

The Phelps-Gorham Purchase

By Marian S. Henry

Introduction

Opening of western New York State to settlement after the Revolutionary War was impeded because ownership of the land was contested -- this region, the "Genesee country," was long claimed by both Massachusetts and New York. Gen. John Sullivan, who led his army on an expedition to subdue the Indians in 1779, had explored the region. When his soldiers returned to Massachusetts, Connecticut, New Hampshire, and eastern New York, they brought back a favorable opinion of the land. The conflicting claims of ownership prevented legal purchase, though. Resolution of the dispute became more urgent. When the matter was finally resolved, in 1787, the right to sell a 2.6 million acre tract lying between the so-called "preemption line" on the east and the Genesee River on the west eventually devolved to Oliver Phelps and Nathaniel Gorham, prominent Massachusetts businessmen, and their company of investors. This company suffered financial reverses and, after less than two years, transferred all unsold holdings to Robert Morris in 1790. Nevertheless, Phelps and Gorham had sold approximately half of their original purchase, and the settlement of the Genesee country was well underway.

The States' Claims

A confusing collection of contradictory royal charters from James I, Charles I, and Charles II, mixed with a succession of treaties with the Dutch and with the Indians, made the legal situation intractable. Massachusetts asserted priority of charter on the disputed claims. All the land on the eastern coast from 34th to 45th parallel was granted by James I in 1606 to the London Company and the Virginia Company. The colonists of Plymouth, Massachusetts, had gotten their charter from the Virginia Company, but settled in land belonging to the London Company. So in 1620 James I granted land from 40th to 48th parallel from sea to sea to the council in Plymouth, England, which issued a sub-grant in 1621 to the colonists. In 1628 the same council issued another sub-grant, also running from sea to sea, to the Boston Company. Both of these charters expressly excepted "all lands actually possessed and inhabited by an other Christian prince or state." This became a point of debate.

New York based its right to the region on Henry Hudson's claim of New Netherlands for Holland in 1609, which predates the 1620 and 1628 grants of Massachusetts. The western boundary was based on Indian treaties^[1]. New York pointed out that all of the Indian treaties had been obtained through the efforts of officials of New York, deeds were witnessed by New York officials, no other colony was mentioned in the treaties, and that New York paid treaty expenses. In 1640 Charles II granted New Netherlands to his brother, the Duke of York and Albany, later James II. New York claimed that when England took over the Dutch holdings in 1640, New York succeeded to the Dutch claim. Massachusetts agreed with this but claimed that the Dutch had not actually settled territory west of the Mohawk, and so that territory was not subject to the exemption stated in the 1620 and 1628 grants. Massachusetts also argued that the grant of Charles II did not define a western boundary and that the Indians had not ceded anything directly to New York.

Resolution of the Dispute

The states' positions were entrenched, and no mutually acceptable agreement appeared likely. In May 1784 Massachusetts appealed to the federal government, at that time the Continental Congress, self-styled final arbiter of disputes between states. Massachusetts asked congress to appoint commissioners, whose decision would be final. Instead, Congress directed that the states appoint their own commissioners and have them appear before Congress to argue the case. When the commissioners appeared before Congress the following December, they were instructed to agree upon judges to hear the case. This was done by the following June. But the judges backed out before the case could be heard, and Congress agreed to postpone the case. The two state legislatures empowered their commissioners to settle the matter. After two and a half years of congressional inaction, the commissioners settled the dispute in two weeks at Hartford in December 1786^[2]. Massachusetts surrendered her claim to the government, sovereignty, and jurisdiction of the entire state. New York conceded to Massachusetts the right of pre-emption to the soil (subject to Indian title) for that part of the state lying west of the preemption line^[3]. That meant that Massachusetts had the right to buy the land from the Indians and could sell this right to individuals. If, however, Massachusetts sold the preemption

right, the grantee had to have any treaty with the Indians confirmed by Massachusetts. Furthermore, when the land was purchased from the Indians -- recorded in the office of New York's secretary of state -- it would become part of New York. The two state legislatures ratified the agreement and submitted it to Congress for approval.

