on lands in New Jersey with the exception of a small reservation.”³

¹ Pennsylvania House of Representatives, House Speaker Biographies, <https://www.legis.state.pa.us/cfdocs/legis/SpeakerBios/SpeakerBio.cfm?id=79>; Genealogy.com, Families of Forrest/Paul/Oehman/Werner/Idol/Chipman/ Hauser: Information about (8G) William Clark, pages 1, 5 and 6. <https://www.genealogy.com/ftm/s/w/a/Dean-Swann/WEBSITE-0001/UHP-1259.html>

² Herbert Standing, Quakers in Delaware in the Time of William Penn, <http://nc-chap.org/church/quaker/standingDH3crop.pdf>, page 143.

³ Rufus Jones, Isaac Sharpless and Amelia Gummere, *The Quakers in the American Colonies* (London 1911), pages 367 and 402-403. When ejected from New Jersey in 1802 the Lenni-Lenape Indians received the far more adequate sum of £2,000 for the three-thousand-acre reservation into which they had been first wedged.

Friends were also preceded by Swedish and Dutch settlers. Seeking to avoid religious intolerance, and desiring liberty and land, Friends began emigrating to the area in 1675 and perhaps a dozen ships followed during the next five years, bringing the number of Friends to “upwards of fourteen hundred”. Another two ship loads of Friends emigrated during 1681. Then, during 1682, William Penn and some 2,000 Friends crossed the Atlantic in 23 vessels, with Penn arriving on October 27th at New Castle in the ship *Welcome*.⁴

By then, William Clark had already served as justice of the peace in Lewes County for two years. After Penn arrived as the proprietor of Pennsylvania, William Clark was appointed to numerous government positions. In “1690 he was appointed by the Pennsylvania Assembly as provincial judge representing the Lower Counties. At various times from 1683 until 1703 he served on the Provincial Council, being president of the council in 1686. He spent so much of his time in Philadelphia that he decided to build a house there. This came to be known as the Clarke House, one of the grandest mansions in the city.”⁵

William Clark, who “was considered to be the most prominent Quaker in Lewes during his lifetime,”⁶ enjoys a unique place in history. On May 10, 1692, Clark was elected the eighth Speaker of Pennsylvania’s colonial Assembly. He served a single term as Speaker. Having helped establish Delaware, during 1704 he served as the first Speaker of its Assembly. For many years he served on the highest courts – in modern parlance, the Supreme Courts – of both colonial Pennsylvania and Delaware. He became Pennsylvania’s Chief Justice on April 10, 1703 and held that office until he died in 1705. Clark’s tenure on the Governor’s council ran from 1683 through 1705 and was co-extensive with his several other offices, including treasurer and other lesser positions.⁷

“Penn’s charter violated the terms of an earlier charter granted to Lord Baltimore for the colony of Maryland, and conflict between Penn and Baltimore would continue for generations. The two points of contention concerned ownership of the Lower Counties on the Delaware River; and the precise location of the east-to-west boundary between Maryland and Pennsylvania. In the 1760s, Penn and Baltimore family descendants consented to conducting a survey of this shared boundary, resulting in the Mason-Dixon

⁴ *Ibid.*, pages 366-368 and 421-422.

⁵ Standing, *supra*.

⁶ *Ibid.*

⁷ Pennsylvania House Speaker Biographies, *supra*; H. Standing, *supra*, page 143; Wikipedia, [https://en.m.wikipedia.org/wiki/William_Clarke_\(justice\)](https://en.m.wikipedia.org/wiki/William_Clarke_(justice)); PA Archives Series 2: Vol. IX: Part II: Sections 1-3 (files.usgwarchives.net). The three lower counties which constituted Delaware established their separate colonial Assembly in 1704 but remained under the Governor of Pennsylvania until declaring its independence from both England and Pennsylvania during 1776.

line.”⁸ Long before that resolution, Clark failed in his attempt to mediate this land dispute between Penn and Baltimore.⁹

In an unsettling turn of events, a decade after Clerk’s death his impressive Philadelphia mansion would become the property and home of the original “Philadelphia lawyer”, Andrew Hamilton. In 1735, Hamilton would prevail in the most significant trial of the colonial era. But years before Hamilton would become famous for establishing freedom of the press and the right of jurors to follow their conscience, he was believed by Quakers to be an unscrupulous reprobate who defrauded widows and their children out of their estates. Clark’s daughter-in-law Rebecca, who survived Clark’s eldest son, was one of Hamilton’s putative victims.¹⁰

While history may neither repeat nor rhyme, sometimes it echoes. Like William Clark, as a talented emigrant from the British Isles to the thinly populated colony Andrew Hamilton held multiple official positions and was elected Speaker of Pennsylvania’s colonial Assembly. While Clark and Hamilton’s similarities are noteworthy, the resonance between William Penn and William Mead’s prosecution in England during 1670 and that of the New York printer Hamilton would represent in 1735 is stunning.

On August 14, 1670 Penn and Mead, faced with a governmentally padlocked Meetinghouse, spoke publicly, were arrested for preaching in the public street and charged with inciting a riot. Though the judge believed Penn and Mead guilty, Penn convinced the jurors otherwise and they refused to convict. The judge fined and imprisoned the jurymen for their obstinance which gave rise to *Bushell’s Case* challenging the lawfulness of their confinement. England’s Lord Chief Justice, Sir John Vaughan, concluded that the trial judge’s view of what facts were established could *not* be forced upon the jury whose right it was to determine the facts. Therefore, the jurors’ confinement was illegal. Famously, recognizing that juries’ verdicts are necessarily founded upon the jurors’ consciences, Vaughan wrote, “A man cannot see by another’s eye, nor hear by another’s ear, no more can a man conclude or infer the thing to be resolved by another’s [read: the trial judge’s] understanding or reasoning”.¹¹ Thus, the centrality of juries in the English system of trial by jury.

⁸ University Archives, Description of William Penn’s April 24, 1682 Deed to William Clark, UA69327, at p. 2.

⁹ *Ibid.*

¹⁰ Katherine D. Carter, *The Pennsylvania Magazine of History and Biography*, Vol. CIV, issue 2 (April 1980), “Isaac Norris II’s Attack on Andrew Hamilton”, pages 146-150.

<https://journals.psu.edu/pmhb/article/view/43619/43340>

¹¹ *Bushell’s Case*, 22 Charles II. (1670) 223, 228; 124 E.R. 1006 (1670); 6 State Trials 999 (1670); *Howell’s State Trials*, Vol. 6, Page 999 (6 How. 999).

<https://books.google.com/books?id=p0ARAAAAYAAJ&pg=PA223#v=onepage&q&f=false>

Sixty-five years later, the same principle would be established in the colonies in the seditious libel trial of a Dutch printer. The newspaper published by John Peter Zenger allegedly defamed the New York's colonial governor by reporting his dishonesty. The law at the time held that a "truthful libel" was worse than a false one for, being truthful, the "libel" was more likely to provoke a breach of the "King's peace". Defending Zenger would offend the colony's governor, so *no* New York advocate rose to his defense. But Hamilton rode from Philadelphia to New York to defend Zenger, convinced the jury to acquit, and in the most famous case of the colonial period founded the principle of freedom of the press and the right of juries to determine the facts and thereby find innocent persons who judges think guilty. This right *qua* power means that, as it is sometimes put, juries can render verdicts in the teeth of the law.

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