

SCHWARTZ *Report*



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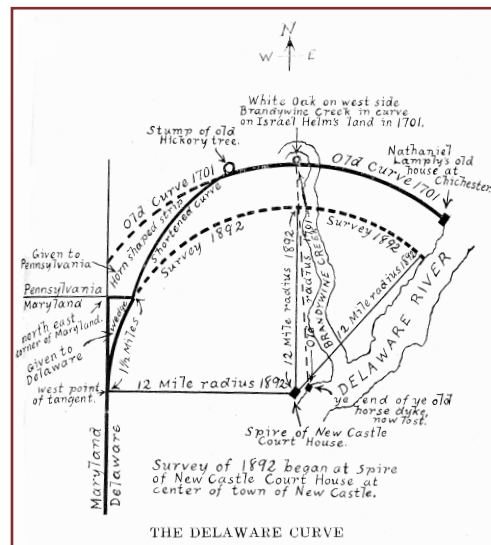
October, 2021

THE DELAWARE CURVE

Did you ever wonder why the top of Delaware is round? Let's call this a second installment in the famous survey series. King Charles II's patent of 1681 granting William Penn lands down past the 40th degree latitude for his Pennsylvania holdings brought Penn's grant into conflict with that of the Cecil Calvert (Lord Baltimore) proprietorship in Maryland. It also included a reference to the separate nature of Penn's "Lower Three Counties on the Delaware." They were bounded as follows: "...On the south by a circle drawn at twelve miles distance from New Castle northward and westward into the beginning of the 40th degree latitude and then by a straight line westward." The Duke of York by a separate patent dated August 24, 1682 granted to Penn "all that town of New Castle northward and westward unto the beginning of the 40th degree latitude and then by a straight line westward."

Initially these particular boundary lines only served to separate the counties in the Penn holdings. It would be of little import or controversy, as long as the three lower counties also remained under Penn's proprietorship. In order to more properly survey the Duke's grant and affix its radius, Penn hired Isaac Taylor of Chester County and Thomas Pierson of New Castle County. He charged them to "admeasure and survey ye town of New Castle the distance of twelve miles on a right line by ye river Delaware upward the Delaware and from said distance divide the said counties by a circular line... Said circular line to be well marked two-thirds of ye semicircle."

When they began the process in October, 1701 they determined that their starting point, hence the center point of the circle, should be on the Delaware "at the end of the Horse-Dike next ye said Town of New Castle."



The nearby drawing and depiction can be found in Walter Powell's *A History of Delaware* published in 1928.

Here is the Cliff Notes version of how this survey plotted out. Those of you who have perused old farm deeds will relate to this and it should give comfort to anyone trying to keep their fence line off the neighbor's property. Beginning at "Ye end of ye Horse-Dike" on the Delaware they measured twelve miles due north "to a White Oak marked with twelve notches standing on ye west side of the curve of the Brandywine Creek in the land of Israel Helm..." "From said White Oak we ran eastward circularly,

changing our course from east to southward..." until "we came to [the] Delaware River on ye upper side of Nathaniel Lamphyls' Old House at Chichester... Then we returned to the said White Oak in Israel Helm's land, and thence westward... changing our course from the west southward..." All of this was to make "two-third parts of the semi-circle to a twelve mile radius..., all which said circular line being well marked with three notches on each side of the trees to a marked Hickory standing near ye western branch of Christmas Creek." I did not include reference to the various perches, chords, degrees, etc. by which the line meandered, but you get the drift.

Time marched on and before long the notched trees and other monuments disappeared and the all-important "Ye Horse-Dike" starting point could not be found. Without a recognized starting point the validity of the twelve mile radius itself could be called into question. The situation would not be improved by Mason and Dixon's efforts to survey the boundary line between the Penn and Calvert grants which began in 1764. This did not do much to clarify the curved boundary line between the Pennsylvania and Delaware counties. They did, however, run the curve where it diverged from the west line of Delaware

“for a mile and a half just north of the [west] Tangent point running northwesterly to the intersection with the south line of Pennsylvania extended east.” This created a “wedge shaped parcel of land” which, as far as the Calvert interests were concerned, should go to Penn’s Lower Three Counties on the Delaware. Delaware settlers took possession of this wedge then consisting of approximately 800 acres. They paid taxes on it and voted in Delaware which exercised jurisdiction over it after 1776.

In a survey conducted by the United States Topographical Engineers in 1849 whose purpose was to reinstall the missing boundary stone where Delaware, Maryland and Pennsylvania touched, it was discovered that a “true twelve mile radius from New Castle would bring the circular boundary three-fourths of a mile east

from the Maryland northeast corner stone.” This would have placed the wedge in Pennsylvania.

Delaware refused to recognize these findings and continued to exercise jurisdiction. Finally in 1892 a new survey was undertaken this time using the top of the spire of the courthouse in New Castle as the starting point for the twelve mile radius. Use of the new starting point and the remaining markers from the 1701 survey shortened the radius and created a curved horn shaped property which had been in Delaware but would now be in Pennsylvania. Delaware and Pennsylvania would seemingly trade the wedge and the horn shaped parcels back and forth until the wedge was awarded to Delaware and the horn to Pennsylvania with a new boundary line being ratified by Congress on June 30, 1921.



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