

Land

C O U R T E S Y O F T H E H I G H P O I N T P U B L I C L I B R A R Y

WHAT YOU'LL FIND WITHIN:

- The American Dream
- The European legacy
- Land grants and their sources
- How land could be alienated
- The anatomy of a deed
- Genealogical implications
- Landlessness

HERITAGE RESEARCH CENTER

High Point Public Library

901 N. Main Street

P. O. Box 2530

High Point, N.C. 27261

(336) 883-3637

ncroom@highpointnc.gov

HOURS:

MON: 9:00–6:00

TUE-THU: 9:00–8:00

FRI: 9:00–6:00

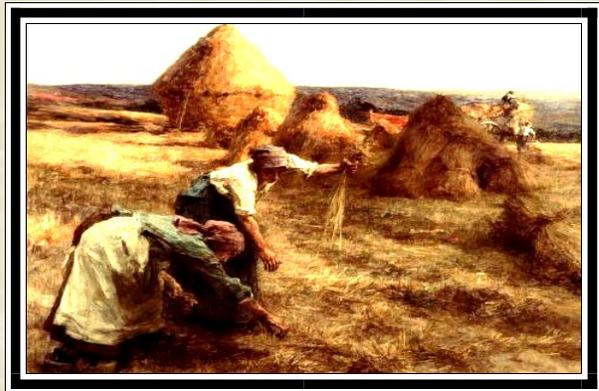
SAT: 9-1; 2-6

SUN: CLOSED

THE PURSUIT OF HAPPINESS

In America, we've all grown up with the notion that owning real estate is the key to independence, financial security and individual fulfillment. We call it "the American dream." And even though tarnished by the recent downturn in the housing market, it still carries a lot of weight.

Our forefathers and mothers laid this foundation of land hunger, almost from the moment they reached American shores. The reason, of course, was that in their places of origin, very few of them had ever had the opportunity to own land. Instead, most rented it for a term of years or were laborers moving



from one landlord's property to another. Some were even serfs at one time, forced to remain in one spot and serve a landed overlord all their days — just as if they were slaves. Here, finally, was their chance to own a piece of the good earth, support

themselves, build wealth, and pass an inheritance to their children. Who wouldn't have jumped at the opportunity? Fortunately for us, the records of land ownership make it much easier to trace them here than in Europe.

THE EUROPEAN LEGACY

Land ownership in Europe belonged principally to monarchs, lords, bishops, monasteries, knights, and gentry. The revenues from land were used to support all state and church endeavors and financed, most importantly, military operations. Usually, landholders held their property by hereditary right or at the pleasure of a king or nobleman. In exchange, they paid dues and rents or provided men

at arms when called upon. Those who actually worked the soil were rarely those who owned it. Only about one or two centuries before the first colonists arrived in America did a class of land-owning commoners make its appearance. Many had acquired wealth as merchants, bureaucrats and tradesmen and used it to purchase land, with the idea that they would also enjoy the status and

income that the aristocracy had previously monopolized for themselves. Some of them eventually married into the nobility and even acquired titles. The ownership of land was key to political representation, and the descent of land in families usually followed the eldest line of male offspring (*primogeniture*), with daughters (or more accurately, sons-in-law) inheriting only if there were no sons.

ACQUIRING LAND IN COLONIAL TIMES



Ancestors who came to America before the Revolutionary War often received grants from the several colonial governments—usually, directly from the governor and his council of state, often through the secretary of state. In some

colonies, such as New York, the largest grants and the best lands often went to person of influence and wealth. These colonies had lower levels of land ownership and higher numbers of non-owning tenant farmers than others. Land was often doled out on the basis of *headrights*. In this system, a person could acquire a certain amount of land for each person or “head” he brought into the colony—including his family and servants. He could also pay

the importation costs of other colonists and receive a headright for each of them or he could purchase the headrights that other people had already acquired and use them to petition for a grant. Headrights sometimes became almost like a kind of currency and some were never validated in a court or used to request a land grant. There was also a great deal of fraud in claiming them. However, eventually,

especially after 1720 or so, most grants were made for purchase money, not for headrights. In certain colonies, such as N.C., large tracts of land were often held by private individuals who received them directly from the crown. These individuals, often operated their own land offices, receiving land entries and issuing grants in exchange for payment of fees and quitrents. Today, the records of these “proprietors” are often in the hands of state archives—just as colonial grants are.

Terms.

Entry: A claim entered by a potential grantee to vacant land.

Warrant: An authorization to proceed to survey a tract of land.

Metes and Bounds: A system of measuring land from a starting point by various courses (compass directions) and distances (often in chains, links and poles or perches).

Patent: Another name for a land grant.

