

CAVALIERS AND PIONEERS

*Abstracts of
Virginia Land Patents and Grants*

Abstracted by
NELL MARION NUGENT

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VOLUME THREE: 1695-1732

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INTRODUCTION

Cavaliers and Pioneers: Abstracts of Virginia Land Patents and Grants, 1623-1666 was published in 1934 and quickly became a classic research tool for those interested in colonial Virginia. Although Nell Marion Nugent abstracted the patent books through Volume 14 (September 1732) during the 1930s, it was not until 1977 and 1979 that the remaining sixty-six years of patent abstracts were published as volumes two and three of *Cavaliers and Pioneers: Abstracts of Virginia Land Patents and Grants* by the then Virginia State Library.

In October 1732 the colony of Virginia consisted of thirty-two counties; by the end of the decade two new counties had been formed, and during the 1740s another ten were created. For the entire period Sir William Gooch was the Lieutenant Governor of Colony in residence while the appointed governors remained in England. John Carter served as Secretary of the Colony from 13 July 1722 until his death on 31 July 1742, the office having been purchased for him for life by his father Robert "King" Carter; Benjamin Waller served as clerk of the office. Thomas Nelson served either as deputy secretary or secretary for the remaining years of the colonial period. The land records were maintained in the custody of the Secretary of the Colony.

The principal method by which virgin land was obtained during the eighteenth century was the treasury right, under which, from 21 June 1699, an individual could obtain 50 acres upon the payment of five shillings to the receiver general's office. The first treasury rights (later called treasury warrants), written in longhand, were not numbered and the only accounting rendered was for the quantity issued and the monies received; these monies incidentally being used for the government's general expenses. Later, warrants were made out on a printed form which was signed by both the

receiver general and the auditor; each warrant was assigned a sequential number to allow for a convenient check on the extent of the issue; then, when completely used, the warrant was cancelled. This implementation of treasury rights, or warrants, was at the expense of the often abused importation, or head, right employed during the seventeenth century and under which a person could claim fifty acres upon presentation of proof — usually a certificate proved before a county court — of having paid the passage of an individual into the colony. While the method by which new land was obtained underwent a change as the century turned, the laws under which lands were issued differed little from those under which patents had been issued under the Virginia Company.

In 1705 the Virginia General Assembly passed a lengthy general law containing sections defining procedures concerning importation rights, treasury rights, escheated lands, lapsed lands, seating and planting, quit-rent fees, and forms of patents. For any colonial law to become effective, the Privy Council sitting in London had to give approval; because members of the Privy Council disapproved of some sections of this overall law, the entire law was rejected. However, Alexander Spotswood, then governor, felt those portions of the law dealing with the land answered the colony's immediate needs and so made those provisions effective by proclamation. Since these sections were in themselves economically sound and in line with the suggestions made by the House of Burgesses and did not interfere with land speculators, no opposition was raised in the colony; in fact, subsequent land laws were founded on these "disallowed" laws.

A 1710 law provided that anyone who did not seat and plant his land or who failed to pay quit rents for three years was subject to losing his land and the value of the rights upon which the patent was based. The person desiring the land had to present proof of the neglect of the original patent holder to the General Court sitting in Williamsburg.

A 1713 law, not confirmed in England until 1716, gave an elaborate definition to seating and planting while providing for several alternatives. The first of these alternatives concerned the long-resisted requirement that three acres of fifty must be cleared and planted within three years. This

section of the law had been interpreted to apply only to that portion of the tract which could be cultivated. Surveyors, who had been extremely generous in the allowances of land, a fact which often resulted in there being significant quantities of land between patents which was valuable for pasturage and crops other than tobacco, were required to estimate the portion of arable ground in the tract as well as the portion which was barren and unfit for cultivation. In addition, the law defined those other improvements that could be substituted to prove the use of the remainder of the tract: for every three acres of marsh drained and cleared, fifty acres could be held and retained by being stocked at the rate of three head of cattle or six sheep or goats for every fifty acres; if the entire tract were judged unplatable "without manuring and improving," the patent holder could erect one good dwelling house, 20 foot in length and 16 foot in breadth, and keep stock in the same proportion until the required amount of planting could be done; or, if the land were barren for planting, then the digging of any quarry or mine, while keeping one good able hand for every hundred acres, protected the land. When any of these improvements had been made in any part of the tract, the patent was secure against other petitioners as long as the quit rents were paid. The quit rents remained constant despite the increased cost of government or the enhanced value of the land.

