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LAND PATENTS AND LOUISA COUNTY

by Ransom True
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(Continued from Vol. 6, No. 1, page 46)

When consideration is given to the price of other land, a Land Office land patent was a bargain despite the cost and the long acquisition procedure. It is no wonder that patents were eagerly sought and that there were so many problems, court suits, questionable practices and laws concerned with land patents and the land patenting process.

In Louisa County, this process was the same as for other areas of eastern Virginia, and apparently was just as widely used. Just when the first patent was issued for land which now lies in Louisa County is not known. However, it appears that some ten to fifteen thousand acres of Louisa land were patented prior to 1720 while Louisa was still a part of New Kent County.²¹ From 1720, when Louisa was made the western part of the newly formed Hanover County, until 1725 land patent activity was moderate²² averaging about 3,500 acres annually.²³ Then it picked up considerably averaging almost 9,000 acres annually for the next eight years.²⁴ During the years 1733 through 1742, when there was substantial agitation for the formation of a new county in western Hanover, the county that eventually became Louisa, land patent activity slowed down appreciably. During this ten year period slightly less than 15,000 acres was patented.²⁵ By the time Louisa was

²¹In *Quitrents, 1754* in "Papers on Quitrents and Custom's Confiscations" British Museum, Additional MSS. 38337, microfilm in Alderman Library, University of Virginia, the author states that 230,000 acres of Louisa land were subject to the quitrents. Through the end of 1754 a total of 172,789 acres had been patented in Louisa since 1721. The difference of 57,211 includes substantial acreage in what is now Albemarle County. If one assumes that the percentage of land patented in both Louisa and Albemarle was roughly equal, about 52%, then approximately 40 - 50,000 acres of the estimated 80 - 90,000 acres in that part of Albemarle County must have been patented and included in the original figure of 230,000 acres. Subtracting 45,000 acres from the 57,211 acres otherwise unaccounted leaves about 12,000 acres. This is certainly consistent with the known migration patterns into Louisa. Definitely no more than 20,000 acres in Louisa could have been patented prior to 1720. Since it is almost impossible to get accurate figures for this early patent activity, primarily because of the difficulty of assigning a patent to either New Kent, Hanover or Louisa Counties because of the similarity of placenames or the complete lack of placenames, this approximate figure is the closest that can be derived. For the sake of the rest of the calculations, the figure assumed for the number of acres patented in Louisa prior to 1720 is 15,000.

²²Table II

²³The actual figure is 3,563.75 acres annually.

²⁴The actual figure is 8,977.38 acres annually.

²⁵The actual figure is a total of 14,560 acres.

Land Patents and Louisa County

formed in late 1742, forty percent of the land or a little over 115,000 acres had been patented.²⁶ This left a substantial amount of vacant land.

Once Louisa became a separate county, land patent activity increased substantially. During the next fifteen years, through the end of 1757, nearly 100,000 more acres were patented. This was an average of about 6,600 annually.²⁷ Patent activity slowed down again in the period 1758-1764, averaging less than 1,500 acres annually for a total of slightly more than 10,000 acres.²⁸ for the period. Probably this slowdown was due to the French and Indian War and to the fact that the first substantial migration out of Louisa towards new lands in the west had begun.

TABLE II
Acres Patented In Louisa By Year Periods

Period	Acres Patented
Before 1721	15,000
1721-1725	14,255
1725-1732	71,819
1733-1742	14,560
1743-1757	99,014
1758-1764	10,116
1765-1812	38,926
1813-1924	8,527

Thus by the beginning of 1765 approximately 225,000 acres of Louisa land had been patented.²⁹ Another 50,000 acres was still to be patented in the period from 1765 to the present. This represented one-sixth of all the land ever patented.³⁰ Of this total, somewhat less than 40,000 acres would be patented in the period 1765 to 1812.³¹ We therefore conclude the period 1756-1812 represents the ending of the major land patent activity in Louisa.

The process of patenting lands in Louisa, as in areas of eastern Virginia, was fraught with more than the normal share of problems. These first surfaced in 1744, within two years of Louisa's formation, when the General Assembly took notice of the fact that

²⁶The actual figure is a total of 115,634 acres. This represents 42.47% of all the land ever patented in Louisa.

²⁷The actual figure is a total of 99,014 acres. This represents an average of 6,600.93 acres annually.

²⁸The actual figure is a total of 10,116 acres. This represents an average of 1,445.14 acres annually.

²⁹The actual figure is a total of 224,764 acres.

³⁰The actual figure is a total of 47,453 acres. This represents 17.43% of all the land ever patented in Louisa.

³¹The actual figure is 38,926 acres. See also Tabel III at the end of this article.

