# Connecticut claim. Part I. Jurisdiction and state's right of soil Printed by William Hamilton [After 1800].

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CONNECTICUT CLAIM.

PART I.

Jurisdiction and State's Right of Soil.

THE decree of Trenton establishes from the beginning the right of jurisdiction or government, and the right of pre-emption or soil in the state of Pennsylvania, as to all the lands within our charter bounds. It may be justly and legally considered to extend further than the pre-emption; for Connecticut was adjudged to have *no right* to the *lands* in controversy, and those lands *expressly* included their " *possessions,* " as well as claims. Their legislature had attempted to establish a county in Pennsylvania, about the year 1775, above one hundred and ten years after the date of their charter, but has never since the decree of Trenton in 1782, pretended to maintain that old county or to erect any new county. That state has never made application to Pennsylvania or congress, or to the federal courts, for any new trial of the question of soil or government, nor has Connecticut since made or attempted any purchase of the native Indians within Pennsylvania, nor to sell any pre-emption right or rights of soil within our limits. On the contrary, the government of Connecticut, yielding to the trials of all the possible principles before the federal courts in 1782 and 1795, and the *confirmations* of both decisions, has formally declared the decree of Trenton to be a *final* and *conclusive settlement,* and abandoned all claim, both to soil and jurisdiction, by a regular sealed instrument, signed by their governor, under the authority of a special act of their legislature, and filed among the records of the United States, in the department of state, in the year 1800, by order of the president and congress. Thus all the pretended right of the state of Connecticut is established to have been a *nullity* in *law* and *fact,* from the beginning. It is indeed wonderful how the province and state of Connecticut could ever expose themselves to the dishonor of setting up this claim on Pennsylvania, after such neglect or laches after & after so long & numerous derelictions. Altho' the first title they pretended to have was in 1632, and the last in 1662, which is the present charter, yet they never set up a pretence to any part of Pennsylvania till 1773, which was 140 years after the first title to their presens state, and 111 years after their existing charter. Besides, in a dispute in the year 1664 with New-York (which was conquered after their charter by Great-Britain, from the Dutch, who had settled the country from Long-island to Albany) they agreed by commissioners, one of whom was their governor, that the creek or river Monoramock and north-west, to the line of Massachusetts, should be *the western bound* of the colony of Connecticut. This agreement was

formally confirmed by their legislature. It was only two years after the date of their charter, and was signed by Mr. Winthrop, who obtained that charter. That agreement shews they then considered their *western boundary,* to be near and about the west lines of their present counties of Litchfield and Fairfield. In the year 1751, which was 87 years after the formal admission of their western bound in the compact with New-York, they erected the present county of Litchfield, which actually lies in the north-western corner of their state, and is described in the law as being in "the north-western part of their colony." This was just before the Susquehannah association and attempt to purchase of the Indians. These were in 1753 and 1754.

A few days before the Susquehannah company made their pretended purchase in 1754, the Indians had recognized and confirmed their agreement of A. D. 1736, not to sell, but to Pennsylvania. The congress of 1754 at Albany had resolved that purchases should not be made by private persons from — the Indians. This was two days before, and Connecticut was represented in that congress.

The deed produced by the Connecticut company from the Indians, was written on a rasure *in the descriptive part,* and was written with various inks and very disorderly in its dates. It was made without any authority whatever, either from the crown, from Connecticut or from Pennsylvania. Connecticut gave that deed not even a pretended sanction, until October 1782, after the dispute arose, and was submitted in writing in August 1782, and then had no power, for the had no right of pre-emption or jurisdiction, or if she had possessed the power, it could not be exercised retrospectively against Pennsylvania, a fair purchaser, nor after she had submitted all her claims and possessions. When the Susquehannah company first pretended to have bought from the Indians, they appointed a committee in the same year 1754, to draft an application *to the king* for a confirmation of their unlawful purchase and for a charter, making no pretence of any right in Connecticut. Afterwards they applied to Connecticut, which did not attempt to grant, but merely recommended them *to the king.* A Mr. Hazard had first applied to Connecticut in a similar way. They would not intermeddle, but referred him *to the king.* Mr. Hazard described this land as 100 miles west of Pennsylvania, recognizing our charter in 1753 or 4. It was very reasonable, and all that could decently and lawfully be done to by Connecticut. They had admitted their western bounds to be at Mormoronick, and described Litchfield as their north-western county, in 1664 and 1751.

