Initial Land Acquisition in Kentucky.

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The first move in the western expansion of Virginia was on 7 October 1754 when King George of England made a Royal Proclamation. It was titled, "A proclamation for encouraging men to enlist in his Majestys service for the defence and security of this Colony," and promised that veterans serving in this campaign against the French should receive, over and above their pay, land within a two hundred thousand acres tract on the east side and near the Ohio, "contiguous" to the fort at Pittsburgh, The document went on to say that "the said lands shall be divided amongst them, immediately after the performance of the said service in a proportion due to their respective merit, as shall be represented to me by their officers, and held and enjoyed by them without paying any rights and also free from the payment of quit rents, for the term of fifteen year, " (fn1)

But later, when the Pontiac's uprising occurred, the King decided that perhaps it would be best to keep settlers out of western waters for awhile, so he decreed that no white men were to move beyond the divide of the Appalachian Mountains, There were probably 1000 or more men who were promised western land. Some officers had served long enough that they were entitled to thousands of acres, and every lowly private was guaranteed at least 50 acres, and perhaps more, depending upon this length of service. They were promised this land in 1754 and in 1773 they were still waiting.

Lord Dunmore, the Governor of Virginia, was the man who finally issued warrants to these veterans, and allowed them to claim land on the waters of the Ohio. He issued the first grants to his friend John Connolly and Charles DeWarrinsdorff at the falls of the Ohio (Louisville) in

December, 1773. In 1774 John Floyd led a party of surveyors into Kentucky, and they surveyed over 200,000 acres. They also surveyed some land in what is now Virginia and West Virginia, but most of the claim were on the west side of the Appalachians. These surveys were for such distinguished leaders as George Washington, Patrick Henry, Henry Harrison, William Byrd, Hugh Mercer, Zachary Taylor, William Christian, Andrew Lewis, William Preston, Evan Shelby, William Russell, and the Dandridge brothers.

Settlers as well as veterans were encouraged by Governor Dunmore's statement that "any settler shall have Fifty acres at least, and also for every Three acres of cleared land, Fifty acres more and so in proportion." (fn 2

An Indian war that led to the Battle of Point Pleasant kept any prospective settlers from staying in Kentucky during 1774, but in the spring of 1775, many were ready to make the move westward.

But in the spring 1775, there was a development on the frontier completely without any government authority or precedent. A large section of Kentucky was purchased from the Cherokee nation by a group of individuals organized as the Transylvania Company. Under the leadership of Colonel Richard Henderson, these men acquired all the territory south of the Ohio, between the Kentucky and Cumberland rivers, for the sum of two thousand pounds sterling. The rights of the Cherokees to this tract are questionable, as it was a common hunting ground for several tribes. The Iroquois having already relinquished their claim to the area, Colonel Henderson considered a deed from the Cherokee to be sufficient to occupy the land. Before the ink was dry on the treaty, he sent a detachment under Daniel Boone to blaze a trail into his new purchase, which he hoped to sell as quickly as possible.

Henderson's activities were promptly declared illegal by the royal governors of both Virginia and North Carolina. Dunmore made the point that Virginia had already purchased the same area from the Iroquois. But by spring 1775 the governors' influence was already on the wane. In April, the Revolutionary War began, and, on June 7, Governor Dunmore fled from the capitol at Williamsburg. While some influential Virginians, such as Patrick Henry, considered the Transylvania purchase entirely legal, others took the opposite viewpoint, and the question was in doubt for several years. In the meantime Colonel Henderson escorted a group of settlers to Kentucky and established the town of Boonesborough.

The followers of Henderson were not the only ones who returned to Kentucky in 1775. In the early spring prospective settlers were flocking in from all directions. The McAfee brothers returned to surveys they had made in 1773, and with the help of their indentured servants, built cabins and planted corn. James Harrod was back, with a company of men to preemptions they had made the previous year. Colonel Thomas Slaughter arrived with a company of men, most of whom eventually settled in the vicinity of Harrodsburg. John Floyd followed the footsteps of Henderson to Hazel Patch, then turned down Dick's River and established a temporary camp that his men christened St. Asaph's. James Douglas and Isaac Hite, and Charles Smith, another deputy county surveyors, all of whom had come down the Ohio to continue the work begun the year before. In all, hundreds made the trip, principally to claim and preempt good land.

With the influx of settlers, Henderson was anxious about his plan to sell land to the newcomers. He wrote in his diary "that men had not contented themselves with the choice of one tract of land a piece, but had made it their entire business to ride through the Country marking every piece of Land

they thought proper, built cabins. or rather hog pens to make their claims notorious, and by that means had Secured every good spring in a Country..." (fn5) To alleviate the situation, he called for a convention of the men residing on his purchase, to establish rules and make laws. Delegates were chosen, and a three day meeting was held in Boonesborogh. Most of the delegates went away satisfied that Henderson's terms for land were reasonable and fair.

Many of the frontier leaders took an active part in the affairs of the Transylvania Colony, indicative of their approval of company policies. Daniel Boone, John Floyd, James Harrod, Thomas Slaughter, John Todd, James Douglas, and Isaac Hite acted as delegates to the Boonesborough convention. Floyd later accepted the post of surveyor and land agent for the company. In Henderson's behalf Slaughter agreed to recruit men for a settlement on the Green River. Even Harrod journeyed well beyond the Transylvania boundaries when hired to locate military surveys for new arrivals. Two of the gentlemen with military surveys at the Falls of the Ohio, Edmund Taylor and Alexander Spotswood Dandridge, were quite willing to deal with Henderson, in spite of the fact that he claimed title to their valuable land. Even Colonel William Preston eventually came to terms with Henderson, but the condition of their compromise has never been disclosed.

John Floyd, a deputy county surveyor, one of the leading men from Virginia, decided that he could operate on both sides of the fence, so he not only continued making surveys for Virginia veterans on the north side of the Kentucky River, beyond the boundary of the Transylvania Colony, but sought out and obtained the position of surveyor in Henderson's new colony. During the summer of 1775-6, hundreds of men went to the Transylvania land offices set up in Boonesborough and Harrodsburg to put up bonds for

land warrants, at sites of their choosing.

Over seven hundred prospective settlers agreed to buy land from this company at the price of twenty shillings per hundred acres. The proprietors of the company allowed credit for the purchase of the land until September 1777, in order to give the claimants time to survey their tracts and to "enquire into the validity of their titles. In spite of these generous terms, many of the new arrivals, perhaps persuaded by John Gabriel Jones that the Transylvania purchase was illegal, made improvements within their boundaries without entering the land at the company office. Summarizing these claims of questionable legality, surveyor Floyd wrote: "The people in general seem not to approve of the governor's instruction with regard to settling the land, nor will any that I have seen purchase from Henderson; they rather choose to settle, as they have done on Holston [i.e., without formal sanction]." (fn 3)

But by the middle of 1776, Richard Henderson optimism for the future of his new colony was waning. A large number of the new arrival did not believe that his purchase from the Indians gave him a good title to the land he claimed. And even worse, the Virginia legislature took the same attitude. They refused to concede that Henderson was the owner of the property which he claimed, and appointed a committee to look into the mater farther. As the Revolutionary War had begun, the legislature approached the frontier land distribution as a minor problem compared to providing troops and equipment for the war.