By 1720 treaties had made the Piedmont region relatively safe from Indians and ready for settlement. Therefore, government decided to strengthen the frontiers and erect new counties in that area of almost 19,000 square miles stretching from the fall line to the crest of the Blue Ridge Mountains. When Spotsylvania and Brunswick counties were created in 1720, they embraced all of the Piedmont except a broad belt between the James and the North Anna rivers. Anyone taking a grant in these frontier areas within ten years was to have his land without cost other than the usual fees for the survey and issuance of the patent. This meant he did not have to present either treasury or importation rights to secure the patent and he was to be exempt from quit rents during the period.

New definitions of seating and planting had almost eliminated the need for any improvements to the land; now the law set no limit to the amount of free land one person could receive. However, as the region in which the act was to operate was remote, its attraction for many settlers was lessened. To encourage settlement of the frontier, the Board of Trade, sitting in London, favored allowing requested exemptions provided this concession was accompanied by restrictions preventing engrossment of large area by individuals, even possibly by a strict limitation on the size of grants in new counties. The Board was willing to make further allowances in the methods of improvements which would fulfill the condition of seating and planting: thus every three acres cleared and fenced and used for pasturage could save fifty acres from lapsing and such pasturage had to be maintained for only three years with an indefinite amount of stock. Thereafter, no further use of land could be demanded. Further, for every £10 current money spent on improvement of any type, the title to fifty acres would be secure from lapse. If a tract were extended by a new patent for adjacent land, no new development was necessary provided enough was done on the original tract to cover the requirement for the combined acreage. With some little variation this, together with the act of 1713, remained the definition of seating and planting until the Revolution.

The 1705 "disallowed" law had contained a provision prohibiting patents exceeding 400 acres so that if an individual desired more than that amount in a single patent, he had to first secure the permission of the governor and council. Therefore, most patents issued were for tracts between 100 and 400 acres in size. By the 1730s individuals and individuals dealing as companies were entering larger tracts, usually after having promised to promote active settlement of the areas by selling smaller tracts to persons immigrating from other colonies or to those moving westward from the almost-filled Tidewater area. This led, during the 1730s and 1740s, to the introduction of a special policy in certain grants in the Shenandoah Valley where speculators had their eyes on the rich lands along the Shenandoah River because the choicest lands in the Piedmont had been long claimed. Ambitious German immigrants decided that in return for the

larger patent they would undertake to settle on the tract one family for each 1000 acres in the grant within a time frame of two years from the patent date. Immigrants, who were, for the most part, individuals unable to travel to the capital at Williamsburg to take out a patent for the small quantity they desired, found it desirable to buy the good land obtained by the speculators who had large territorial operations rather than patent poor land exposed to Indian attacks. Likewise, speculators found it cheaper to buy treasury rights in Williamsburg rather than to collect head right certificates in small lots from various counties. This resulted in even more infrequent use of head rights. This policy was financially beneficial to the speculator and detrimental to the immigrant. While the market price of land varied according to the period and the quality of the soil, the average price in a region undergoing settlement was about £10 per hundred acres within tracts that had been patented at 1/20th that amount and which were held until sold at little expense to the patentee. With the treasury right cost of land at ten shillings a hundred acres and the surveying of a tract of, say, 30,000 acres done for a cost of £10 with an additional £2 in fees for the patent, the speculator enjoyed a substantial profit on a small investment.

The instructions issued Gooch in 1728 included an order with wording which was continued as a standing instruction to every successive governor until 1756: "It hath in times past been a great hindrance to the peopling and settling of our said province that large tracts of land have been engrossed by particular persons, a great part whereof remaining uncultivated, the province is thereby deprived of many inhabitants that would otherwise have settled there." In order to avoid such, the governor was told that special care was to be taken for the reservation of the quit rents and the enforcement of the laws requiring seating and planting. This order was no more effective than had been previous admonitions. Gooch believed that grants of large tracts were a positive advantage in expanding the frontier; before he resigned as lieutenant governor in August 1749, the frontier had been pushed forward to include an area as great as that which had been occupied during the first century of the colony.