The *laches* or total neglect of Connecticut and of all persons claiming under her, to do anything whatever concerning her modern pretensions on the west side of Delaware from 1632, and 1662, to the date of the pretended Indian deed in 1754, is a length of neglect or laches, which in law, destroys the strongest title. Sixty years is fatal to any title. Her neglect was 110 years from the date of her present charter in 1662, to their application to Pennsylvania in 1772. That was the first step. Neither she, nor her citizens have ever *commenced* suit. Both the great suits, as to the public and private

right, were brought forward on the part of Pennsylvania. Connecticut tried to avoid the Trenton trial in 1782, but congress enforced it. These are important facts, for sixty years quiet possession gave title throughout the British dominions and territories, in Europe and in America. This point is clear and decisive in favor of the Pennsylvania title, and conclusive against the claim of Connecticut, independent of all others.

If the title of Connecticut had been good and valid at the date of their charter of 1662, that part of the country which is included in the Pennsylvania charter would have been *a derelict property* in consequence of her treatment of it. 1st. Because there was *a non-claimer* on the part of Connecticut for more than sixty years, which is sufficient to pass even a once clear and lawful right of the soil. 2d. Because the ir re was *a non-claimer* on the part of Connecticut for more than a century, (for 110 years indeed) which is sufficient in reason to vacate the less confirmed public right of soil, or pre-emption. 3d. The property was *a direlict,* because Connecticut made and confirmed by special commissioners, by her governor, by the procurer of her charter, and by her legislature, agreements with the Dutch and with the English (who succeeded by conquest to the Dutch) declaring her *western boundary* to be between Hudson and Connecticut rivers. This was a clear and effectual virtual *dereliction* of the country west of Delaware. 4th. When William Penn received his charter, Connecticut made no objection, tho' Maryland did, and the Maryland proprietor continued to keep alive a counter claim, till it was settled between the two governments. All this time Connecticut restrained from making any claim, leaving Mr. Penn's course free, which is of the nature of *dereliction.* 5th. Connecticut by her laws, erecting Litchfield county in 1751, made before all America a virtual *direliction* of the country westward of the present east side of New-York. for the legislative body declared Litchfield county to be in the *northwestern parts* of the state; thus actually excluding all beyond the bounds of the colony, *that is all* Pennsylvania. This was an overt and conclusive act of *dereliction* and some of the members of the Susquehanna and Delaware companies and the ancestors of others partook in the formation and enacting of that law. 6th. When the connecticut Susquehanna Company attempted a purchase of the Indians, against the Connecticut laws, that company treated it as a country derelicted, if it ever belonged to Connecticut: so also when the company determined to apply to the crown in 1754, and not to the legislature of Connecticut for their confirmation of their pretended purchase and incorporation; they treated the lands as derelicted. 7th. In 1755 Connecticut, upon a petition of the company, referred them for *soil* and *jurisdiction* to the king of Great Britain, which was a clear, open, undeniable and effectual *dereliction.* 8th. Connecticut never made, caused or permitted to be made, for public or private benefit any purchase of the Indians, in the country west of her present county of Litchfield, from the date of the charter to the year 1772, (110 years) nor has that colony, or state ever made such a purchase, tho' the Pennsylvania purchases were continued, frequent, and notorious. In short, Connecticut never used nor caused to be used the pre-emption right. This is *a total dereliction* of the pre-

emption right. If 60 years dereliction is fatal to the best possible private right of soil, which includes preemption, 6 9 2 years dereliction must be fatal to a mere pre-emption right alone. Had all the American governments acted in this manner, our beautiful and prosperous national dominions would have continued a howling wilderness, instead of exhibiting an export of 78 millions of dollars. 9th. Connecticut never sold for a valuable consideration one acre of Pennsylvania, westward of the ir county of present Litchfield. This, in the case of so frugal a state, is a very striking and long course of derelicting conduct. 10th. Connecticut and all persons pretending to claim or hold under her, have omitted to *commence* any one suit against Pennsylvania, or those holding under her. They pretended to bring on a private trial before federal commissioners, but would not name their lands, nor shew any grant. Connecticut then, having been conclusively adjudged to have *no right* of jurisdiction or government, or of pre-emption or soil, or of *possessions,* having *derelicted* both jurisdiction and soil, if they had ever been entitled to either; having *knowingly* and *deliberately* accepted *a grant* and title to the western reserve from Congress, tho' within their pretended charter limits, which must be deemed *fatal,* aborigine, to her pretension to the Pennsylvania land; and having admitted the final settlement by the federal judgment against her claim to lands and possessions within this state; it must appear self evident, that Connecticut never could make, even, a colourable title to the Susquehannah and Delaware Companies. *That colony, or state could not convey several millions of acres to which it had no RIGHT.* —Connecticut never did convey to any of the settlers, or Susquehannah or Delaware Company, nor vest them with any title. She was willing to receive, and consider their claims, if offered; but this was after all her disclaimers, derelictions, and laches.

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