LOCATION AND PROCESS

States continued to issue land grants after the Revolution, sometimes within their current borders and sometimes in western territories between the Appalachians and the Mississippi that each original state claimed. Later, all the states relinquished their western lands to the federal government. Only the United States itself granted land in these new territories, eventually creating new states from them. Federal grants are indexed by the General Land Office, now the Bureau of Land Management and can be searched free on-line at <http://www.glorecords.blm.gov/>.

The states retain their own records of grants, usually in the respective state archives. Indexes to grantees are often available. In North Carolina, some land grants are indexed in the MARS cataloging system available on-line. They can also be searched comprehensively

in a card catalog located in the Search Room at the State Archives itself in Raleigh. Very recently, Ancestry.com has digitized all the extant land grant shucks and their contents from microfilm produced by the Archives.

Several different records were generated along the way to finalizing a land grant:

- (1) The **entry** was the first registration of a claim made by an individual after he had identified his desired tract and ascertained whether it was vacant. The local entry-taker accepted a fee and registered the entry in a bound book. He then forwarded the entry to the Secretary of State's office.
- (2) The secretary of state would issue a **warrant** to the county surveyor to lay off the tract. It specifies the acreage, and perhaps a waterway or major road abutting the prop-

erty.

(3) The county surveyor then created a “**survey**” which shows a **plat** of the land, specifies the boundaries exactly (**metes and bounds**) and mentions the [usually] young men who helped measure off the tract (*chainbearers*). Copies of the survey were returned to the Secretary of State.

(4) The Secretary checked the records of his office for competing surveys and, if none were found, created a **grant**, entered it into the **patent book**, and sent the original to the grantee, but only if all the fees had been paid. When received, the grantee might have a copy registered in the deed book of the county and keep the signed and sealed grant among his own papers.

All of these records usually survive, although some may have “disappeared” from official custody while in courthouses.

HOW LAND CHANGED HANDS.

If we find our ancestors acquired land, either by deed or grant, how do we continue to trace its ownership over time? Typically, individuals passed their land on to others by one of three methods, sometimes voluntarily and some involuntarily.

(1) By simple conveyance or deed. The most straightforward method, of course, is by a simple sale to another party. In exchange for some consideration, usually money (often on a credit of six or nine months), our ancestors may have transferred ownership of their land to another person or persons. Deeds usually were recorded in deed books in the county where the

land chiefly lay. Each deed was signed by the person who conveyed the property and by the witnesses present. More on the details of a deed in the next segment.

(2) Inheritance. This could be made explicit by a deed of gift (usually for a consideration far less than the value, or for simple “love and affection”) or by the provisions of a will. It could also happen without or in spite of any such recorded wishes. When people died without leaving wills, the state had established rules for how the land should be divided and inherited (see Wills and Estates). Widows had specific lifetime rights that had to be respect-

ed. Land was sometimes treated differently than other property under these rules, and the rules changed over time. Sometimes, in the colonial period, the wishes of a distant ancestor were still binding on a piece of property, and it would have to descend through a certain lineage under those provisions (called *entail*.)

(3) By execution or judgment. The court could order the sheriff to sell land to satisfy the debts or obligations of the owner. Or the owner could place land in the hands of a trustee to guarantee a loan (deed of trust), which the latter could sell if the loan wasn't paid in a timely manner. Sometimes disputes over land led to a judgment in favor of a person who did not occupy it.

ANATOMY OF A DEED

Deeds are usually recorded in the deed books of the county where the land lies. The original books are always in the county, but microfilm is often available in the state archives. Remember that, until the 1880's, there was no legal disability for failing to record a deed. You could still defend your right to the property as long as you had the original copy. This was a dangerous course to take, though, because that single copy of the deed could easily disappear or be destroyed. Still many people neglected to record their deeds because they lived far from the courthouse or didn't want to pay the clerk a fee. You'll often find deeds recorded long after they were signed (sometimes 50 years or more later) because a sub-

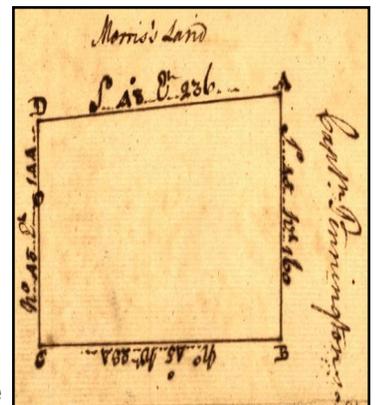
sequent owner wanted to make sure he had a clear, public chain of title.

Deeds follow formulaic language, but they have several key components. There are separate indexes for both the **grantor** (the person who sold) and the **grantee** (the person who purchased or received) which give you the book and page on which you'll find the actual deed recorded. The index may also give acreage, the chief watercourses, type of instrument, and the year of recording. There are no indexes to persons mentioned as occupying the land (useful to find out where tenants lived), witnesses, or neighbors. For these look for completely indexed abstracts (summaries) of deed books which are available for many times and plac-

es.