What was happing on the frontier is that hundreds of men were taking advantage of the opportunity offered by virgin country. Some came to find home sites, but others had different motives. not everyone who came to Kentucky was interested in settling in the new country. Some were hired to

make improvements for persons who remained at home. Others roamed around the country making dozens of improvements which they sold for whatever they could get, sometimes to more than one person. For example, David Glenn sold his improvement on Glenn's Creek to both Andrew McConnell and Cyrus McCracken; the latter traded Glenn "a set of Plough Irons" for the land. [i] Men who made improvements on the frontier to sell, rather than settle, the vacant land, were called "outlyers." Their activities were within the letter, if not the spirit, of the land law.

Even James Harrod was among the early land speculators. On 29 December 1775 he sold "a thousand acres at least or 1500 if it can be got"at Shawnee Springs. Presumably he had purchased this land from Henderson as there is no records of him applying for land on a military survey. (fn 5)

There was also a vast difference in the character of the improvements made by the first Kentucky pioneers. Some, like James Harrod and John Floyd, had substantial houses, as well as cleared land on which they raised corn or wheat at their preemptions. Others simply piled up brush or carved their initials on trees to make their claims notorious. In most cases the improvements appear to have consisted of cutting and piling up logs in the form of a cabin sufficient to establish a preemption claim. It should be pointed out, however, that, after the summer of 1776 until after 1785, most Kentucky settlers were forced to live primarily in forts or stations as protection against the Indians. Therefore they had little opportunity to improve their claims.

Even legal surveys made in Kentucky caused problems on the frontier. Some settlers felt that the officers' surveys, in tracts of a thousand acres or more, were "engrossing" the country. These men resented the fact that the military warrants had been issued by the Virginia governor, by then a

despised royalist. They believed that all vestiges of the old regal government should be abolished, particularly those that favored the upper or ruling class. Others, however, took note of the fact that many of the officers who had old military warrants were the same men leading the new government For example, surveys had been made in Fincastle County, Virginia, for General George Washington, Colonel Andrew Lewis, and Patrick Henry.

In June 1776, the Virginia convention hinted that settler on vacant frontier land might be entitled to four hundred acres and new settlers should not move on land already claimed by other. Daniel Boone had received 1000 acres on Tates Creek for his services to the Transylvania Company, and on 5 May 1775 it was surveyed for him by William Bailey Smith. (fn 6) But by the summer of 1776, the situation in Kentucky had become quite chaotic and property rights were in doubt, as Floyd reported to Colonel Preston:

"The Devil to pay here about land pray try to get something but he Convention with regards to selling those lands, or there'll be bloodshed soon - Hundred of wretches come down the Ohio & build pens or cabins, return to sell them; the people come down & settle on the lands they purchase; these same places are claimed by some one else, & then quarrels ensue. In short they now begin to pay no kind of regard to the officers land more than any other. Many have come down here & not stayed more than 3 weeks, & have returned home with 20 cabins apiece & so on. They make very free with my character. swearing I am engrossing the country [with military surveys] and have no warrants for the land, & if I have, they will drive me and the officers, too, to hell. A new rumour about Harrodsburg - Jack [John Gabriel] Jones is at the head of the banditti...The surveyors are much abused by Delegate Jones about surveying; he tells all the settlers that in the time of

his being at the Convention he will apply at the Secretary's office where he can get copies of all the surveys legally made by us & will bring them out. Now if it can be possible he is fool enough to imagine there are no survey's but those at that office, he may make more disturbance than ever. That fellow has raised more confusion than all the people who ever came out besides. He exclaims against the officers, surveyors, & all sorts of men but the cabiners with whom he is closely connected: In short, they even threaten the lives of poor men who go to live on any of those [military] claims; they have seared off several already who had made considerable improvements. This you may depend on, that if some regulation does not take place to prevent such practices. that this country in a little time will be depopulated...." (fn 7)

According to the custom of the time, a person who marked off a tract of vacant land and made some sort of improvement on the claim had a legal preemption to that tract for a period of three years. During that time the land was no longer considered vacant, so it could not be claimed by anyone else. Within that three-year period, the claimant was expected to have sufficient time to have that tract legally surveyed, enter the survey, and pay the requisite fees in order to obtain a patent. Since the outlyers and land jobbers never intended to settle the tracts they claimed, they were not out the expense of hiring a surveyor or of paying fees for the entries or patents. Thus their activities had the result of depriving many of the better sites to the settlers who were sincerely seeking homes on the frontier.

These legitimate settlers faced other difficulties as well. Between 1773 and 1777, frontier land in Kentucky at first only legally entered on military warrants, which had been issued to veterans of the French and Indian War or their heirs or assignees. In 1773, a total of thirteen thousand acres was

entered for Kentucky land on the books in Fincastle County. There were 173,050 more acres entered on these military warrants the following year, 37,850 acres in 1775, and 27,090 acres in 1776. By December 1775, a total of 28,800 acres was entered without the benefit of military warrants - by settlement entries or preemption warrant surveys; another 39,200 acres were added the next year. Thus 318,990 acres of land were entered in Kentucky prior to 1777. Of this amount 190,850 acres which had been entered on military warrants were actually surveyed before Fincastle County was abolished in 1776.

In December 1776, the Virginia legislature, in response to the settlers' request, authorized the creation of Kentucky County. To be included was all the territory "which lies to the south and westward of a line beginning on the Ohio at the mouth of the Great Sandy Creek, and running up the same to the main or northeasterly branch thereof to the great Laurel Ridge, or Cumberland Mountain; then southwesterly along the said mountain to the line of North Carolina." It was then obvious that the government did not intend to recognize the claim of the Transylvania Company. Not until November 1778, however, did Virginia finally declare the purchase null and void. Those who had agreed to purchase land from Colonel Henderson soon realized they could only secure their claims by making improvements on the land, as many had already done. Thus the legitimate settler, as opposed to the absent land speculator, had nothing to loose by the failure of the Transylvania venture.