The form of patents followed a set pattern regardless of whether they were issued on the basis of importation, treasury, or military rights, or occasionally as part of an order of council. Following the recitation of the titles of the sovereign under whom the patent was issued was the consideration on which it was issued (almost wholly, at this time, being treasury rights), the name of the patentee, the size of the tract, the county in which the land was located, the description of the land, any reservations from the Crown, and the date on which the document was signed. Once issued, the document was recorded and the original was given to the patentee, or his agent. Supplemental papers, including the survey and plat, were filed and, following the annual examination of the rights, destroyed. Thus, and this cannot be too strongly emphasized, the only extant documents regarding the issuance of patents during the colonial period are the recorded copies of the patents themselves.

With the colony expanding to the west and Virginia disposing of her lands on a steadily widening frontier, the three-fold purpose behind the patent system was realized: encouragement of the migration of foreigners, growth of the population and an increase in the annual revenue. Patents issued in the course of bringing these purposes to reality are far more than a record of land ownership. They furnish the social, economic, and institutional historian, as well as the geographer, with raw data for an increased understanding of the conditions of the period whereas their value to the genealogical researcher hardly needs to be expounded upon. The Virginia Genealogical Society is continuing these abstracts and will bring the series down through Patent Book 42 wherein, under the date of 7 December 1774, is the recordation of that last colonial patent signed by John Murray, Earl of Dunmore, Virginia's final colonial governor.

Daphne Gentry

EXPLANATION

Land in the Patents was granted at the cost of 10 acres per shilling, or about 50 acres for each head-right transported or imported, or at 2 lbs. of tobacco for every acre. The costs were then rounded off to the nearest 5 shillings; therefore, no pence were charged. For the purpose of this volume, any cost above 20 shillings has been converted to pounds (£); i.e., 20 shillings = £1, 35 shillings = £1.515.

This volume (Volume IV) begins where Volume III left off. The breakdown of the first three volumes (available from the Virginia State Library and Archives) is as follows:

Volume I

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| PB 1 | pp. 1-951 | 26 Jan 1621/22 to 10 Apr 1644 |
| PB 2 | pp. 1-369 | 24 Feb 1643/44 to 29 Jan 1651/52 |
| PB 3 | pp. 1-394 | 13 Dec 1653 to 6 Oct 1656 |
| PB 4 | pp. 1-643 | 2 Oct 1655 to 3 Oct 1664 |
| PB 5 | pp. 1-545 [669] | 28 Jan 1662/63 to 7 Sep 1667 |

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| PB 6 | pp. 1-691 | 22 Oct 1666 to 30 May 1679 |
| PB 7 | pp. 1-718 | 25 Sep 1679 to 25 Apr 1689 |
| PB 8 | pp. 1-443 | 20 Oct 1689 to 21 Apr 1695 |

Volume III

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| PB 9 | pp. 1-740 | 25 Oct 1695 to 10 Jun 1706 |
| PB 10 | pp. 1-462 | 12 Dec 1710 to 20 Feb 1719/20 |
| PB 11 | pp. 1-346 | 20 Feb 1719/20 to 8 Jul 1724 |
| PB 12 | pp. 1-538 | 9 Jul 1724 to 7 Jul 1726 |
| PB 13 | pp. 1-540 | 24 Mar 1725/26 to 28 Sep 1730 |
| PB 14 | pp. 1-537 | 28 Sep 1728 to 17 Jan 1732/33 |

May 1706, p. 731. Beg. at Walter Clattworthy; on Elam's path; to Falling Cr; crossing br. of Pockashock, to just above the lower fall; & along old line of Col. Wm. Byrd. Granted Col. Wm. Byrd, 29 Oct. 1696, deserted, & now granted by order, &c. Trans. of 113 pers.* Note: 113 rights paid for to Mr. Wm. Byrd, Treasurer.

ORLANDO JONES, 107 acs., King Wm. Co.; on both sides of John's Cr; beg. on W. side near fork of the Long Br; along Claybrook's line; 2 May 1706, p. 732. Granted Mathew Fowler, 1 Apr. 1702, deserted, & now granted by order, &c. Trans. of 2 pers: Tabitha Anderson, James Bourne.