The Phelps-Gorham Purchase

On 1 April 1787 Massachusetts sold to Nathaniel Gorham, Oliver Phelps, and their associates pre-emption right to six and a quarter million acres west of the preemption line, subject to the Indian title. By treaty with the Indians, signed 8 July 1788, the associates, acting through Oliver Phelps, purchased a tract of land bounded on the north by Lake Ontario, on the south by the Pennsylvania border^[4], on the east by the preemption line. On the west the boundary ran north from the Pennsylvania border to the confluence of Canaseraga creek and the Genesee River. Thence it followed the river to a point two miles north of Canawagus village (the modern town of Avon), thence due west twelve miles, thence northward so as to be twelve miles distant from the Genesee River to the shore of Lake Ontario. The land was divided into ranges six miles wide running from north to south. Range 1 thus ran along the preemption line. Range 7 ran along the Genesee River. The ranges were divided into townships six miles square running from east to west. Township 1 lay on the Pennsylvania border. Township 14 bordered Lake Ontario. Thus the majority of the parcels, except those around the river, were squares six miles on a side. When Phelps bought the land from the Indians, Massachusetts had to confirm the sale, but the land became part of New York. Massachusetts confirmed their title of land east of the Genesee River on 21 November 1788. (The Indians were not willing at that time to sell land west of the Genesee.)

There was a rival claim to the territory by an association of influential New York businessmen -- the New York Genesee Land Company, more familiarly known as "the Lessees." Their claim was based on a lease, obtained on 30 November 1787, of all the lands of the Six Nations. Legislatures of both New York and Massachusetts refused to recognize the validity of the lease. Nevertheless, the intrigues of this group persisted. Phelps agreed to convey four townships to them (townships 6, 7, and 8, range 1; and township 9 range 2) in exchange for a release of their claim. Phelps and Gorham reserved for themselves township 10, range 3, at the northern end of Canandaigua Lake, and township 9, range 7, the current town of Geneseo.

Oliver Phelps and Nathaniel Gorham

Oliver Phelps was born in Windsor, Connecticut, on 21 October 1749. He married Mary Seymour, daughter of Zachariah and Sarah (Steele) Seymour. Mary was born in Hartford on 16 November 1752 and died in Canandaigua, New York, on 13 September 1826. In 1770 the couple settled in Granville, Massachusetts. They had one son, Oliver Leicester (b. 22 September 1775, married Betsey Law Sherman; d. at Canandaigua, New York, 9 October 1813; seven children) and a daughter, Mary (b. 5 September 1778; married Amasa Jackson; d. 11 September 1859 in New York City; two children).

Oliver Phelps fought at the battle of Lexington and served in the Commissary department of the Colonial army. After the Revolution he moved to Suffield, Massachusetts. He was a prominent businessman and was involved in state and national politics. He was a member of the Massachusetts State Assembly, a State Senator, and a member of the Governor's council. He organized the Phelps-Gorham partnership in 1788 and was their active agent in all explorations and negotiations. He relocated in Canandaigua in 1802. He served as the first judge of Ontario County from its erection in 1789 until 1793. He served as a New York state representative from 1803 to 1805. He died in Canandaigua on 21 February 1809.

Nathaniel Gorham was born in Charlestown, Massachusetts, on 27 May 1738, the son of Captain Nathaniel Gorham and Mary Soley. In 1763 he married Rebecca Call, daughter of Caleb Call. They had seven (one source says nine) children including Nathaniel, Rebecca, Mary, Elizabeth Ann, John Benjamin, and Lydia. He became a prominent merchant and was involved for most of his adult life in public affairs. He was a member of the Colonial legislature 1771-75 and a delegate to the Provincial Congress in 1774 and 1775. He was a member of the Board of War 1778-81. He was a member of the state Constitutional Convention in 1779 and a delegate to the Continental Congress 1782-83 and 1785-87, being elected president of that body in June 1786. Nathaniel Gorham never settled in the Genesee

Country. His affairs in New York were handled by his son Nathaniel Gorham, Jr., who moved to Canandaigua in 1789. Nathaniel Gorham died in Charleston, Massachusetts, of apoplexy on 1 June 1796.

Sale of Parcels to Speculators and Emigrants

Original land purchase was often for speculation, rather than settlement. The land was often resold quickly, and the original purchaser(s) did not always emigrate. For example, Oliver Phelps sold township 3, range 2, to Prince Bryant of Pennsylvania on 5 September 1789. A month later, on 2 October 1789, Prince Bryant sold the land to Elijah Babcock, who sold various parcels to Roger Clark, Samuel Tooker, David Holmes, and William Babcock.

