

Adventurers
of Purse and Person
VIRGINIA
1607–1624/5

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they were to be held in *fee simple*, the law considered the devisee the owner for term of life only and at his death such holdings reverted to the family estate.

During the middle of the 18th century numerous acts for docking entails and by such legal means permitting sales of inherited lands are recorded. Heirs of landed estates frequently found themselves overloaded with thousands of acres and at the same time with insufficient funds or servants to cultivate their holdings profitably, and, also, often without means to meet individual bequests made in the wills of late owners. Yet, no portion of inherited lands could be sold for any purpose without a specific Act of the Assembly. These Acts provide valuable information as to location of entailed lands, trace the family ownership, usually for four generations, specify the use to which proceeds from the sales are to be put and grant permission for the removal of slaves from the land to be sold to other acreage held by the petitioner.

The obligation upon inherited lands came to an end with the Revolutionary War. By an Act of the Assembly operative, 1 January 1787, "every estate in lands or slaves, which on 7 October 1776 was an estate in *fee tail*" became from that time an estate in *fee simple* and debts were chargeable against the owners who benefited from the estates.

ESQUIRE. A title of respect applied to the son of a Knight, a member of the Council or to a Naval Collector.

GUARDIANSHIP. The Courts appointed guardians of minors. Those over 14 years of age could choose their own guardians, with Court approval.

HEADRIGHT. This term has no significance other than as evidence of right to land. Every person who, after 1616, came into the Colony from over seas or from a neighboring settlement was entitled to 50 acres of land (100 acres if he came by 1616) in his own name or in the name of the person who paid his passage. This provision was made by the Virginia Company in order to stimulate settlement. The only limit to the number of such claims by an individual was the number of times he came into Virginia. Such rights were merchantable. They could be used by the recipient, sold or transferred. Often they were accumulated over a period of years and presented by the holder for patents of large acreages. Headrights were issued in the names of persons of all social classes—nobility, gentry, yeomanry, indentured servants (often the younger sons of English upper classes) and Negroes. The persons

named as headrights in a patent did not necessarily arrive in the colony the year the patent was issued, but oftentimes such dates are the only clues to first appearances in Virginia. Before a patent was issued the claimant was required to show receipt as proof that passage money was duly paid.

HERETRIX. An heiress, owner in fee simple of heritable property of a Parish. The term used specifically in *Scots Law* was one of many variants from the English legal terminology and conveyed concisely more detailed information than its counterpart in English law. Though rarely used by colonial attorneys or court clerks, it is found in a deed of gift for land, entered in Surry County records, 1657 (Deeds, Wills &c, 1652-72, p. 160).

HUNDREDS. A term used in a more liberal sense than in England where it referred to a county district authorized to hold court. The large early plantations, patents for which were issued in the names of several persons often were designated *hundreds*, such a Martin's Hundred in James City, Smith's (Southampton) Hundred on the north side of the Chickahominy River, Flowerdieu Hundred, Governor Yeardley's Plantation, Berkeley Hundred on the James River and Bermuda Hundred at the mouth of the Appomattox.

SON-IN-LAW, DAUGHTER-IN-LAW, ETC. often meant step-son, step-daughter, etc. The exact meaning must be determined by a careful perusal of the document, often in relation to other facts in hand.

JUSTICE. The government of a county was vested in a body of Justices, often eight, called Commissioners before 1661. They were appointed by the Governor for indefinite terms and were authorized to try cases not involving loss of life or limb and for amounts not in excess of £10.

MONEY. "Hard money" was almost non-existent in the early colony. The accepted media of exchange were: tobacco at the rate of 3 shillings for the best and 18 pence for that of second quality, capons, often mentioned as the accepted fee for land rentals, merchantable Indian corn and beaver skins.

PARTICULAR PLANTATION. In order to relieve the Virginia Company of the heavy responsibility of financing all settlements, the Council for Virginia about 1618 adopted a policy of granting large acreages to groups of adventurers (investors), who in turn agreed to transport large numbers of persons to plant (settle) the domain, and to be responsible for shipping to them needed provisions and sup-

CAVALIERS AND PIONEERS

*Abstracts of
Virginia Land Patents and Grants*

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governors is in general faithfully observed. The earliest extant patent, by Yeardley to Fairefax, dated February 20, 1619 [1619/20] is found on page 109, entered doubtless at the time the document first came to the attention of the transcribing Clerk. The first entries in Book I of the Land Grants are records of the Corporations of James City and of Elizabeth City, dating from 1623-24. The Indian Massacre, the burning of James Town by Bacon, or other fatalities may account for the disappearance of most of the earliest patents. Then, too, such records as had survived had suffered from the effect of time, and perhaps the chirography of the first quarter of the century offered certain difficulties to readers of a half century later.

Beginning with the year 1624 it may be assumed that the great majority of land grants up to the period of the transcription have been preserved. But the record is certainly not complete—how far from complete there is now no means of determining. In the one surviving record book of Charles City County of the seventeenth century (1655-65) appear entries of land grants (with headrights and acreage but without indicated bounds) that escaped inclusion in the Land Books that cover that period.

