

MARK BIRD, FACTS FROM LAW SUIT TESTIMONY

Hdger. Jan 74.

In 1803-11 Law Suits , testimony survives about a land suit involving 841 acres on Brushy Hill. This landmark is "back of the furnace" as one witness testified, today on French Creek State Park, but <sup>1st</sup> slopes begin just north west of today's Visitor Center. A Keller House , probably named for the plaintiff, survives IN the STATE Park as a camp site.

**BAD TITLE "ADMITTED" BY BIRD**

Most of the statements refer, naturally, the woodcutting on the land involved in the suit. But, as one of the lawyers stated, " It was practice formerly of iron-masters to take one Warrant for land, cut off the wood, and then shift it to other /wood/ lands." Bird MAY have used this trick because he admitted to shady land title when a neighbor -employee, Peter Mayer, asked to purchase land from Bird. Then another witness told of hearing Bird make this statement in 1785. ( p 34) ( Mott. p 30,45.) Bird had initiated action in 1787 against Keller- the 1803-11 plaintiff- but then FAILED to appear at that action hearing. ( p 29)

**BIG HOUSE SO TERMED**

The suit names Bird workmen dating back to the initiation of Hopewell Furnace and also documents the 1771 DATE STONE at the furnace base NOW. One witness told how "he" came toward the <sup>PORCH pg 5B</sup> Big House to meet Bird, thus suggesting that a considerable portion of the present or 1811 Big House existed in Mark Bird's time. The orchard, p 37, which Mark Bird advertised in 1786 as containing 250 bearing apple trees, was mentioned as part of this early 1800 testimony as a reference to Brushy Hill's ~~present~~ location.

**DEWEES AT HOPEWELL FURNACE**

The presence, activity and awareness of Wm Dewees at Hopewell- ~~WELL~~ ESTABLISHED by TAX RECORDS at State Archives at Harrisburg- is reinforced by legal testimony of William Williams ( p 41). Williams bought a 52 acre Land Warrant from Dewees, which w was entered as evidence<sup>e</sup> in the suit. Dewees entered this Warrant on Feb. 5, 1785 ~~and~~ and the land was surveyed to Williams by August 11, 1785. Dewees operated Birds-boro 1782-85 and Hopewell Furnace 1782-83. He was sufficiently interested in

Mark Bird's land holdings that he located and picked up to his own profit a tract of 52 acres, still vacant in 1785. A second mention of Dewees is questionable, simply a statement by Evan Lewis that LEWES (twice mentioned) came to Hopewell as furnace operator. This name may be misspelled from Dewees, either by the clerk at the trial, by researcher C.B. Montgomery, or the typist who transcribed Montgomery's <sup>clearly written</sup> notes. (Only a few of these survive.)

JUDGE'S CHARGE TO JURY (Mont. p 3B)

"Lynford Lardner & Co on the 10th of May 1770 <sup>7:1/</sup> entered a caveat against the acceptance of any surveys or granting any patents to Mark Bird or any other person for any of which they have lodged surveys some time ago in the Surveyor General's office on their Warrant dates 14 Sept 1742 ~~etc.~~ situate in East and West Nantmeal township of Chester County and Robinson/ Robeson/ and Union townships in Berks County alledging/sic/ they have a former grant from the proprietories for all the vacant land within five miles of Reading Furnace. ...."

In pursuance of these applications 841 acres were surveyed for Mark Bird on the 1st of May 1770.....

## MORTGAGE MONEY NOT FROM NIXON

James Old (p 53, Mont), owner of Hopewell Furnace between 1788 and 1799 in varying degrees, testified that Hopewell was "sold under a mortgage given by Mark Bird to the Bank of North America. While Noxon may have lent Bird \$200,000 originally and later sold this mortgage to the Bank, this OLD testimony shows Nixon as the ~~AGENT~~<sup>f</sup> for that Bank in the final sheriff's sale.

## WOOD CUTTING

Testimony also proved that the <sup>841 acres of</sup> land involved was cut/for and coaled charcoal wood before Hopewell existed, <sup>p36</sup> was cut/and recut/by Mark Bird (perhaps because of SHADY title, <sup>p34</sup> as/as being cut/<sup>well</sup> and coaled by Morris and Old, by Barde, Wilsons 1795 operator at Hopewell and by leasee Hohn Bishop during 1799-1800. ALL on the SAME 841 acres!! (Incidentally, a structure known/as the Keller House exists today on F C State Park.) Bird cut all the virgin and part of the 2nd <sup>growth.</sup> Dispute about this tract, in litigation until 1825 when finally settled in favor of Hopewell's owners, B & B, dated back to Mark Bird. Reading Furnace on the south fork of French Creek, leased by James Old in 1777, attempted to forbid Mark Bird the use of wood, <sup>p37</sup> but their surveyor, MAD ANTHONY Wayne, sent to prove their/<sup>owners'</sup> claim found their metes and bounds <sup>p39</sup> did not FIT the tract claimed. Another instance of shady title?