Also, the original settlers were not always successful. With partial payment they received “articles of sale” instead of deeds; if they could not make the necessary payments, the land reverted to Phelps and was sold again. The table below lists original sales to speculators and settlers between April 1788 and November 1790 tabulated according to township and range numbers.

Township, Range, Town	Purchaser	Notes
short range, 2A, Rochester	Ebenezer Hunt, Robert Breck, Quartus Pomeroy, Samuel Henshaw, Samuel Hinckley, Moses, Kingsley, Justin Ely	from Springfield and Northampton, Mass.
short range, 2C, Charlotte	Joseph Smith, Horatio Jones	bounded by Genesee River and Lake Ontario
T1, R2, Lindley	Col. Eleazur Lindsley, sons Samuel and Eleazur, sons-in-law Ezekiel Mulford and John Seeley, and David Cook	By clerk’s error “s” dropped in name of town
T2, R1, Corning	Frederick Calkins, Caleb Gardner, Ephraim Peterson, Justus Wolcott, Peleg Gorton, Silas Wood	Calkins from VT; Wood did not emigrate
T2, R2	Col. Arthur Erwin	Rev. War officer from Bucks Co., PA
T3, R2, Campbell	Prince Bryant	from PA
T3, R5; T4, R6; Canisteo and Hornellsville	Solomon Bennett, Capt. John Jamison, Uriah Stephens, Benjamin Crosby and son Richard	from Wyoming Valley in PA
T6, R7	Col. Jeremiah Wadsworth	from Hartford, CN; acquainted with Phelps during Rev. War
T6,7,8, R1; T9, R2	Leasees	~
T7, R2, Jerusalem	Benedict Robinson and Thomas Hathaway	followers of a religious sect founded by Jemima Wilkinson
T8, R2, Potter	Benedict Arnold Potter	follower of Jemima Wilkinson
T8, R4, Bristol	Gamaliel Wilder, Joseph Gilbert	~
T9, R1	Benton and Livingston	two of the Leasees’ company
T9, R3,4, 5; Richmond and	Gideon Pitts, James Goodwin, Asa	The Dighton Company,

Bristol	Simmons, Calvin Jacobs, John Smith	from Dighton, Mass. Title to Jacobs and Smith
T9, R7, Geneseo	reserved for Phelps and Gorham	~
T10, R1	Gen. Israel Chapin and Capt. Dickinson	~
T10, R2, Hopewell	Gen. Israel Chapin and Capt. Nobel	~
T10, R3, Canandaigua	reserved for Phelps and Gorham	~
T10, R4, East Bloomfield	Capt. Wm Bacon, Gen. John Fellows, Elisha Lee, Deacon John Adams, Dr. Joshua Porter	Dea. Adams arrived first; Wm Bacon of Sheffield, Mass., never emigrated
T10, R7	William Wadsworth, ___ Wells, ___ Lewis, Isaiah Thompson, and Timothy Hosmer	from CN; Thompson and Hosmer only ones to become residents
T11, R1	John Decker Robinson and Nathaniel Sanborn	~
T11, R2	Gen. Israel Chapin and Capt. Nobel	~
T11, R3 Farmington	Nathan Comstock, Benjamin Russell*, Abraham Lapham, Edmund Jenks*, Jeremiah Brown*, Ephraim Fish*, Nathan Herendeen, Nathan Aldrich, Stephen Smith*, Benjamin Rickensen*, William Baker*, Dr. Daniel Brown	First sale of P& G, *did not become residents, deed to Comstock and Russell, from Adams (Berkshire Co.), Mass.
T11, R4	Enos Broughton	from Stockbridge, Mass., clerk of Wm Walker
T12, R2 , Palmyra	John Swift, Col., John Jenkins	Agents for a group from Wyoming Valley, PA. Jenkins was a surveyor
T12, R4	William Walker	local agent of Phelps and Gorham
T12, R5, Pittsford	Simon and Israel Stone	Washington Co.
T13, R4, Penfield	Jonathan Fasset	from VT
T13, R5	Gen. Caleb Hyde, Prosper Polly, Enos Stone, Job Gilbert, Joseph Chaplin, John Lusk	from Lenox, Mass.
T14, R1	Talmage and Bartle	~

