

18. Land Trouble

DANIEL BOONE had fought the Indians and won. He was fighting white men now and losing steadily. Year after year, a series of legal troubles plagued him. Indians with knives, rifles, war clubs, and tomahawks held no terror for Daniel Boone. Lawyers with calf-bound books, writs, summonses, and suits conquered him easily enough.

He had opened the land, cleared it, defended it. His daughter had been kidnapped. Two sons and a brother had been killed. Risking his own life had been such a commonplace for years that it was hardly worth mentioning.

Daniel Boone had the odd idea that he might own some of that land, particularly as he had received certificates from the state's own officials, specially appointed to give clear and valid title. However, he was wrong again. The lawyers explained that to the judge easily enough, though it was never quite clear to Daniel.

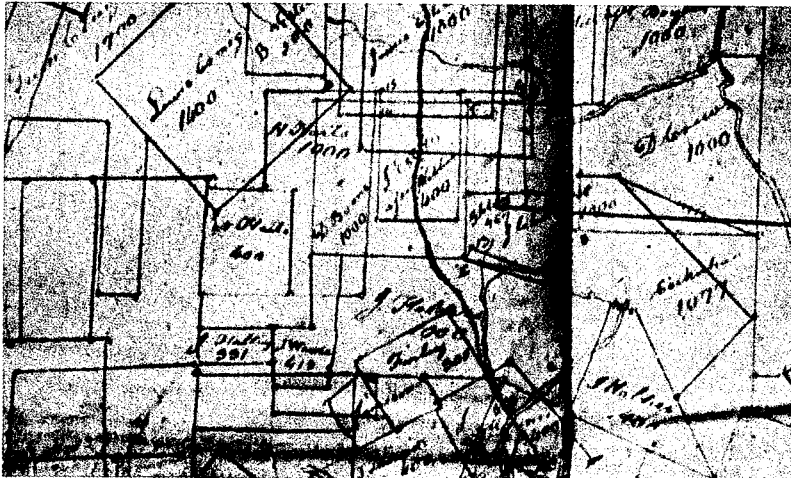
He was in no worse plight than other pioneers. Many a man discovered that the land which he had surveyed, cleared, cultivated, and defended was not his. Somebody else had owned it all the time—often somebody who had never endured the labors and dangers of the frontier. The heroic band who had fought through the desperate days at Bryan's Station were among those who discovered they were merely trespassers. In 1784 a traveler from Virginia pulled up his horse at the stockade gate. He had



DANIEL BOONE'S CABIN

John P. Ross

Located on Brushy Fork in modern Nicholas County, Kentucky, and identified by C. Frank Dunn.



"SHINGLED" LAND CLAIMS

Kent Smith

From an original surveyor's map in the possession of Professor Jonathan Trumar Dorris.

seen no fighting there. He had never been in Kentucky before. But now the war was over. He was the rightful, or at least the legal, owner of Bryan's Station, and he had plenty of paper to prove it. He took possession.

However, the law is slow, even in taking a pioneer's claims away, and it was a good ten years or more before it had wholly stripped Daniel Boone of all his first-class land. Some of these disasters were in great part due to Boone's own carelessness. Surveying hundreds of acres in thickly wooded country, where the only landmarks were blazes slashed in bark with tomahawks, it was easy for various claimants to lay out the same ground several times over without suspecting that others had been there before them.

Land legally belonged to the man who could prove that he had been first to buy his warrants, make his surveys, file his claims, and get his certificates. Most Kentucky land maps of those days are criss-crossed with "shingled" claims, so called because they overlap each other like shingles on a roof. One wonders, not that there was confusion in the land claims, but that the courts ever managed to untangle such conflicts at all. Two of Boone's land claims in Madison County conflict with those of at least four other claimants.

Another cause of Boone's difficulties was his frequent failure to take the necessary legal steps to complete his claims. New settlers were coming in. He was making money surveying for them. He postponed or neglected his own legal business until later. To make matters worse, his friend John Floyd was killed by Indians at the very time when he was handling many of Boone's land claims. Floyd's papers were lost and many of Boone's titles were left in doubt.

Nor did Boone lose all his lands in ordinary ejectment suits. Another fruitful cause of trouble was the frequency with which, in all good faith, he sold title to land that he did not really own.