The Virginia legislature neglected their western land situation until May 1779, when they finally passed legislation intended to resolve the land problems in the west. The first act acknowledged that legal titles and claims under the former regal government, including those claims made under

military warrants then resolved that new claims by settlers, would be recognized by the present government. The second act established a land office and defined the terms and manner of granting wasteland and un-appropriated land. These laws provided for the appointment of commissioners for various districts of Virginia, whose duty it was to hold court near the claims of settlers and determine "all titles claimed in consideration of settlement [for] persons claiming preemption of any lands." "Bona fide settlers" and “villagers” who were living on “Western waters” prior to 1778 were allowed to claim four hundred acres at their place of settlement for two pounds sterling. A settler was defined as a man of legal age who had "made a crop of corn in that country or resided there at least one year since the time of their settlement." Those living in villages who "have from necessity, cultivated a piece of ground adjoining thereto in common" were also considered settlers; they could claim four hundred acres of vacant land "adjacent or convenient to their respective village or town." (fn 8)

It was the duty of the commissioners to decide who had the earliest and best claims for settlement, and to issue certificates accordingly. Settlers were required to pay the usual composition money of ten shillings sterling for each hundred acres, as well as the common office fees to the clerk, surveyor. and sheriff. They were also allowed to preempt an additional thousand acres adjacent to the four-hundred-acre settlement claim, at the cost of two hundred pounds plus fees.

Those who had come to Kentucky prior to 1778 with the intention of settling, had marked out a choice of wasteland, and had "built any house or hut, or made other improvements" were also entitled to preempt as many as one thousand acres at the state price, to include such improvements, but their

rights to any particular tract were inferior to the claims of actual settlers. Thus, even the despised "outlyers" were rewarded for their efforts in building what Henderson called "hog pens." Late-comers who settled in Kentucky after January 1778, but prior to the passage of the land law in 1779, were also allowed to claim four hundred acres of land Such citizens were awarded preemption warrants by the commissioners for the "state price" of eighty pounds; thus these claims were only a little better than land acquired with treasury warrants. Anyone claiming vacant land was required to direct the location "so specially and precisely that others may be enabled with certainty to locate other warrants on the adjacent residuum." (fn 9) Any settler or non-settler could also obtain vacant land in Kentucky by purchasing treasury warrants from the state. The law said that "any person may acquire title to so much waste and unappropriated land as he or she shall desire to purchase, on paying the consideration of forty pounds for every hundred acres, and so in proportion for a greater or smaller quantity." Although these warrants were first sold on the basis of forty pounds per 100 acres, (8 shillings per acre) without any limitation on the amount of land that could be bought by any individual, by May 1780 the price was increased to one pound, twelve shillings per acre, because of inflation. The Virginia legislature hoped that the sale of these treasury warrants would pay off the state debts incurred during the Revolutionary War. The holder of a treasury warrant had the responsibility of finding and preempting an unclaimed tract by entering the location with the county surveyor. John May, the brother of the Kentucky County surveyor, was very successful in locating vacant land on the frontier. It is alleged that many of Kentucky's most famous pioneers, including Daniel Boone and Simon Kenton, were hired by holders of treasury warrants to locate vacant land on which to enter these warrants. All

types of land warrants were negotiable and could be sold, traded, or bartered by the owner or his assignee.

The land law of 1779 did not open all of the present state of Kentucky to settlement and preemption claims. The entire area west of the Green River and from the head of the river to the Cumberland Gap was reserved for men who had served in the Virginia line during the Revolutionary War, but no land was awarded to members of the militia. Furthermore, no claims were allowed north of the Ohio River, since that territory had not been officially cleared of Indian titles. Some of the claims were also turned down when a settler refused to take the "Oaths of Fidelity & Allegiance to the State." More important to Kentucky settlers, neither settlement nor preemption claims were permitted within the boundaries of the old military surveys made by the Fincastle surveyors before 1777.

The officers and soldiers (or their assignees) who had hired Floyd, Taylor, Douglas, or Hite to make surveys for them on their military warrants were not required to pay for their patents. These tracts had long since been entered with the county surveyor who had presumably collected the required fees. The Commonwealth of Virginia regarded these claims as legal and valid and, being prior to the land law of 1779, they were given preference over all others. As each grant was issued, the original military warrant was supposed to be destroyed so that it could not be reused. Those with military warrants who failed to have their tracts legally surveyed and entered prior to 1779 could still use them to claim vacant land in Kentucky, but to get them entered before the preemptors and men with treasury warrants, they were required to hurry to the frontier, in order to find some vacant land.

To preserve the priority of the settlement claims, only those who had obtained certificates of settlement from the commissioners, or the men with

military warrants, were allowed to enter their locations prior to April 26, 1780. Between April 26 and May 1, the county surveyor was allowed to accept preemption entries based upon improvements made prior to 1778, but not claims authorized by treasury warrants or un-surveyed military warrants. This gave the old preemption warrants a second preference of seniority. Any entry filed after May I was given preference according to the date of entry. In theory a person who filed his settlement claim late might have a junior claim to a treasury warrant entry, but this was not often the case. The Kentucky County surveyor's office was located at Wilson's Station, near Harrodsburg. George May was the surveyor.

The commissioners for the Kentucky District were William Fleming, James Barbour, Edmund Lyne, and Stephen Trigg. They held the first land court at St. Asaph's on October 13, 1779, then traveled to the other frontier forts, including Louisville, Boonesborough, Harrodsburg, and Bryan's Station. Before adjourning on April 26, 1780, the commissioners had heard over 1,300 claims and granted certificates for over 1,300,000 acres of land. Another 2,000,000 acres were soon entered on treasury warrants. At the time, the total population of Kentucky was occupying less than 900,000 acres. (fn.10) Although not immediately apparent, many claims overlapped and, as would be expected, in certain places more warrants were filed than space would allow.

It is interesting to note that of the 1342 Kentucky claims in the commissioner book, only 78 (or 5.8 percent) mentioned the claimant living in any type of structure. Three mentioned the claim being at their stations, one at a large house, one at a plantation, one at a good cabin, one at a hut, and the remainder just mentioned cabins, not all of which were built by the claimant. Of course, it was not necessary for them to own a house to claim

land; planting corn or making improvements were the basis for most claims.

A significant number of Kentucky settlers sold or traded all or part of their claims shortly after receiving their certificates from the commissioners. On October 30, 1779. John Floyd wrote from Harrodsburg:

> *The commissioners are here. and I procured my certificate yesterday for 1400 acres at Woodstock. and was immediately offered six fine young Virginia born negroes for it. You never saw such keenness as is here about land.....I see many selling their claims here and I think they will do the same there [in Louisville].* (fn 11)

Around the Harrodsburg area, land patents issued to original settlers were the exception rather than the rule. For instance, one finds land granted to John Cowan, assignee of Silas Harlin; Silas Harlin, assignee of Andrew Gimblew; Alexander Robertson, assignee of Stephen Trigg; and Stephen Trigg, assignee of John Grayson, etc. Of the some thirty men known to have come to Kentucky with James Harrod in 1774, only twelve received patents at their improvements, the remainder having sold, traded, or abandoned the rights to their original claims.

