

RESEARCH NOTES NUMBER 20

The Virginia Land Office

Introduction

The records of Virginia's Land Office constitute the oldest continuous series of state records held by the Library of Virginia. Because of the unfortunate loss of so many of Virginia's early colonial records, these remain an especially vital historical and genealogical resource. They contain information about such topics as land title, geographical place-names, immigration, and family relationships available in no other source. The system of land acquisition from the Virginia government to individuals evolved over time. These changes, when combined with the steps required to acquire legal title to this land, can make for a complicated process to understand.

The records for the Land Office are generally complete from 1779 and thereafter, but are much less complete for the colonial period. They include recorded copies of patents (1623–1774) and grants (1779–) issued for vacant lands from 1623 to the present, preliminary documents related to the issuance of grants made after 1779, bounty land documents relative to land given for military service during the French and Indian and Revolutionary Wars, and correspondence sent to the register of the Land Office. There are also records for the Northern Neck proprietary, described in Research Note 23. An excellent starting point for understanding the Land Office and its records is Daphne S. Gentry and John S. Salmon, *Virginia Land Office Inventory* (3rd ed., 1981).

1607–1775

The acquisition of land with its abundant resources was one of the primary motivations behind the settlement of Virginia. The 1606 charter of the Virginia Company of London and the renewal charter of 1609 granted vast areas of land stretching as far west as the Pacific Ocean. Initially land granted to stockholders and settlers was held in common, but beginning in 1614 small private grants began to be made to settlers and investors. Very few copies of grants made prior to 1624 are extant.

In that year Virginia became a royal colony, and all land issued by the royal governor was made in the name of the Crown. A method of private land distribution quickly evolved, known as the *headright* system. Each person who entered Virginia to settle was given fifty acres, but in practice the land was awarded to the person who paid the cost of transportation of the emigrant. An annual quitrent was to be paid to the Crown for each fifty acres owned, and the land was to be settled and cultivated within three years.

The headright system remained the chief method of land acquisition in Virginia for almost a century. This system involved several steps resulting in the issuance of a *patent* (called a *grant* after statehood), which conferred legal title to the land. The potential patentee had first to present proof to the county court that a stated number of persons had

been imported into the colony at his expense. Virtually no records are extant of this proof. The court issued a certificate of importation, which was in turn presented to the secretary of the colony in Williamsburg, who then issued a *right*. This was presented to the county surveyor. The land was surveyed and all papers were returned to the secretary. If all was in order, then a patent to the land signed by the governor was issued to the patentee, and a copy was entered into a patent book. Most patents typically contain the name of the king or queen in whose name the patent is issued; the name of the patentee; the size, location, and description of the land; and the date. Information concerning the land title, the patentee, and adjoining landowners may be included. The persons who are claimed as headrights are also named, and these names constitute the best surviving proof of immigration to Virginia in its early years.

The persons brought to Virginia as headrights received no land; only those who paid their own passage did. The right to land due by importing headrights could be sold to another person before the patent was issued. Patents were often issued years and even decades after the names of headrights were submitted, and the headright did not necessarily reside on the land described in the patent. Patents were often repatented to clarify or strengthen the title. An excellent discussion of these points is found in Richard Slatten, "Interpreting Headrights in Colonial Virginia Patents: Uses and Abuses," *National Genealogical Society Quarterly* 75 (September 1987): 169–179.

By the first quarter of the eighteenth century, the demand for land led to the establishment of the treasury right, which basically replaced the headright system. For every five shillings paid to the secretary of the colony's office, a certificate granting the right to patent fifty acres was issued. This quickly became the preferred method of land acquisition. Governor Alexander Spotswood issued a proclamation that prohibited patents exceeding four thousand acres. Various land companies and individuals were occasionally permitted to patent hundreds of thousands of acres by the colony's Executive Council, notably the Loyal and Greenbrier Companies and Benjamin Borden, John Vanmeter, and Robert Beverley. This land, located in the western part of the colony, continued to be surveyed and sold until 1799, and titles to it were often in dispute. Further complications ensued from King George III's Proclamation of 1763, which prohibited settlement in the Trans-Allegheny region. A few records related to the Loyal and Greenbrier Companies exist in the Land Office.

Colonial Virginia patents are almost complete from 1623 to 1776, and exist in a variety of formats. Patents were recorded in record books, and these are available on microfilm at the Library and through interlibrary loan. These images are also available on Virginia Memory on the Library's Web site, www.lva.virginia.gov, where they are searchable by name. *Cavaliers and Pioneers* is an excellent multivolume set of printed abstracts for patents, 1623–1782. All of the documents that accompanied the patents, including warrants and surveys, were annually destroyed prior to 1779. Some counties (created both before and after 1779) have survey books among their records.