Yet another witness/<sup>COX</sup> told p 40, that he ~~was~~ had a right (Warrant) <sup>IN</sup> on the 841 tract and was building a house on it. Bird came, asked how old the blder's right was. Bird said his was older <sup>MA Y have shown his warrant</sup> and would allow the bldr to live in hse at 8L a year rent, <sup>Abt</sup> \$21.00 for a year. Cox abandoned the house, which rotted away (w/o protection of a roof.)

Old's son-in-law Robert Coleman testified that <sup>while</sup> he managed Reading Furnace for leasee James Old (1772-on), he notified Rdg Furnace owners/<sup>Lardner & Flower</sup> that Bird was ctg on Rdg F land, the 841 acres

BIRD ASSOCIATES AND WORKMEN IN LEGAL TESTIMONY

Montgomery	Pg in Journal	Name	Subject
p 32	NO	Biddle, M.J.	later lawyer" In 1786/1796/ Barde bot wood from Keller "Practice of ironmasters to use Warrant, cut wood, move Warrant to another tract."
p 39	No	Coleman, Rbt,	s-in-1 of James Old, Managed Rdg Fur for Old 1772, part of '73, gave notice to Sml Flower Bird was ctg on 841 acres. Lardner sent surveyor /MAD /Anthony Wayne. Metes and bounds of Rdg F claim did NOT fit the 841 acres.
p 40	No	Cox, Peter	Bird had older Warrant on 841 acres than Cox but not collier
p 40	Yes	Cramp, Jacob	Coaled for Bird, /not in 1784 <u>Jl</u> .
p 33, 41	Yes	Deweese, Wm	After Lewes(Deweese) Sold Warrant to Wms. 1785 Warrant for 52 acres adjoining 841.
p 32	No	Evans, Lawyer	for Brooke and Buckley.
p 39	No	Flower, S <sup>aml</sup>	owner 1770 + of Reading Furnace .
p 35	No	Fritz, F.	at Hopewell Furnace under Barde.
p 28	No	Fuchs, Nicholas,	Bird woodcutter
p 33	Yes	Hayes, Wm	Manager of H F, not in partnership with Bird then NOT manager in <u>Jl</u> UNKNOWN position.
p 34	Yes	Hughes Thomas	Bird Collier asked B" if not your land..."
p 40	No	Jones, John	Bird woodcutter
p 37	No	Kring, John	Hauled coal off Brushy Hill (1761) for Rdg Furnace.
39	No	Lardner	co-Proprietor Rdg Furnace , sent surveyor A Wayne to check metes and b of 841 acres, did "not close" 1770,73
28,32,37,40	NO	Lewis, Evan	Bird woodcutter,/Bishop 1799-1800 w ctr,
33	NO	Mackey- Markey	Bird's manager at H Furnace
30,33,35	NO	M/a/yer, Peter	cut wood and coaled for Bird, Barde bot 841 acre wood from Keller, lived on 841 acre tract
31	NO	Mayer, Samuel	Coaled for Thomas Brooke, post 1800.
53,54	NO	Old, James	Rented Reading Furnace-made cannon- 1770 for seven years. Stated that BIRD \$200,000 Mortgage was with BANK OF NORTH AMERICA. Mark Bird had possession of disputed 841 acres. Didn't TELL that there was an OLD-KELLER land suit about the same 841 acres. (Wm Williams p 31,33 DID so testify.)
40	NO	Phillips, Wm	Built house on 841 acres.
40	NO	Stratton, Maskeell,	son-in law of Phillips, both cut wood for Bird, "by the job."

BIRD WORKMEN AND ASSOCIATES 2

- p 41            No            Spayd, Lawyer in Reading 1811 "T<sup>H</sup>is land was in possession of Mark Bird."
- 28
- p/34, 35    No            Wamser, William Collier for Bird, probably Wm Wamser of J1  
( not as collier)
- p 34,35    YES           Welsh, Hugh,    Hired by Bird's Master Collier. Told<sup>m</sup> Collier Thomas Hughes asked<sup>d</sup> Bird<sup>m</sup> "if not your land..." In 1784 Journal p 12, 126, 144 as woodcutter and collier.
- p 31, 33, 36,41  
Yes           Williams, Wm    cut wood for Bird; cut wood for Coventry on 841 acres Bought Land Warrant from Dewees, was Union Twp Tax assessor.
- p 32           No            Wolf, Casper    Present when legal paper served on Bird by Keller. Most likely member of Geigertown Wolf family.