

Settling the Land and Settling Squatters' Claims: Surveyors and their Role in the Distribution of Crown Lands in Pre-Confederation Ontario

By Michelle Vosburgh

While the work of surveyors in laying out the townships, roads, and lots is generally acknowledged as the vital first step in the settlement of Ontario, what is not so well known is the role of surveyors in managing the distribution of those lands. By the late 1830s, when Crown land sales were overtaking grants as the normal procedure, surveyors were taking on an increasingly important additional role. When the government switched to auctioning Crown land, political expediency made it necessary to take measures to protect the interests of squatters who had made improvements on individual lots. Unlike the United States however, where pre-emption rights became the practice, the government here only went so far as to recognize pre-emption privileges. There were conditions attached to these privileges, conditions that necessitated careful consideration of all the aspects of a claim to pre-emption, to be able to purchase a lot by private sale from the government rather than at public auction. As inspectors reporting on the condition of the land, any improvements made by squatters, and providing a valuation, the surveyors' expertise, local knowledge and personal opinion was crucial in the process of distributing lands, at the local and individual level.

These inspections took place in two ways: large scale inspections of whole townships or districts before public auction, and individual inspections, when a squatter petitioned for recognition of his/her claim to pre-emption, and to be able to purchase the land privately, instead of at auction.

The Crown Lands Department and its Commissioner were highly dependent on the reports and recommendations made in inspection reports and the final decision almost always reflected the recommendations. At the heart of the matter was whether or not a squatter or claimant could be considered a *bona fide* settler, committed in the long term to building a farm through hard work and perseverance, in contrast to the opportunists and speculators.

The following example from Donald Cameron, a surveyor who inspected lots in the Newcastle District in 1858, makes the distinction clear. In his report, Cameron outlined the disputed claim to a lot in Fenelon Township between two men, clearly indicating why he favoured one man's claim over the other. "In 1856 Brown chopped about 4 acres on this lot, from the nature of the improvements and being informed that he never resided on the lot, I am convinced that he did not want it for actual settlement." Evidence of actual settlement was what Cameron was looking for and he found it in another claimant to the same lot. John Currie had taken possession of the lot more recently,

building a shanty and moving his family to the lot, "showing clearly that he wanted it for actual settlement." Cameron seemed to take what happened next as clear evidence that Currie's claim was all the more acceptable when he wrote that just a few weeks after Currie and his family moved on to the lot, Brown appeared on the lot "for the first time in twelve months with an armed force and turned Currie's family and effects out of the lot."¹ In their roles as inspectors, surveyors often spoke up on behalf of those they believed to be *bona fide* or deserving settlers. In this instance, Cameron considered Currie's claim the best one, because Currie's actions indicated that he intended to settle on the lot. Brown's actions showed that he was just holding it for speculative purposes by making an attempt at "improvement," in this case, cutting a few acres of trees and even going so far as to throw other squatters off by force.

In a more difficult situation, Eliakim Malcolm, a Provincial Land Surveyor (P.L.S.), recommended that the claim of Mr. Craig to a disputed lot in Wallace Township was the best. Craig had made the first improvements on the lot in felling trees and constructing "the body of a Log House." The problem was that Craig had not paid attention to the lot boundaries – he had not begun building on the lot in question, but the neighbouring lot. Such mistakes were not uncommon in early settlements where finding the surveyor's markers and following the lines was difficult on heavily wooded lots. The other party claiming the lot, so Malcolm reported, had "very lately... erected something like



Log building and smaller stone building - Archives of Ontario: C 130-6-0-10-8.

a shanty upon the lot, cut some trees and done some underbrushing for the purpose of holding it by possession." Even though most of Craig's improvements were actually on another lot, Malcolm nevertheless favoured his claim, because his actions represented those of a *bona fide* settler, not an opportunist.

Clearly, behaviour and evidence of actual settlement (in other words, establishing a farm) were important in how surveyors judged the merits of the claims of squatters. In particular, surveyors looked for how long a settler had been living on a lot, and how much effort they had put into improving the land. For example, Robert Pinkerton recommended that the government recognize the claim of a squatter who had also been one of the first settlers in his community. The squatter's behaviour and the physical evidence indicated he was an actual settler. This squatter had between 20 and 25 acres cleared, and a good house and barn, so Pinkerton wrote that his claim "I consider if possible should be recognized."² When squatters with no other prospect for making a living appeared to be serious in settling and

improving lands, they often received more than just a favourable report from the surveyors. S.W. Hallen after inspecting an occupied lot in East Gwillimbury, wrote of Austin Jacobs, “he is a poor man and the improvements, though small, have been effected by his own industry.” Hallen’s valuation and remarks suggested that Jacobs ought to be able to purchase the land as cheaply as possible from the government.³ Donald Cameron wrote of his inspection of lots in Newcastle District, that although the land was inferior, it was “occupied by settlers who have no land.” He went on to state that in the report he had noted “the names of such settlers as I considered more particularly entitled to your favourable consideration.”⁴ Charles Rankin, P.L.S., spoke well of the efforts of a black man, Williams, who was one of many squatters on the town site of Chatham. Rankin noted that Williams, a butcher, had been living there for several years “and appears to be industrious and is at present supplying the village and neighbourhood with fresh meat.” Williams and his family seemed to be faring well in the area and wished to stay, although “the white inhabitants... describe him as a troublesome character (litigious &c. &c.) and appear very anxious to exclude him from the village.” Despite the hostility of William’s neighbours, Rankin’s commended Williams’ efforts, and endorsed Williams’ claim.⁵

Why would surveyors recommend that those they considered to be deserving squatters receive “favourable consideration” from the government? We can never know the individual reasons. Certainly, for many surveyors there must have been an altruistic motive behind it. Land was one of the best ways a hard-working individual or family could support themselves. Building a society that favoured such people boded well for the future of the colony. It was in the best interests of everyone in the colony to see that the land was being used productively, in most of these

cases, as farms. However, that does not preclude the fact that there may have also been more self-serving motives as well on the part of some of the surveyors. It had been the practice for some time to pay the surveyors responsible for the original surveying in land, rather than in cash. As a result, many surveyors found themselves anxious to be able to sell their land at the best possible price, sooner rather than later. If the lots in the vicinity of theirs were being settled and farmed, roads cleared and communities growing, then the value of the surveyors’ land would increase. It simply made sense to recommend that *bona fide* settlers’ claims as squatters be recognized both for the benefit of individuals and the larger community and society.

No matter what the motivation, in their role as inspectors, surveyors had considerable responsibility and influence over the way in which the government policy regarding squatters and squatters’ claims was actually implemented. Given the widespread occurrence of squatting this role was an important one. So it was that surveyors found themselves at the very heart of the distribution of Crown lands.



¹ RG 1-95-8-22, A.O.

² RG 1-95-16-9, A.O.

³ RG 1-95-19-3, A.O.

⁴ RG 1-95-8-22, A.O.

⁵ RG 1-2-1, Vol. 45, A.O.

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