A good deal of the land which he is supposed to have lost in ejection suits he had actually sold to other people before his own title had been questioned. In 1795, for example, he sold a tract of 409 acres in Madison County for one thousand pounds, and in the same year he and his son-in-law Joseph Scholl sold twenty-five acres in Fayette County for sixty pounds. He had already sold many of his earlier Kentucky land claims to raise money with which to buy still more land warrants. Many, many years later, in his old age, he was still selling land in Missouri. But the money he acquired in these transactions was invariably swallowed up either in new land schemes or in meeting old claims against him.

Boone acquired additional enormous land holdings in Kentucky by surveying lands on shares for wealthy gentlemen in the East. In all such cases Boone guaranteed to secure good lands with clear titles. When he failed to do so he not only lost his own share but found himself in debt to the men to whom he had given the guarantee. When the original titles to lands he himself had sold proved faulty, the first purchasers naturally looked to honest Daniel to make good. Sometimes they brought suit. With all these elements combined against him, he soon found himself hopelessly loaded down with debt.

Boone never really learned to deal with civilized man. He never quite got over the scrupulously honest man's delusion that all the rest of the world is honest, too. Alert, suspicious, sensitive to the least hint of danger in the forests, he never acquired a sense of the risks in practical affairs.

Sometimes he was a victim of downright fraud. He went security on a five hundred pound bond for a certain Ebenezer Platt, quite unaware that in England the man had been condemned to Newgate Prison. Not content with this piece of folly, he loaned Platt a negro slave and a horse, saddle, and bridle

for a trip to Louisville. Platt was next heard of in New Orleans. The negro, horse, saddle, and bridle were never heard of.

That smooth adventurer, Gilbert Imlay, later the lover of Mary Wollstonecraft, mother of Mary Shelley, arranged to buy land. Boone took his bond for one thousand pounds. Imlay sold

*Sir the 2000 acres of Land you are to make
me a title to out of your 5000 acres
I have sold to Mr James Parberry and
Desire you would Make him a Deed to the
same on a plication your Complience
Will Much oblige your omble Servant
To Mr
Gadis Winston
Tut
John Fowler
Ephraim
Hiram Harrison*

*Daniel Boone
May the 9th 1786*

DANIEL BOONE SELLS LAND

From the Original in the Haverford College Library.

the land to others. In 1786 he wrote apologetically to say that he could not meet the bond. Thereupon he sailed for England, fell in love with Mary Wollstonecraft, begot an illegitimate daughter, and died not long after. As usual, Daniel Boone was the loser, though he probably had no idea of Imlay's last adventures.

It was probably Imlay who brought Boone's adventures to the attention of the British public and, at several removes, eventually to Lord Byron's. It was slight consolation to Boone that the English poet would one day celebrate him in *Don Juan*

as "happiest amongst mortals." His own difficulties in the meantime had been nearly overwhelming.

He, who had been hero and leader for twenty years, now suddenly became the most hated man in Kentucky. Nobody knew quite so much about Kentucky lands as Daniel Boone. He had made many of the first surveys. As other people's lawsuits over land claims became more and more frequent all through the state, Boone was called as witness in numberless squabbles in which he had no personal interest whatever. Somebody has to lose in every lawsuit. In every case his testimony inevitably made an enemy, no matter how he testified.

It was not long before the Kentuckians, who had once all but worshiped him, hated him savagely. His honesty as a surveyor was questioned. People said that sometimes he never went into the field at all to make the surveys he was paid for. They were just "chimney corner" surveys. He merely sat in the chimney corner and from his knowledge of the country wrote down the boundaries. He was accused of perjury. He was accused of bribery. Even his life was threatened. He remarked bitterly that even in time of peace his own Kentucky was as dangerous to him as it had been in Indian times. He alone, he said, was singled out for assassination.

"He had settled in that country to end his Days," a relative said later, "but they got up so maney squabbles over land, that it anoied him, and he Did not want to Die among them."

"I have often defended you in public against calumny and abuse," wrote his business associate, Charles Yancey, February 29, 1796. Yancey recounts his own losses at Boone's hands as follows:

The thousand acres warrant that I first put in your hands cost me dear when the money was good, which you promised me should be laid on good land. But I have neither warrant nor land as yet.