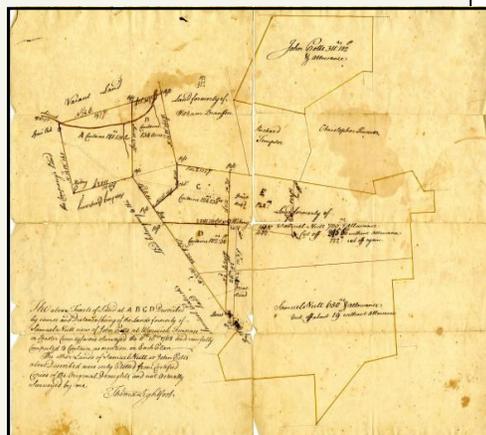
The deeds themselves list the grantor and grantee (who signed at the bottom), the date, the amount of the consideration (payment), the terms of the conveyance, the amount of property, the boundaries (including some waterways, roads, neighbors), the warranty statement (assuring the grantee that the grantor had valid title to the land), the names of the witnesses and the probate information (a process of recording by the county court). The probate process required that one of the witnesses swear he saw the grantor sign (called the *jurat*) or the grantor himself could acknowledge his signature in open court. Deed books also contain deeds of trust, bills of sale (for personal property, like slaves), mortgages, and other instruments.

“Remember that, prior to the 1880s [in North Carolina], there was no legal disability for failing to record a deed. You could still defend your right to the property....”



Land records can tell us so much about our ancestors; yet they are often underutilized. Here are three basic uses for them:

- (1) **Migration and identity:** It is important to know when your ancestor arrived in a certain area (when he bought land) and when he may have departed (when he sold it). This is one important way of verifying whether or not another person of the same name in another location is likely the same person as your ancestor. Did he arrive about the time (allow a few years between departure and arrival) his double left the other area? If not, you may have erroneously identified an entirely different individual in another place as your ancestor. Some deeds state specifically where the grantor moved.
- (2) **The identity of forebears and wives:** Sometimes, the key to a wife's maiden name comes through searching out all of the land holdings of her husband—because some of the property may have come by inheritance from her family. Search every deed or grant by which your ancestor acquired property and every deed by which he sold it, then find out exactly which tracts he owned at his death. Any land that you can't account for by a deed of acquisition or grant (either land he sold or land left to his heirs), may have come to him by inheritance from his own family or from his wife's. And some of it may not have come through a formal, recorded probate process, particularly in colonial times, but nevertheless, constituted his inheritance. Keep in mind, however, that he may not have recorded all of his deeds of acquisition.
- (3) **Finding associates.** The names of tenants, chain bearers on land grants, witnesses on deeds, persons to whom land was sold or from whom it was purchased, and neighbors' names (mentioned in metes and bounds descriptions) should all be recorded as you systematically explore and analyze your ancestor's land holdings. When compared with other records (court, probate, vital statistics), you may find that these same names recur again and again. There is always a reason for this and often that reason is that there was a bond of kinship between these individuals and your ancestor. A systematic exploration of the families of associates may yield some clear or probable connections. Land platting (plotting your ancestors land boundaries and those of his neighbors and recording them in a diagram) can help you see how the neighborhood was laid out and who lived next to whom. There are great computer programs to help you accomplish this.



LANDLESSNESS: A TOUGH ROW TO HOE

Folks who fail to find any records of landholding for their ancestors are in quite a predicament. Land is the principle means of tracking people from place to place. Analysis of the records often leads to collateral relations, ancestors and descendants. What do you do in such a case?

First of all, be sure that you aren't just missing records that are actually there or were there at one time. Has there been record loss in the county you are studying? If so, the records of land ownership may have been destroyed. Chances are, however, that state and federal land grants have not, and that tax lists

and court records may fill in some gaps, if they survive. Also check court records to see if your ancestors had claims to land that they later lost due to a dispute over title (often in a series called *ejectments* or *civil actions concerning land*) or due to the claims of a prior occupant (in the case of land grants, called *caveats*). The legal documents may tell you even more than a deed would have. Finally, check to make sure deeds weren't recorded long after the transaction took place. This is also a possibility.

Nevertheless, there are many individuals in this land of opportunity who never managed to acquire

or hold on to land. This often meant that they lived on leases or worked as laborers on the lands of others. There are many types of records in which the names of these people may appear. Unfortunately, most such records are unindexed and difficult to access. It will require far more effort to discover them, and sometimes, conclusions about the families will be in doubt. However, diligent effort often yields amazing results, even in these cases. For resources and strategies, see L. W. Cates' article, "On the Trail of the Invisible" in the *North Carolina Genealogical Society Journal*, XXXVI.1 (Feb 2010).