The settlement and preemption certificates issued by the commissioners were often quite vague and merely located the tract of land in a general way. A typical certificate reads as follows:

> *Abraham MeClelland, heir-at-law of John MeClelland, deceased,.....this day claimed a settlement and preemption to a tract of land in the district of Kentucky, lying on the north fork of Elkhorn Creek, adjoining the land of the said MeClelland, whereon he had a station, by the said deceased raising a crop of corn in the country in the year 1776 and residing twelve months before the year 1778. Satisfactory proof being made to the court, they are of opinion that the*

said McClelland has a right to a settlement of 400 acres of land, to include the above location, and the preemption of 1,000 acres adjoining, and that a certificate issued accordingly.

In this particular case the settlement tract was entered with the county surveyor on February 13, 1780, but the preemption was not entered until December 12, 1782. The latter reads as follows:

.....enters 1,000 acres of land upon a preemption warrant, No. 1.409, on the north side of the north fork of Elkhorn, opposite to the mouth of the Royal Spring branch, and to extend up and down the north side of the creek, and northward for quantity. (fn12)

The McClelland entry was perhaps typical in respect to precision and clarity. Anyone interested in locating this claim could first determine the general site by the call, "north fork of Elkhorn," and more specifically, "Opposite to the mouth of the Royal Spring branch." More information on the location of this claim would require a visit to the site and a search for a marked line, usually consisting of blazed trees.

The records of the Virginia Land Commissioners, reprinted in their entirety (319 pages) in the 1923 volume of The Register, are a clue to the proportion of true settlers to frontier speculators like the outlyers and land jobbers. The Virginia land law of May 1779 provided that a man who had actually resided in Kentucky for one year prior to 1778, or who had raised a crop of corn in the county, was to be considered a "bona fide" settler, and could claim four hundred acres of land at the low price of two pounds, plus an additional thousand acres adjacent to his settlement for two hundred pounds. People who lived in forts for protection and had raised corn collectively were defined as villagers and were given the same rights as "settlers"; thus they were allowed to claim vacant land convenient to the fort

or village.

A comparison of those who received the settlement rights with those who were given only preemption rights reveals:

Date	Settlements and Preemptions	Preemptions only	Settlements and Preemptions as a Percentageof Total Claims
1773	none	2	
1774	16	14	53.3
1775	165	116	58.7
1776	280	266	51.2
1777	47	21	69.1
Misc.	47	5	90.3

At first glance, these figures would lead one to believe that over half of the men claiming land in Kentucky were settlers; certainly most of them were, by the legal definition set forth in the Virginia land law. Various court records show, however, that certain men who received settlement certificates did not actually qualify for land. ln other cases it would appear that many outlyers, being opportunists, decided that there was more profit in claiming tracts under their own names, so they sold their claims both before and after receiving the certificate of settlement from the commissioners. Such men would therefore be legal settlers, but in principle and attitude they were still outlyers. A closer look at the distribution of the land in selected areas is required to notice this trend.

The commissioners' records show that there was a total of 1,327 claims awarded in Kentucky for 1,340,850 acres. Of these, 554 were for settlement and preemption between the years 1774 and 1778. An additional 428 claimants were given preemption warrants for making improvements between 1773 and 1778. The remaining 345 warrants were issued to men who had made "actual settlements" in 1778 or 1779. The latter were for 400 acres only, at the higher state price of eighty pounds.

Only about half of the claimants appeared personally before the commissioners. A very large percentage of the men with land claims in Kentucky were represented by relatives or neighbors; 86 (6 percent) had died, while another 109 (8 percent) had sold their rights before their claims were heard by the commissioners. Another 192 applications were rejected by the commissioners for various reasons, including the applicants' refusal to take an oath of allegiance, making more than one claim in Virginia, and claiming land already awarded to another person.

Types of Land Claims By Geographic Zones

Zone	No. of Claims	S&P 1400 a	PW 100 a	SP 400 a	Acres Claimed	Total Area Claimed	% Tolal Area Claimed
1	67	35,000	12,000	12,000	59,000	462,400	12.8
2	80	47,600	36,000	4,000	87,600	472,000	18.6

3	172	148,400	33,400	12,800	194,600	336,000	57.9
4	132	96,600	26,000	14,800	137,400	547,200	25.1
5	97	64,400	36,000	6,000	106,400	400,000	26.6
6	171	96,600	72,000	12,000	180,600	380,000	47.5
7	329	184,800	102,000	38,000	324,800	2,894,000	11.2
8	202	68,600	81,000	28,800	178,400	4,217,600	4.2
9	34	11,200	20,000	2,400	33,600	870,400	3.9
10	26	14,000	4,000	4,650	22,650	3,401,000	0.7
11	3	0	3,000	0	3,000	2,197,100	0.1
12	Not allowed						
Not Listed	14	8,400	2,000	2,400	12,800		
Totals	1,327	775,600	427,400	137,850	1,340,850		

Note: S&P = Settlement and Preemption;

PW = Preemption warrant;

SPW = Settlement Preemption warrant.

Plotting the location of the individual claims by settlers and preempters shows that nearly all of them chose land in central Kentucky and avoided the rugged Appalachians. Most of the claims fall within a circle drawn through Frankfort, Perryville, Crab Orchard, Berea, Mount Sterling, Maysville, and Cynthiana. Other concentrations can be observed near Shelbyville, Bardstown-Springfield, Owensboro, and Louisville. The land in the Appalachian plateau was avoided because the country was steep and hilly and lacked good farm sites. Land in the western part of the state had not been cleared of Indian rights by treaty. Perhaps the strangest fact of all is that no settlement or preemption claims were made along the Wilderness Road, between the Cumberland Gap and Dicks River.

When examining all types of claims, including those made on military and treasury warrants, some other interesting trends appear. The chart of geographic zones compares twelve areas in Kentucky, using data from Joan E. Brookes-Smith's Master Index, Virginia Surveys and Grants. In the more popular locations, such as along the waters of Elkhorn Creek, the percentage of settlement claims to the total number is small. The exception to this general statement occurs on the waters of Shawnee Run, near Harrodsburg, where over half of the entries were on settlement certificates. As would be expected, where there are more settlement entries, the density of this type of claim prohibited the very large treasury warrant surveys, which resulted in the average size of the grants being smaller. Where there were few or no settlement and preemption claims, such as on the Louisa Fork of the Big Sandy River, some of the surveys on treasury warrants were as large as thirty thousand acres. The following chart also shows that it was not unusual for more land to be claimed than was actually available. Such conditions

usually led to litigation.