A number of the locations you charged me for are not surveyed or returned and may possibly be lost to us forever, and I am told Hughes' survey of two thousand acres will the most of it be lost, owing, as I am informed, to its not being surveyed according to location. Boone's settlement and pre-emption, I am told, has claims on it, and, I fear, may be lost, at least in part, as I fear it was not located in time, and Bridges' pre-emption and settlement, I am informed by Wm. Lipscomb, that he can find no deeds to him either in Fayette or Lincoln Counties, and that many settlers are on all those lands, and that it may finally be lost also, which different surveys, some of which I have sold, and cannot, I fear, make a proper right to, and it may cost much of my small fortune to make good.

Yancey's syntax is rather mixed, but obviously Boone's surveying clients were highly dissatisfied.

The sensitive Boone was at first surprised, then hurt, then bitter. He gave up official life, withdrew more and more from the world. It is no wonder he was angry. As a member of the legislature he had always been going back and forth between the frontier and the settlements. On these trips he was always being importuned to make land entries for other people. Now the good-natured help he had given his neighbors turned out to be a constant source of trouble. Whenever there was dispute over a land entry—and there always was dispute over a land entry—he was blamed.

Eventually Boone grew weary of perpetual recrimination. He determined never to defend another land suit. He decided to go away and leave everything. He turned his business interests over to a nephew, Colonel John Grant. At least one claim was still not "shingled over." He left it in Grant's hands to be used in paying off anyone with an honest claim against him. He never asked Grant what he did with it, and Grant later had a hard time getting him even to answer letters about his Kentucky business. Boone advised his children never, after his

death, to contest any land claims that might remain to his estate. One or two of them later went back to Kentucky, looked over the documents, and decided that they were rightful heirs to about forty-four thousand acres. He said bitterly that he would rather be poor than own an acre or a farthing with a claim against it.

A friend noted "the soreness of the feelings he entertained, as I heard from others, and which he displayed to me, occasioned by the conduct he received from many of the citizens."

He turned to the sure comfort of the wilderness. A wanderer in the forest came upon the Boones bear-hunting along the Sandy. Daniel, Rebecca, two of their daughters with their husbands, were all living deep in the woods with no shelter but the usual "half-faced" hunters' camps. They were eating all their meals from a common rough tray, "very much like a sap trough," set on a bench. Their forks were made from stalks of cane. They had only one butcher-knife among them, and nothing to eat but bread and the game they killed.

But the bear-hunting was magnificent and Daniel was jubilant. He had just killed "the master bear of the Western country," two feet across the hips. The camp was full of drying bear skins and salted bear meat, which the hunters intended to sell at the salt works on the Kanawha River.

By 1795 Daniel and Rebecca were back near the Blue Licks, building the only one of all his cabins that has survived the years intact. With his wife and son Nathan, he landed at Limestone and went overland to Brushy Fork, a little stream near Hinkston's Creek, in what is now Nicholas County. Here they settled, apparently on land belonging to their son Daniel Morgan Boone. It had never been cleared and the family worked for a year to get ten acres opened up and ready for crops. By 1796 the new land was clear enough to grow one, and it yielded another in 1797.

The cabin which they built and lived in has only recently been identified. Most of these old log buildings moldered away or were torn down long ago. This one survives because some later owner, dissatisfied with so uncivilized an exterior as logs, covered them over with clapboards and so accidentally preserved them. Its twentieth-century owner intended to raze the cabin about 1936 in order to erect a new farm building, but its history was discovered just in time to save it.

That it was actually Daniel Boone's cabin is, in the nature of things, unprovable. But at least it stands where his cabin must have stood and it is of the proper period.

Deer were getting scarce near the new farm, and though both the colonel and his son killed one occasionally, the Boone family—probably for the first time in its life—lived on purchased provender, mostly mutton. One can see why Daniel was uneasy about the crowding that accompanied the approach of civilization. Bad as the hunting was, he could hardly enjoy it, for he was so crippled with rheumatism that Rebecca had to go along on hunts to carry his rifle. But even with this handicap he killed more deer than anybody else. When the rheumatism was so bad that he could not hunt he turned to trapping, though sometimes he had to be carried to his trapline.

From his cabin doorstep the sexagenarian could look out over the country where he once had made history. Not far from here he had rolled on the ground with laughter at Stoner's misadventure with the buffalo. That was in 1774 when they and the surveyors they had come to warn were the only white men in Kentucky. Near here he had rescued his kidnapped daughter from Hanging Maw's camp. Near here the Shawnees had caught him in '78. The fatal Blue Licks were only twelve miles away. Close to this spot where his cabin stood he had marched—already worried about the suspiciously open retreat of McKee, Girty, and their Injuns—with the Kentucky militia. Through

these very woods he had fled for his life, and had come back with Logan's men to bury the dead. Such dead as they could find. Young Israel's body would be lying up there now, if Daniel had not had the luck to recognize it when the Indians were gone.