1779–1948

The American Revolution brought much change to Virginia, including a new state government. Because of the upheaval, no grants were made between 1775 and 1779, when an act establishing the Land Office was passed. A register, elected by the General Assembly, administered the distribution of Virginia's waste and unappropriated lands. This system remained in effect until the mid-twentieth century.

Under the act a person could purchase as much vacant land as desired by payment to the treasurer of a fee—£40 for each one hundred acres, later changed to dollars and cents. The treasurer issued a receipt for this payment, which was presented to the state auditor, who in turn issued a certificate noting the amount of land to which the person

was entitled. The certificate was then taken to the register of the Land Office, who issued a warrant, called a treasury warrant, authorizing any surveyor to lay off the quantity of land specified. There are both old (1779–1783) and new (1787–1952) treasury warrants, each series consecutively numbered beginning with one. Treasury warrants contain the name of the warrantee, the amount of acreage and money paid for the warrant, the warrant number, to whom the land was ultimately granted, the reference to the grant book and page number, and the name of the county in which the land was granted. These are available on microfilm at the Library, which can be borrowed through interlibrary loan.

The process continued with the warrantee presenting the warrant to the county surveyor where the land was located. The land was surveyed and the warrantee returned the warrant, survey, and other related papers to the Land Office. Six months were allowed for caveats (or objections) to the survey. If none were entered, the plat and certificate of survey were recorded, the grant was signed by the governor and recorded, and the original delivered to the grantee. Recorded grants from 1779 to 1948 are also available on the Library's Web site, on microfilm at the Library, and through interlibrary loan. Survey books are available at the Library as well, as are records related to caveats.

At any time in the grant process after the treasury warrant was purchased, the purchaser could assign (sell) the right to part or all of the land described in the warrant. These assignments and other papers related to individual grants after 1779 are known as plats and certificates, and are held in the original at the Library, filed by the date of the grant and the name of the grantee. These are continuous from 1779 to 1929.

The Land Office Act of 1779 also provided for the awarding of bounty land for Revolutionary War military service. This process did not become operative until the end of the war in 1783, but bounty land promised in 1763 for French and Indian War service by soldiers in the two Virginia Regiments was finally allotted in 1779–1780. Soldiers or their heirs gave proof of service in their local county courts, and a bounty warrant was issued by the Land Office. A list of soldiers who received land for French and Indian War service is found in Lloyd D. Bockstruck, *Virginia's Colonial Soldiers* (1988). Microfilm of the land certificates is available at the Library.

The same act that allowed bounty land for French and Indian War service also allowed the settling of land claims outstanding from the colonial period to 1779, especially for land that had been settled but for which no legal title had been made. Some of this land was in the District of West Augusta, an area between modern-day West Virginia and Pennsylvania, and also on the western frontier of Virginia. Persons who had settled on unclaimed land prior to 1778 were eligible to obtain preemption (prior settlement) certificates for four hundred acres, and up to one thousand acres of additional land. Commissioners were appointed to apportion the land. Records related to these preemption claims are available at the Library, and include certificates, which are indexed, and registers, which are not.

The process for receiving land for Revolutionary War service required several steps. Soldiers (or their heirs) were eligible for land if they served in the Continental Line, State Line, or State Navy for three years or longer, or if they died in service. After submitting proof of their unit, rank, and length of service (known as the bounty warrant), the applicant was issued a numbered land office military certificate. This in turn was followed by the issuance of a numbered military land warrant, which was presented to the surveyor of the Virginia Military Lands in what are now Ohio and Kentucky, where the lands were located. (At this time the warrantee could also file an *entry* with the county clerk for specific acreage to be set aside for surveying, and some counties retain entry books among their records.) A grant conferring legal title was then issued by the state. At any point in the process after service was proved, the land could be assigned (sold) to someone else.

The Land Office retains records of the first two steps; the Ohio Historical Society (www.ohiohistory.org) and the Kentucky Department for Libraries and Archives (www.kdla.state.ky.us) hold records of the surveys and grants. The bounty warrants are available on the Library's Web site, as is an index to the land office military certificates. These records are on microfilm at the Library and also available through interlibrary loan. Further information on this process may be found in Research Notes Number 8.