Grants and Entries in Selected Areas

Location (counties)	Total Area (acres)	Total Grants (acres)	% of Acres Granted	No. Entries	C.	SC. as % of Entries	Avg. Size (acres)
Shawnee Run (Mercer)	12,400	11,800	95	21	1	52	562
Hanging Fk.(Lincoln)	74,100	39,600	53	77	4	18	514
Elkhorn Cr.(Franklin)	303,000	347,500	115	42 7	2	12	814
Hammonds Cr.(Anderson)	1,700	31,200	183 5	38		8	821
Bullskin Cr. (Shelby)	48,700	70,500	145	80		1.25	881
Drennons Cr. (Henry)	58,300	40,600	70	38		8	1068
Eagle Cr.(Carroll)	318,800	369,800	116	56		1.8	6604
Rockeastle R.(Laurel)	395,400	54,400	14	13		-	4185
Big Sandy R. (Floyd)	1,356,000	580,300	43	73		-	7949

Richland Cr.& Laurel R. (Laurel)	208,640	47,000	22	4	-	11,750

Note: SC = settlement entries. Entries are grouped according to creeks and rivers as listed in Joan F. Brookes-Smith, comp., Muster Index, Virginia Surveys and Grants, 1774-1791 (Frankfort, 1976), although minor portions of the tracts may touch other watercourses.

The only method to determine the ultimate fate of the claims made by the authority of settlement certificates and preemption warrants is to follow them through the survey stage to the grants. This is best done by plotting the surveys in selected areas, which gives a better overall picture of the situation. We then find that some of the claims were neglected and never entered at all. These simply disappeared from the records. In other cases the claims [end page 248] were Sold, then surveyed, entered, and patented in the name of the new owner. Such claims cannot be traced under the name of the original recipient with the existing published records. It is not too unusual to find that part of a settlement or preemption tract was sold, with part retained by the original recipient. It is likely that in some cases the original claimant sold a part of the claim in order to raise the money required to pay the state for the remainder of the land. In other instances, the claimant received a grant from the state, only to lose the land to a neighbor in a lawsuit.

Claims to land were often disputed. In the Harrodsburg Danville-Stanford area, 165 tracts of land were located, consisting of nearly 142,000 acres. This was the area where in the early summer of 1774 James Harrod's original company selected their favorite sites and constructed their "lottery cabins." Nearly all of the land awarded to Harrod and his men was later

involved in boundary disputes or other types of litigation. Abraham Chaplin, a member of the company, stated that thirty-seven cabins were built that year, "which was near then our number." Thirteen of these men were eventually awarded 1,400 acres by the commissioners on settlement and preemption rights, while an additional seven members were awarded 1,000 acres for their preemption rights. Land in the area was improved that year by members of the company and was awarded to Parmenas Brisco and Edward Worthington. Before these tracts were surveyed, eight members of Harrod's company sold their claims, though two, Chaplin and Crawford, repurchased the tracts. Harrod and his neighbor, John Cowan, were not able to settle a boundary dispute during their lifetimes. More serious was the suit brought by Samuel Moore's widow and heirs, who claimed that James Harrod, as administrator of the estate of his old friend and comrade, had withdrawn their I ,000- acre preemption and entered the tract in Harrod's own name on a treasury warrant. The land records indeed show a grant to Harrod just north of Samuel Moore's settlement tract at Knob Lick.

In some cases the land disputes began even as the commissioners were hearing the pioneers' claims. John Crawford, for example, claimed land on the Hanging Fork of Dicks River for which Samuel Craig had already obtained a certificate. The commissioners noted that, for this reason, they could not grant him a certificate." (fn 13) and he must proceed for redress by the way of caveat." When the court resolved this dispute by awarding Crawford land to the west of Craig, they inspired further litigation since the tract overlapped a treasury warrant claim owned by Benjamin Logan.

When considering this area, and tracing the grants, but omitting any land that might have been lost due to overlapping claims and law suits, the data indicate that 77 percent of the settlers and 36 percent of the men with

preemption claims retained some of their land; in the same group, 23 and 64 percent sold all of their land. Thus about 30 percent of the land in the area considered was granted to settlers. In this type of investigation, it was not possible to determine how many of the tracts were sold after the land grants or patents were awarded. Data for this area reveal:

Disposition and Type of Claims: Harrodsburg - Danville - Stanford Area

	No. of Claims	Acres	% of Total Acres
Settlers who retained all land	32	43,408	
Settlers who retained some land	22	20,916	
Settlers who sold all land	16	21,890	
Total settlement claims	70	86,214	58.7
Preempters who retained land	9	9,000	
Preempters who sold land	16	10,993	
Total preemptions	25	19,993	13.6
Settlers after 1778	9	3,600	2.5

Treasury warrant surveys	36	22,009	1 5.0
Military and misc. surveys [ii]	25	15,000	1 0.2
Total	16 5	146,816	1 00.0

More representative of the rural land acquisition in central Kentucky was the land adjacent to the present city of Shelbyville on the waters of Clear Creek and Bullskin Creek. This area was explored by surveyors and improvers between 1774 and 1778, but during this period no villages or stations were organized. The first semi-permanent occupation of the area was in spring 1779, when Squire Boone led a contingent to build a fort on his land at "Painted Stone." Two years later these settlers were driven back to the Beargrass Stations and the fort was burned by Indians. It was another two years before the area was again occupied.

Early in 1780, some of the Shelbyville area claimants got together and agreed to hire someone to run out their various [end page 253] boundaries to avoid overlapping claims. They elected Nicholas Merewether, who began in the early part of April by marking a "corner elm on the west side of Clear Creek" to the common corner between the claims of Benjamin Pope, Mrs. George Wilson (formerly Margret Pentergrass), George Holeman, and John Porter. (fn 14) He then proceeded to run the lines to these and various other surveys in the area. The claimants thereby could use this informal survey to make their entries, prior to having their legal surveys made. However, several years later two of the claimants decided to move their lines farther down the creek, thereby causing disputes that the original plan was supposed

to avoid.

The Shelbyville map includes an area with an approximate radius of ten miles from the town, in which there are 126 surveys for 192,481 acres. Of these, 18 claims amounting to 25,200 acres were awarded to men who qualified as early settlers, amounting to a total of 13 percent of the land. Another 18 tracts were awarded to men who had made improvements before 1778. Only two of the settlers and nine of the improvers still had all of their land when the surveys were made. Another two of the eighteen settlers and three of the improvers had died, while four settlers had sold some part of their claim. The remaining tracts were sold entirely before the land was surveyed and the grant issued. In all, only 4 percent of the total went to men who qualified as settlers!

In the Shelbyville area, military warrants accounted for nine surveys amounting to 14,534 acres, which is approximately 7.7 percent of the total area. The first military survey was made by John Floyd in 1774, though he did not register it until 1776. The most surveys in the area were on treasury warrants; 77 were made for a total of 133,147 acres, comprising 71 percent of the total area. The grants on treasury warrants varied from 35 to 30,000 acres, with the average size being 1,729 acres; however, if the two largest and two smallest are ignored, the mean average is reduced to 1,111 acres. There were also two surveys made on paupers warrants (a preemption warrant granted on credit by the commissioners to those actual settlers unable to pay), each for [end page 254] 400 acres. As is generally the case, many of the surveys over-lapped because of conflicting claims.