THOMAS WILES, 176 acs., Pr. Anne Co., in Linhaven; comonly called *Kemp's Ridge*; in the Negro Swamp; 2 May 1706, p. 732. Trans. of 4 pers: Richd. Hobbs, John Dunnaha, John Keton, James Cock.

JOHN HURT, 546 acs., King Wm. Co., in *Pamunkey Neck*; 2 May 1706, p. 733. Beg. 6 po. from the Ridge Path; by the Mainskin Path; to Benja. Arnold & John Hurt; down a cr. emptying into Low. Herring Cr; down Mattopony River; to Hance Hendrick's cor. & by Richd. Yarbrough's Tobacco ground; to Mr. Wm. Hurt, Senr. Trans. of 11 pers: Tho. Solwell, Michael (a ?) Portugees, Robert Rainwater, Sarah Hoskins, Eliza. Bosford, Anne Gill, Wm. Skyles, Mary Parte, Susanna Good, Cha. Goodrich, Anne Hum.

JOHN WORSHAM, JUNR., 190 acs., Henrico Co; on the 3rd Br. of Swift Cr., 2 May 1706, p. 734. Beg. on S. side of sd. branch; crossir Quarter Br; along line of Capt. John Bolling. Trans. of 4 pers: Simon Jeffray, Xto. Lewis, Kath. Usman, Margt. Rouse.

MR. JOHN CARROWAY, SENR., 447 acs., Pr. Anne Co., in Linhaven; near a place called Bowring River; 2 May 1706, p. 734. Adj. Robt. Richmond; Lankester Lovett; & Geo. Kemp's patent. Trans. of 9 pers: Elianor Singleton, Barbery Wills, Geo. Newton,

Eliz. Tompson, Patrick Tompson, Margaret Glas. Note: 3 rights paid for to Wm. Byrd, Esqr., late Auditor.

WILLIAM MAUND, 150 acs., Norf. Co; in the S. br. of Eliz. River, bet. Deep Cr. & New Mill Cr., 2 May 1706, p. 735. Adj. Marmaduke Ethridge; Jno. Ives' patent; Thomas Cherry; line; Powell's line; Giles Randall; & Mr. Jno. Farbey. Trans. of 3 pers: Andrew Dining, Wm. Mecknary, Archy Grimes.

MR. EDWARD BARROW, 177 A., 46 P., Essex Co; on S. side & about 10 mi. above the falls of Rappa. Riv., about ½ mi. below the main fork; 2 May 1706, p. 736. Beg. at land of Edmd. Joye; to a great rock below a small fall, &c. Trans. of 4 pers: Jo. Deeke, Jo. Keene, Jos. Hore, Eliz. Duggan.

JOHN MAJOR, 1245 acs., K. & Q. Co., in St. Stephen's Par., 2 May 1706, p. 736. Beg. on S. side of the *Chappell Run* near the road, by Todd's line; by N. side of lower Sellar Br; by W. side of a br. of Moratico; to Wright's line; to N. side of the main road; to Capt. Smith's line near SW side of the Town Br; by S. side of Mattopony Sw., & down run of Mattopony Cr. 750 acs. part of 1400 acs. granted John Ascough, 20 Apr. 1685, deserted, & now granted by order, &c. Imp. of 25 pers: John Major, Mary Major, Tho. Jones, Tho. Davis, Anne Adams, John White, Dunkan Cameren, Thomas Morris, Mary Farmer, Saml. Coates, Thomas Watkins, Susan Bond, Danll. Nash, Margaret Oldreom, Danll. Marlow, John Fisher, John Ash, Joseph Humphrey, John Robertson, Hanna Kerby, Henry Kerby, John Davis, Dunking Robertson, Leddy Armefilde, John Lane.

CHARLES EVANS, 1468 A., 1 R., 28 P., Henrico Co; on S. side of James River; 2 May 1706, p. 737. 167 A., 1 R. & 12 P. part being ½ of land granted Tho. Liggon & Maj. Wm. Farrar, 3 Oct. 1664; beg. at the river about the middle bet. the bottom joyning lower side of Mount My Lady Feild & the bottom next it; to cor. of Maj. Harris; 1301 A., & 16 P. beg. at the 2nd bot-

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