From 1779 to 1791, a number of grants for land were issued to persons residing in counties that became the state of Kentucky in 1792. All surveys, plats, and certificates related to these grants are held by the Kentucky Department for Libraries and Archives. Two books related to Kentucky land when it was part of Virginia are Neal O. Hammon, *Early Kentucky Land Records, 1773-1780* (1992) and Joan E. Brooks-Smith, *Master Index, Virginia Surveys and Grants, 1774-1791* (1976). Virginia holds no land records of the lands north of the Ohio River ceded to the national government in 1784. All of what is now West Virginia was part of Virginia until 1863, and much of the vacant land granted in the period from 1779 to 1861 was in that region. An index to these grants is found in Edgar B. Sims's *Sims Index to Land Grants in West Virginia* (1992).

After the Civil War, far less land was available for grants, and the register of the Land Office was given various duties concerning buildings and grounds, weights and measures, and immigration. Virtually no records related to these duties exist. In 1924, the Land Office was abolished and its function transferred to the secretary of the commonwealth. In 1948, the records were transferred to the Virginia State Library, now the Library of Virginia. In 1952, the state librarian assumed the duties of the register. Land that is currently sold by escheat in Virginia's counties and cities is still certified by the state librarian by grant, but the Library holds only the grant and none of the escheatment documents related to it.

There are a number of miscellaneous records of the Land Office of various dates, some prior to 1779, including letters sent to the register, exchange warrants, fee books, court records, problem surveys, and county abstracts. The abstracts, arranged by county name, show all patents and grants made in each county in chronological order, including the name of the grantee(s), the book number and page, and a brief description of the land. The correspondence sent to the register includes requests for warrants, copies of records, and information concerning bounty lands. Taken as a whole, the records of the Land Office are a major, and sometimes unique, resource in the study of land ownership in Virginia, and through them the researcher is often able to see the many facets of the land grant process.

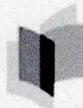
Compiled by Minor T. Weisiger

A variety of research notes and topical bibliographies are available on request from the Library of Virginia, 800 E. Broad Street, Richmond VA, 23219. Visit the Library's Web site (www.lva.virginia.gov) for digital collections and related archival publications.

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Headrights (VA-NOTES)

In order to encourage immigration into the colony, the Virginia Company, meeting in a Quarter Court held on 18 November 1618, passed a body of laws called *Orders and Constitutions* which came to be considered "the Great Charter of privileges, orders and laws" of the colony. Among these laws was a provision that any person who settled in Virginia or paid for the transportation expenses of another person who settled in Virginia should be entitled to receive fifty acres of land for each immigrant. The right to receive fifty acres per person, or per head, was called a headright. The practice was continued under the royal government of Virginia after the dissolution of the Virginia Company, and the Privy Council ordered on 22 July 1634 that patents for headrights be issued.

Although seldom used during the eighteenth century, the procedure remained in effect until the passage of an act in the session begun in May 1779 which, in adjusting and settling titles to lands, gave a period of twelve months from the end of the legislative session for such rights to be claimed or be considered forfeited.

A person who was entitled to a headright usually obtained a certificate of entitlement from a county court and then took the certificate to the office of the secretary of the colony, who issued the headright, or right to patent fifty acre of land. The holder of the headright then had the county surveyor make a survey of the land and then took the survey and the headright back to the capital to obtain a patent for the tract of land. When the patent was issued, the names of the immigrants, or headrights, were often included in the text of the document.

As valuable properties, headrights could be bought and sold. The person who obtained a patent to a tract of land under a headright might not have been the person who immigrated or who paid for the immigration of another person. Headrights were not always claimed immediately after immigration, either; there are instances in which several years elapsed between a person's entry into Virginia and the acquisition of a headright and sometimes even longer between then and the patenting of a tract of land.

The headright system was subject to a wide variety of abuses from outright fraud to multiple claims by a merchant and a ship's captain to a headright for the same immigrant passenger. Some prominent merchants and colonial officials received headrights for themselves each time they returned to Virginia from abroad. As a result of the abuses and of the transferable nature of the headrights, the system, which may have been intended initially to promote settlement and ownership of small plots of land by numerous immigrants, resulted in the accumulation of large tracts of land by a small number of merchants, shippers, and early land speculators.

The presence of a name as a headright in a land patent, then, establishes that a person of a certain name had entered Virginia prior to the date of the patent; but it does not prove when the person immigrated or who was initially entitled to the headright.

For extended analyses of Virginia land policies, see Fairfax Harrison *Virginia Land Grants* (New York, 1925, Richmond, 1979); Robert A. Stewart's introduction in volume one of Nell M. Nugent's *Cavaliers and Pioneers* (Richmond, 1934); Daphne Gentry's introduction in volume four of Dennis Hudgins' *Cavaliers and Pioneers* (Richmond, 1995); and the introduction to the *Virginia Land Office Inventory*, first published by the Library of Virginia in 1973.

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