Disposition and Type of Claims: Shelbyville Area

Type of Claims	No of Claims	Acres	% of Total Acres
Settlers who retained all lands	2	2,800	
Settlers who retained some land	5	3,000	
Deceased settlers; heirs retaining all land	1	1,400	
Deceased settlers; heirs retaining some land	1	400	
Settlers who sold all land	9	12,600	
Total settlement surveys	18	20,200	10.8
Preempters who retained land	7	7,000	.0
Deceased preempters	3	3,000	
Preempters who sold land	8	8,000	
Total preemptions	18	18,000	9.6
Settlers after 1778	2	800	0.4
Military surveys	9	14,534	7.8
Treasury warrant surveys	77	133,147	71.0
Pauper surveys	2	800	0.4
Total	126	187,418	100.0

A study of the grants in the Shelbyville area also discredits the contention that "many frontier giants [original settlers] stood aside while their beloved and hard-won acres passed legally and irrevocably into the hands of greedy speculators and Johnny-come latelys." In this area we find that the biggest speculators were none other than Squire Boone, William Shannon, James Francis Moore (the cousin of James Harrod), and Dan Sullivan, all of whom could only be classified as early settlers. The settlers and the speculators were not mutually exclusive groups. Indeed, they were often identical.

The situation was different in Louisville and in the Bluegrass region along Elkhorn Creek between Frankfort and Lexington. Here the majority of the old Fincastle County military entries were surveyed prior to 1777. When the commissioners came to Kentucky to award the settlers their claims, they were well informed of the position of these military surveys, and refused [end page 256] to grant any settlement certificates or preemption warrants within those boundaries. However, since settlement claims could only be made on vacant land, only one person knowingly requested a settlement certificate on a military survey, and this was refused. Those settlers and preemptors who had made improvements on the old military surveys wisely kept their mouths shut about them, and claimed their improvements were elsewhere.

For these reasons we find that all of the land in downtown Louisville today, and most of the land in the eastern suburbs, was originally surveyed on military claims, rather than acquired by settlers. Around Lexington, the situation was more complicated, as maps of the surveys show. When the town was formed, part of a military survey was purchased and incorporated into the boundary. The town limits were adjacent to several settlement

surveys, and beyond these to the northwest and south were large military tracts. As previously mentioned, quite a few improvements were made on these early military surveys, as many of the settlers thought that they would not be honored by the government. For example, when John Floyd arrived at Beargrass Creek in 1779 to settle on his military survey, he wrote his friend, Colonel William Preston, that "Poplar Grove pleases me as well as before - many are the cabins on it; and I found 11 on mine." (fn 15) Robert Patterson confessed that he had made twenty improvements near Lexington, most of which were marked with the initials of friends, "for fear of being called a land jobber." (fn 16) Finally, the improvement of Francis McConnell, for which his heir Alexander McConnell obtained a settlement certificate, and which was at the "big pond" on the military survey of Mary Frazier, serves as an example of a common stratagem. When it became apparent that Alexander would lose the land at that improvement, he made his survey at another location where Francis McConnell had obscure improvements. As it turned out, Francis McConnell made no fewer than five improvements before his death.

Disposition and Type of Claims: Bluegrass Area

Type of Claims	Claims	Acres	Type Claims As Percentage of Total Acres

Settlers who retained all land	16	20,081	8.0
Settlers who sold all land	9	12,356	
Settlers who were deceased	2	1,800	
Total settlement claims	27	34,456	13.8
Preempters who retained land	36	27,218	
Preempters who sold land	19	18,900	
Preempters who were deceased	3	8,000	
Total preemption claims	58	49,118	19.7
Military warrants	67	106,040	42.4
Treasury warrants	57	55,272	22.1
Not determined	3	4,940	2.0
Total	212	249,826	100.0

Comparing the land distribution in the Lexington-Elkhorn area with the central Shelby County and Harrodsburg-Stanford areas, one notices that again the settlers were selling their claims in large numbers. The same was true in Louisville. Floyd's letter to Preston of December 19, 1779, indicates that the going price for Kentucky land at that time was one pound per acre for preemption claims, with the purchaser to clear the ground himself. The Oxmoor tract in eastern Jefferson County was purchased for four dollars per acre in 1787. Most transactions were on credit, as the Kentuckians had very little hard currency.

Land jobbing was not confined to the years prior to the commissioners' visit in 1779-1780; the practice continued until all of central Kentucky was

shingled with claims. Moreover, land locating was a profitable business. Nicholas Merewether was given one-third of a military warrant for locating the land on Clear Creek in Shelby County. Floyd wrote, "My expenses for any necessary I want is so considerable that I expect I shall be obliged to turn t6 land jobbing-I am offered £ 400 per 1000 [acres] for locating for absent people or half the land if I choose to take that. "(fn 17)

These "absent people" were men with military or treasury warrants who stayed on the eastern side of the mountains. Land jobbing in Kentucky involved some risks. Floyd was the first to mention one of the problems, that of the settlers and preemptors moving the location of their original claims. On March 28, 1783, he wrote concerning some entries in Fayette County,

> *They are in no danger unless settlement or preemptions interfere with them as I had the first entries; but so much time has elapsed before the surveyors came Out after the entries were made that people have had time to find Out the [location of] old surveys and where they had improved within the lines, [they] have edged themselves out into the first vacant land they could find. I don't know that is the case with your lands I am concerned for, but it is frequently done.* (fn 18)

Later land suits confirmed that this illegal practice was common, even among the earliest settlers such as Squire Boone.

Since some of the later surveys made on military or treasury warrants conflicted with entries made on settlement or preemption warrants, and since many of the locators were not aware of the previous claims, lawsuits frequently developed concerning the value of the land acquired, and the locator's rights to payment. Where the locator had been paid in cash, and the land was lost because of prior claims, the owner sometimes had problems recovering his money. Simon Kenton was involved in problems of this type,

which resulted in litigation.

On the other hand, sometimes clever and intelligent surveyors would resolve problems that seemed destined to end up in court. For example, John Paul entered his preemption on Bullskin Creek, beginning at the mouth of Fox Run; Peter Paul entered his preemption to join his brother's land on Bullskin Creek, to run downstream. The preemption warrants for Robert and James Walls were also for land on Bullskin Creek, with boundaries to touch the mouth of Fox Run. When Floyd made this survey, he crisscrossed the four boundaries at the mouth of Fox Run, so that all four surveys would conform to the entries.

In some cases where claims overlapped, the resulting dispute was settled by one of the claimants purchasing the land from the other to obtain clear title. This practice is very confusing today to those doing research on ancestors, as they may find a man purchasing land on which he may already have a land grant. In one instance, a pioneer purchased the same tract of land from three different people in order to clear the title.