HEADRIGHTS

The term headrights in connection with a patent for land has been subject to no little misunderstanding. Elucidation is therefore in order.

For the purpose of stimulating immigration and the settlement of the Colony the London Company ordained that any person who paid his own way to Virginia should be assigned 50 acres of land "for his owne personal adventure," and if he transported "at his owne cost" one or more persons he should, for each person whose passage he paid, be awarded fifty acres of land. There is, for instance, the case of Sir Thomas Lunsford, Knight and Baronett, who on October 24, 1650 was granted 3,423 acres for the transportation of sixty-five persons including himself, members of his family, friends, and servants, many of whom were doubtless indentured, or bound for a period of service.

Among the headrights are found persons of all social classes, nobility and gentry, yeomanry, indentured servants (some of good family and connection in England), and negroes. Among the headrights of Bertram Hobert, October 10, 1642, (p. 135) appears the name of John Tredescant, the younger, one of the first to advertise the great natural

richness of America and to bring back to the mother country concrete evidence of the beauty and wealth of flora in the new lands beyond the sea. And again, in February 6, 1654, (page 303) Tredescant (Tredeskin) was a headright of William Lea, who, by paying the naturalist's passage, was entitled to 50 acres of land in Virginia.

It is not to be assumed that the claim for land in consequence of a person transported was made immediately after the arrival of the "headright" in the Colony. There is, for instance, record of a patentee awarded land for the transportation of three wives, who, it is safe to conclude, were successive. The headrights may have arrived in the Colony long before the patentee had entered claim for land thereby due. Nor is it to be assumed that the headright is necessarily an immigrant. Even men of prominence in the Colony, through a voyage or repeated voyages to England and return, appear as "headrights" of friends or relatives, who acquitted the cost of the passage in order to obtain the consequent land.

On page 121 in the photographic reproduction of a patent, January 6, 1639/40, of Capt. Nicholas Martiau (Martiau), the French Walloon, who is the earliest American ancestor of George Washington, appear among the fourteen persons transported at his own cost and charges Capt. Martiau himself, his wife, a son and a daughter. On the other hand in a patent of Councillor George Read (Reade), of November 2, 1658 (p. 180) the headrights include Capt. Martiau (Martin), his wife, and his daughter Elizabeth, whom Col. Reade married.

Sea captains were especially active in the acquisition of land through the transportation of settlers, and they not infrequently acted conjointly with London merchants. An instance in point is the case of William Barker, who, in association with Richard Quiney, citizen and grocer of London (brother of Shakespeare's son-in-law, Thomas Quiney) and John Sadler (brother-in-law of John Harvard, founder of Harvard College), patented great tracts at Brandon and at Merchant's Hope, held by them and their heirs for nearly a century.

Before obtaining land for the transportation of "headrights" the claimant was required to present a receipt in proof that the passage money was duly paid. But despite all precautions fraud and deception were by no means uncommon.

As a safeguard, particularly in the case of those persons who went at their own cost, the London Company, on November 18, 1623, came

to the following resolution "Touching the registering of Passengers names that goe to Virginia in private shipps * * *

"Secondly when a reveiwe shalbe made in Virginia howe all men are possessed of their lands which wilbe most necessarie to be donn in regard of the great Disorder and Lycentiousness which men there use in takinge out land and not due to them it wilbe a matter of great trouble to all private Planters that come not in the Companies Shipps to prove that they came over at their owne charges, and except they do, that it wilbe verie dangerous and unsafe to the Companie to make confirmacon of landes to them wch perhappes others have better right unto."*

ANCIENT PLANTERS

According to the Charter of Orders from Sir Thomas Smythe (referred to as "the late Treasurer" in patents in this book), November 18, 1618 the following provision was made: "* * * And forasmuch as our intent is to establish our equal Plantations whereof we shall speak afterwards be reduced into four cities or Boroughs namely the chief city called James Town, Charles City, Henrico, and the Borough of Kiccotan [later Elizabeth City], And that in all those foresaid cities or Boroughs the ancient adventurers and Planters which were transported thither with Intent to Inhabit at their own costs and charges before the coming away of Sir Thomas Dale Knight, and have so continued during the space of three years, shall have upon a first Division to be by us augmented one hundred acres of land for their personal adventure and as much for every single share of twelve pounds ten shillings paid for such share allotted and set out to be held by them their Heirs and assignes forever.

"And that for all such planters as were brought thither at the Company's charge to Inhabit there before the coming away of the said Sir Thomas Dale after their time of service to the Company on the common Land agreed shall be expired there be set out one hundred acres of Land for each of their Heirs and assigns for ever paying for every fifty acres the yearly fee Rent of one shilling to the said Treasurer and company and their successors at one entire payment on the feast day of Saint Michaels the Archangel forever. And in regard that by the singular Industry and virtue of the said Sir Thomas Dale the former Difficulties and Dangers were in greatest part overcome to the great ease and security

*Records of the Virginia Company," Vol. I, 373.