The Warriors' Path ran close at hand. Not many warriors on it, now. Just skulking redskins. But instead, and more alarming to the old pioneer, a stream of immigrants, people from the states, people from the Old World, not used to the wild back-country. It didn't seem very wild to Daniel Boone, but it was too wild for them. Well, it was lucky for them folks old Daniel Boone had opened the way. Most of them didn't look as if they could do real pioneering, and their cabins began to clutter up the landscape.

The old life was nearly gone. And no wonder, for in England extraordinary tales were being circulated by eager land agents and ardent pamphleteers of the new, rich land of Kentucky, where the earth was fabulously fertile; where a man was a citizen and not a subject; where taxes were ridiculously low. A single issue of the *London Gazetteer*, August 31, 1792, advertised two hundred thousand acres for sale, mostly in Fayette and Nelson Counties.

There was talk at the new state capital of opening the Wilderness Road so that wagons could make the journey to Kentucky. Wagons moving openly where for twenty years the pack trains had fought for their lives! Daniel Boone thought he had some rights in the Wilderness Road. He had opened it for 'em in '75, and he hadn't been paid yet. All he ever got was land claims that always turned out to be good-for-nothing when the lawyers and legislators went to work.

Daniel Boone sat down with his goosequill in the little cabin on Brushy Fork, February 11, 1796, and wrote a few of his thoughts on this matter to Kentucky's first governor, Isaac

Shelby, whom he had known when Shelby was a surveyor at Boonesborough in 1775-1776:

Sir—After my best Respts to your Excelancy and family I wish to inform you that I have sum intention of undertaking this New Rode that is to be cut through the Wilderness and I think my Self intitled to the ofer of the Bisness as I first Marked out that Rode in March 1775 and Never rec'd anything for my trubel and Sepose I am no Statesman I am a Woodsman and think My Self as Capable of Marking and Cutting that Rode, as any other man Sir if you think with Me I would thank you to wright me a Line by the post the first oportuneaty and he will lodge it at Mr. John Milers on Hinkston fork as I wish to know Wheer and when it is to be Latt [let] So that I may attend at the time I am Deer Sir

your very omble servent

DANIEL BOONE

What Shelby answered no one knows. It is quite certain that others got the contract for the "New Rode." Daniel was not very much surprised. They hadn't paid him in 1775. They didn't intend to give him the contract now. But it was his road all the same. A year or two later he left his cabin on Brushy Fork, and in 1798 he was living on the Little Sandy and clearing land for the spring crop. He led a bear hunt on the Big Sandy and helped kill forty or fifty. There was plenty of bear oil and bear bacon that winter.

But Daniel Boone went back home to his cabin in disgust. Kentucky had had plenty of use for him in 1775 and 1782 and the dark and bloody years between. They didn't have much use for him now. Daniel began to wonder. This country was too full of people and a great deal too full of lawyers. He was not completely impoverished yet, but it looked as if he soon would be if he stayed in Kentucky; and he still dreamed of wealth.

All of his best land was gone, but the tax returns for 1796 or 1797 show that he still owned twenty-six thousand acres of

“second rate” and fifteen hundred acres of “third rate” land. There is, however, absolutely no mention of slaves, personal property, horses, or cattle. Jesse Boone owns two slaves, two horses, six cattle, while Daniel Morgan Boone has three slaves, four horses, five cattle, and five hundred acres. Perhaps the old hunter had turned over all this property to his farmer sons, while he, who detested farming, lived by roaming the woods with “Old Tick-Licker.”

Stories were trickling in from across the Mississippi. Daniel Morgan Boone, his son, had gone out there in 1795. Zenon Trudeau, the Spanish lieutenant-governor, had received him royally. His Excellency hinted that Spain had need for pioneers and would gladly welcome so distinguished a settler as the celebrated Lieutenant-Colonel Daniel Boone, of Kentucky. Missouri was a new, wild country. Fertile, full of game, his son said. The trapping was excellent. The price of beaver pelts was high. Better than the six shillings a trapper used to get.

Daniel Boone did some thinking.