The land act originally allowed those with settlement and preemption claims nearly six years (until February 1786) in which to have their land surveyed. By an act of assembly passed in 1785, this requirement was repealed, and the time limit extended. Before receiving any patent, those with certificates and warrants were obligated to file their entries and with the county surveyor, have the land surveyed, and to pay all required fees. From time to time the surveys were collected in bundles and transported to Williamsburg, after which patents could be granted for the land. Any part of an entry, survey, or patent which overlapped an earlier claim was assumed to be null and void, since that land was not vacant. The surveyors were required to conform with certain rules set by the Virginia land law of 1778,

such as not making a survey more than three times as long as it was wide, with surveys along rivers and streams having boundaries perpendicular and parallel to the watercourse. The law also required all surveys to conform strictly to the entry in all particulars; when a certificate called for land at an improvement, this improvement had to be within the boundary of both the entry and survey.

Serious problems soon developed in Kentucky because of Virginia's land policy. As previously mentioned, too many certificates and treasury warrants were awarded for land in certain areas, which resulted in overlapping claims. The law allowed persons to make entries which were often vague and ill-defined as to location. There was no means for cross-checking surveys to determine whether they were free of prior claims. Consequently, the state issued patents to anyone who filed an entry and survey and paid his fees, with the assumption that the entire tract was on vacant land not previously claimed by another. Such was not often the case.

As John Floyd pointed out, ill-defined descriptions sometimes allowed claimants to move their surveys away from older entries, onto the land of persons with junior entries. Such practices were illegal, but difficult to prove in court. Trouble also developed from the practice of calling for an entry to join a neighbor's land, when the neighbor had not yet obtained a survey. In such cases the neighbor's survey might change the intended location of the second tract; or worse, if the neighbor's entry was rejected as too vague, the other would also be lost. Some confusion also resulted when people used different names to refer to the same place. One of the first court rulings declared that "a call in an entry for a ford by a name by which it was known to only a few before... is not a sufficient call when the ford was generally known... by another name." (fn 19)

Another common practice which led to difficulties was the contracting of a man with a valid certificate to have another man "carry the claim into grant," usually for half the land. This type of agreement often led to disputes, since one of the partners might claim the better half of the tract, lay the other partner's half over some prior claim, or fail to deliver the title to the partner when the grant was issued. There was even one case in which a man stole a warrant and assigned it to a second person, who in turn obtained the patent and sold the land to several other unsuspecting citizens. (fn 20)

Some historians have contended that many settlers eventually lost their land to wealthy speculators or to unscrupulous attorneys. Such occurrences, however, were rare. The court ruled that any person who obtained land fraudulently would be required to surrender the title to the person making an entry in good faith. It was solely the claimant's responsibility to enter only on vacant and unclaimed land, and to see personally that his survey conformed to the entry. Obviously, if a man were foolish enough to run his survey over an older entry, he would lose the land, all other things being equal. However, even in such cases the law was forgiving, for if a man discovered his claim overlapped another, he could withdraw or amend the entry and claim land at some other vacant location.

In spite of this situation, many of Kentucky's pioneers managed to lay their surveys in such a way that they perfectly conformed to their certificates and entries, without infringing upon land claimed by their neighbors. Sometimes this required irregular and oddly-shaped boundaries to fit areas where they could find unclaimed land. Frequently neighbors conferred, or walked the limits of their respective claims, and made whatever compromises were necessary to avoid disputes. There is evidence that neighbors agreed to establish common boundaries midway between their old

cabin improvements, or selected and marked trees to define the limits of their property. Such agreements were later upheld by the courts, and in this way many future conflicts were avoided. Reasonable men were well aware of the problems faced by their neighbors in establishing their boundaries, since they faced identical problems themselves. Perhaps this was the reason land disputes were frequently adjusted by the landowners, rather than by judgment of the court. Most settlers understood that court cases could be costly and sometimes took years to settle.

Another aid to the pioneers in boundary compromises was the surveyors' general practice of adding a few additional "poles" to the sides of the survey, which resulted in the tract being larger than the legal description would indicate. For example, Colonel William Christian's survey on Beargrass Creek called for sides of 550 poles (9,075 feet) by 600 poles (9,900 feet), but the actual measurements were approximately 642 poles (10,600 feet) by 654 poles (10,800 feet) respectively. Thus Colonel Christian's tract contained about 600 extra acres, a 30 percent increase. (fn 21)

Surveys rarely contained less land than called for in the description, but often contained surplus. The old surveyors were very careful not to run the survey smaller than the calls, because they would be responsible to the owner for the shortage. Settlers occasionally elected to claim lesser amounts of land than would be allowed by their preemption rights. Perhaps these people could not raise the money required for a larger tract, or perhaps they could not find a sufficient amount of vacant land in the vicinity to satisfy the size of their warrant. But the general rule was to claim all the land allowed by law, whether vacant or not.

The first court case pertaining to land was decided in June 1784 by the

"Supreme Court" for the District of Kentucky. During the following seventeen years, forty-six more cases were heard by the high court. This was only the peak of the iceberg, however, since many disputes were decided on the county level and not appealed. Nevertheless, it was the higher court which established the rules and set the precedents.

One of the earliest decisions of the high court established the principle that a survey must be properly run in order for the title to be good. In the case of Ammos vs Spears, June term 1787, the court decided that "an entry not surveyed according to law must, to the extent that it is improperly surveyed, yield to a proper survey of a younger entry." In 1789, this ruling was tempered by a decision that "uncertain, repugnant or impossible calls in an entry may be rejected and the entry still be good. if the location can be identified without them." (fn 22) This allowed the surveyor some leeway in interpreting the size and shape of the tract while still conforming to the entry. The judges also confirmed that entries on preemptions could be withdrawn and placed on another vacant tract; this served to give relief to those who recognized that their entries were improper or junior to another claim.

Four court decisions made between September 1789 and May 1795 were to affect profoundly some of the settlers' claims. These rulings, dealing with the shape of a claim, were:

(1) When an entry has no other calls than to include an improvement, the land should be in the shape of a square with the improvement in the center, with the lines to the cardinal points.

(2) An entry which calls to bind on a watercourse must he surveyed as nearly in a square as the course of the stream will permit, with the stream forming the base and the other borders being at right angles to it.

(3) A preemption which was entered to adjoin a settlement must be surveyed in equal quantities on each side of the settlement.

(4) An entry calling to include two objects not at the same place must be surveyed in a parallelogram to include those objects at equal distances from the side and end lines.

These and several other similar rulings by the higher court now seem quite arbitrary, there being no such specific requirements for surveys included in the original land law. These decisions were followed by another which ruled that an improvement "as notorious and generally known as improvements of the like kind were is not considered evidence that the improvement was of such notoriety as would uphold the entry." (fn 23) Combined with the above decisions, this verdict probably fanned the fire of litigation, causing many who had later entries to attempt to secure their claims through the courts. These court rulings might even have encouraged unscrupulous men to enter new claims on older established grants, with the hope of obtaining the land if the original plats were surveyed incorrectly or based upon obscure improvements.