Dissolution of the partnership

The favorable financial outcome envisioned by the original shareholders did not materialize. Fewer emigrants than anticipated reduced the income from land sales. Moreover, a rise in the value of the consolidated securities effectively increased the amount of their debt to four times what they had originally expected. Thus, at the end of the first year they were unable to meet their obligation. Two of the three bonds were canceled and the third bond was reduced to less than one-third of its original amount. In order to meet even this reduced obligation, the syndicate was obliged to sell the lands they had not disposed of to Robert Morris on 18 November 1790. This amounted to about half of the original Phelps-Gorham purchase. The Commonwealth took back the preemption right of the lands west of the Genesee River

(which the Indians were not willing to sell) on 10 March 1791. The state then sold the pre-emption right to this western portion to Robert Morris the next day, 11 March 1791. This land became known as the Holland Purchase because Robert Morris sold it to that group of Dutch bankers with the understanding that he, Morris, would extinguish Indian title (i.e., purchase it from the Indians through treaty), which he finally did in 1797.

As part of the agreement with Robert Morris the survey of the Phelps-Gorham purchase was repeated and found to be seriously in error (one source suggests it was deliberate). The pre-emption line was straightened to include the town of Geneva. An equivalent acreage on the west, the Triangle Tract, was returned to the Indians. In less than a year Morris's London agents sold the tract, at more than double the price, to three Englishmen, Sir William Pulteney, William Hornby, and Patrick Colquhoun. Since at the time non-citizens could not legally hold title to land, Charles Williamson was sent from Scotland and naturalized to hold the land in trust for the owners. Williamson established his own office in Bath, which he named for Sir William's daughter Laura, the countess of Bath. There he continued the work of opening up the Genesee Country to settlement.

Footnotes

1. Note that the western boundary had been decided with the conclusion of the Revolutionary War. New York ceded to the United States all lands west of Lake Ontario on 1 March 1781. In 1785 Massachusetts also ceded its claim to the same area. Connecticut did not agree until 1800 and even so kept a portion in Ohio known as the Western Reserve.
2. They kept no record of their negotiations.
3. The right to purchase something, especially government-owned land, before others. A purchase made when such a right is granted. When an individual bought the preemption right to land, he did not buy the land. He bought the right to buy the land.
4. The eighty-second milestone on the New York-Pennsylvania border, where present day Steuben and Chemung Counties meet, slightly east of Corning.

Sources

Vital records of Granville, Massachusetts to the Year 1850 (Boston, Mass.: NEHGS, 1914).

Lewis Cass Aldrich, ed., *History of Yates Co., New York* (Syracuse, N. Y.: D. Mason, 1892).

George W. Coles, ed., *Landmarks of Wayne Co.* (Syracuse, N. Y.: D. Mason, 1895).

Charles F. Milliken, *History of the Genesee Country*, vol. 1, ed. Lockwood R. Doty (Chicago: S. J. Clarke Publishing Company, 1925), chapters 12-13.

Lockwood R. Doty, *A History of Livingston County* (Jackson, Michigan: W. J. Van Densen, 1905).

Howard C. Hosmer, *Monroe County 1821–1971* (Rochester, N. Y.: Rochester Museum and Science Center, 1971).

Blake McKellvey, Rochester, *The Water-Power City, 1812–1854* (Cambridge, Mass.: Harvard University Press, 1945), 18-23.

Seymour Morris, "Genealogies of Connecticut Families," from the *New England Historical and Genealogical Register*, vol 3, *Richard Seymour of Hartford and Norwalk, Conn., and Some of His Descendants* (Baltimore: Genealogical Publishing Company, 1983), 328.

Amos Otis, *Genealogical Notes of Barnstable Families*, vol. 1 (Barnstable, Mass.: F. B. and F. P. Gross, 1888), 434.

William F. Peck, *Landmarks of Monroe County* (Boston, Mass.: Boston History Company, 1895).

O. S. Phelps and A. T. Servin, *The Phelps Family of America* , vol. 2 (Pittsfield, Mass.: Eagle Publishing Company, 1899), 1321-23, 1358-59.

Millard F. Roberts, ed., *Historical Gazetteer of Steuben Co., New York*, pt. 1 (Syracuse, N. Y.: Millard F. Roberts, 1891).

Richard Sherer, *Steuben County, The First 200 Years: A Pictorial History* (Virginia Beach, Va: Steuben County Bicentennial Commission, 1996).

W. B. Thrall, *Pioneer History and Atlas of Steuben County* (Perry N. Y.: W. B. Thrall, 1942).

Orsamus Turner, *History of the Pioneer Settlement of Phelps and Gorham's Purchase and Morris' Reserve* (Rochester, N. Y.: William Alling, 1851).