By 1785, various individuals and partnerships were entering very large tracts on treasury warrants which obviously covered dozens of previous claims. For example, Charles Morgan, James Stewart, Isaac Barr, and John Donnell used treasury warrants to claim over 45,000 acres of land northeast of Frankfort, including a good portion of the Elkhorn and Eagle creeks. Others with similar large tracts included Phillip Barbour, Samuel Beall, Robert Johnson, John May, and Jacob Myers. One of the largest single claims was 75,000 acres surveyed in Nelson County for John Bell; this tract was in addition to 93,000 acres entered by Bell in Fayette County. As usual, Virginia issued patents for all these tracts, even though very little of the land

was actually vacant or unclaimed. The treasury warrants likely lost value as vacant land disappeared or perhaps became easier to obtain with devaluation of Virginia currency. In any event, persons who applied these warrants over other claims must have hoped they could secure either land between older surveys or property not entered and surveyed according to law.

Within a reasonable time the high court began to backtrack on some earlier decisions. In October 1799, the court ruled that "the land law does not require that the claimant....should locate his preemption all around his settlement, but he may locate it adjoining his settlement on any vacant and un-appropriated land, and in [any] form as he may see fit"; and, in May 1800, that "a call in an entry for a creek. by a name....known to a few....is a sufficient call, although it was more generally known at the same time by another name." By 1809, the court believed it should "give certificates [for land] a liberal construction, and endeavor to extract from them what the law and reason of the case required." (fn 24)

In later years land owners often quarreled about exact boundary locations. Some believed the boundaries were determined by the courses set forth by the deed description, while others claimed they were set by the existence of fences, marked trees, etc. The court agreed with the latter contention. deciding that an actual boundary described mathematically is a misconception. "Such a line never was run in making any survey, and is impossible to be ascertained with precision and certainty by any human means. It seems [to the court] more rational to presume the line as actually run & marked by the surveyor, than one which never was run, exists only in idea, and is impracticable to be ascertained with certainty." Only when the marked line was destroyed, the court held, did the "courses & distances become the only guide." (fn 25)

In many instances, it was the state courts that caused the confusion and problems in the just settlement of land disputes. This fact was acknowledged by the United States Supreme Court in 1809. The high court, after hearing all the evidence in the case of Bodley V. Taylor, decided that they were:

> *compelled to believe that the principle [set down by the state court] is really settled in a manner different from that which this court would deem correct. . . . The very extraordinary state of the land title in that country [Kentucky] has compelled its judges, in a series of decisions, to rear up an artificial pile from which no piece can be taken, by hands not intimately acquainted with the building, without endangering the structure, and producing a mischief to those holding under it, the extent of which may not be perceived. The rule as adopted must be pursued.*
>
> (fn 26)

In other words, had the U.S. Supreme Court reversed this unjust decision, they would have pulled down the house of cards built by the Kentucky judges over the previous twenty years.

The great majority of the Kentucky land cases were resolved by 1830, but a few lingered for another decade or two. Eventually all the disputes of the original claimants were settled, although minor boundary differences reoccurred from time to time and are still frequent in the eastern part of the state. The only positive outcome of the Kentucky land problems was the decision of Congress to revise completely the system by creating mile square sections in unsettled areas of the public domain. The ordinance of 1785 established the first baseline for the national survey, and an act of Congress in 1796 directed the method of numbering sections, ranges, and townships. No longer would the corner of a man's property be defined by such calls as "a white oak and beech tree near the bank of Bullskin creek."

Footnotes:

1. William Hening, Statutes at large, Richmond, The Franklin Press, 1820. Vol., 7, pages 661-2

2. Benjamin J. Hillman, ed., Executive Journals of the Council of Colonial Virginia, June 20 1754-May 31, 1773 (6 Vols,: Richmond, Virginia State Library), 1966, 6:552-4.

3. DM 17CC166-9, Floyd to Preston, 21 April 1775,.

4. DM 25C11

5. DM ??? Henderson's journal.

6. DM 25C13

7. DM 33S296-8 & 299-300 Floyd to Preston, 27 May and 1 July 1776.

8. William W. Henning, comp. The Statues at Large (13vols. Richamond, Va. 1809-23), Virginia land law, X, 33-50.

9. James Hughes, A Report of the Causes Determined by the Late Supreme Court for the District of Kentucky and by he Courts of Appeals, 1786-1801, Louisville, Fetter, 1898, p398. Hereafter, Hughes, Report.

10. Neal Hammon, Early Kentucky Land Records, 1773-1780, Louisville, Filson Club, 1992. and Register of the Ky Historical Soc, Vol 21, 1923, hereafter Register. The Journal of William Fleming. The figures from these two sources do not exactly agree, but are close.

12. Certificate Book, Register, Vol 21, 1923, and the land entries for Kentucky County are found in Ky. Archives, Frankfort, in the Jefferson County Entriy Book A.

13. Certificate Book, Register 21 (1923), 299.

14. Shelby Co. Circuit Court, Owens & Jackson vs Wilson, Hughes Reports, 123, 155.

15, DM 33S15-6 & 17CC186-7, Floyd to Preston, November 26, 1779,

16. Fayette Circuit Records, Ky. Dept. of Libraries and Archives, Frankfort, McConnel vs Kenton, Deposition of Robert Patterson.

17. DM 17CC121, Floyd to Preston, Dec. 19, 1779.

18. DM 16CC144-8, Floyd to Preston, March 18, 1783.

19. Hernon vs Hogan, November term, 1786, Hughes Reports, ix.

20. George M. Bibbs, Reports of Cases at Common Law and in Chancery, (4 vols), Cincinnati, 1909, [hereafter Bibbs Reports] Smith vs Frost, Spring term, 1809, I, 375-79, and Campbell vs Langsley's heirs, Spring term, 1810, II, 73-77, and Clay vs Smith and others, Fall term, 1809, I, 522-3. According to the case records, Caly assigned land warrants to Smith, and during his absence from home, Lewis Craig got possession of the warrants and without Smith's knowledge or consent, sold them to James Renfro, who had full of the fraudulent possession by Lewis Craig. Renfro then proceeded to have the land surveyed and patented in his own name,

21. The Virginia land law of 1778 permitted a five percent overage by the surveyor.

22. Hughes Reports, Ammons vs Spears, June term, 1787 and Pawling vs Merewether's heirs, June term, 1789.

23. Ibid, Myers vs Speed, October term, 1795.

24. Hughes Report, Whiteledge vs Kenny, October term, 1799, Hughes Reports, Carter vs Oldham, May term, 1800, and Bibbs Report, McGee vs Thompson, et al, Fall term, 1809 respectively.

25. Bibbs Report, Preston's heirs vs Bowman, Fall term, 1811.

26. Cranch 234, Bodley vs Taylor, (1812).

[i] Deposition of James McConnell. Craig vs McCracken Heirs. Franklin District Court Case Number 82 (Kentucky State Archives and Records Center, Frankfort).

[ii] This category includes surveys of undetermined type.