Land Patents and Louisa County

Louisa (along with Albemarle, Frederick and Augusta) contained large quantities of unpatented lands. They "found by experience, that many controversies and disputes have arisen and daily arise among people in those counties where such lands are, about the priorities of entries . . ." ³² In an effort to alleviate this problem the Assembly required that the county surveyor be a resident of the county. Apparently this did not solve the problem of controversies over priorities of entries. In 1748 the Assembly again attacked the problem and required that only one surveyor be authorized to record entries and that he must be a resident of the county. ³³

Unfortunately surveyor's problems did not end with the Assembly's actions. Nineteen years later, in 1767, John Blair, the bursar of William and Mary College certified that "William Pettit, Surveyor of Louisa, never made me as bursar of the College more than one payment and that only one pound thirteen shillings four pence without account." ³⁴ Clearly this was far less than the required one-sixth of the surveyor's fees that surveyors were required to pay to the College and everyone knew it. Despite this apparent fraud, William Pettit remained in office undisturbed for another six years. Finally, in 1773 the Louisa Court appointed a committee to inspect his books and eighteen months later, in August, 1774, the Court apparently removed Pettit and appointed Nicholas Meriwether in his place as county surveyor. ³⁵

In addition to the difficulties with the county surveyor, there was the problem of inadequate surveys, usually in the form of underestimated acreage. Since 1761 Louisa County has contained 330,800 acres. However, the total acreage ever patented in Louisa was 261,290 when known regrants are deducted. This indicates that nearly 70,000 acres, or over twenty percent of the land in the county was never accounted for in patents, even when allowing for roads, rivers, streams, and the limited acreage the state owned in Louisa. ³⁶ If all of this missing acreage were actually included in the patents that were issued, then an average four hundred

³²Hening, *Statutes*, V, 253. The law was passed in September, 1744.

³³Hening, *Statutes*, VI, 35. The law was passed in October, 1748. Albemarle, Amelia, Augusta, Brunswick, Lunenburg and Orange counties were also included.

³⁴"John Blair, Bursar of William and Mary College, Certificate", in Overton Papers in Earl G. Swem Library, College of William and Mary.

³⁵Surveyors were required to be examined and nominated to the county court by the professors of the College of William and Mary. They were also required to pay one-sixth of all their fees (which were regulated by law) to the Bursar of the College annually for the use of the college. This pertained only to County Surveyors, not to all surveyors. For the information on William Pettit see, Louisa County, *Order Book*, February, 1773 and Louisa County, *Plat Book 3*, p. 138.

³⁶The total acreage unaccounted for is 69,591 acres. This represents 21.04% of all the land in the county, or over twenty percent if roads, streams, rivers etc. are less than 3,500 acres, which is a reasonable assumption given the topography of the county.

acre patent really contained four hundred eighty acres. This is well above the five percent error allowed and means that virtually every patent issued for Louisa land could be suspect as far as the acreage is concerned. A few patents were challenged in court on this charge, but most were left alone. Surveyors and surveys were not the only problems to plague the Louisa patentee. There was also the problem of the quitrents. These were supposed to be paid to the sheriff annually at the rate of one shilling per fifty acres. After deducting his commission, the sheriff paid them into the colonial treasury. Many landowners did, of course, pay the quitrents conscientiously year in and year out. Numerous sheriff's receipts testify to this. Some of these quitrents were quite expensive. John Overton, for example, paid £10-7-7¼ on 8,194 acres in 1750 and John Ragland paid £5-14-2½ on 4,509 acres the following year.³⁷

However, many people did not pay the quitrents, either out of conviction, oversight, or inability to pay. John Blair attested to this, when he used Louisa as an example of a county whose rent tolls were in poor order, when he wrote to London to propose a more businesslike manner of collecting the quitrents in counties like Louisa. His new method, he stated, would reduce the large number of planters and farmers whose quitrents were in arrears, would simplify determining just who was in arrears and for how long, and would increase the quitrent collections.³⁸

Other evidence attests to the problem of the quitrents. Over one-fourth of all patents issued in the period 1765-1774 were regrants of previously patented land which had lapsed for the failure to pay the quitrents.³⁹ Furthermore, numerous deeds in the same period specifically mentioned that the quitrents had not been paid during the year in question. Indeed, some deeds even specifically exempted payment of the quitrents from the general warranty. The problem was finally taken care of for good when the Assembly voted in 1779 to abolish the quitrents as of 1774.⁴⁰

Despite all the problems land patent activity continued in Louisa. During the period 1765-1812, which saw the virtual end of

³⁷For the quit-rent system in general see Beverly W. Bond, Jr., *The Quit-Rent System in the American Colonies*, (Yale University Press; New Haven; 1919) pp. 219-254. Specific examples are from John Overton "Accounts, 1759" (although the quitrents were paid in 1750) and Estate of John Ragland, "Accounts" both in Overton Papers in Earl G. Swem Library, College of William and Mary. Richard Morris was the collector of the quitrents in Hanover County in 1768 and 1769. During these years he collected quitrents on 146,954 and 147,446 acres of land respectively. This represented payments on 48.75% and 48.91% of the land of Hanover County. "Receipts, 1769" in Morris Family Papers in Alderman Library, University of Virginia.

³⁸James Blair to ?, September 23, 1763 in "Papers on Quitrents and Customs Confiscations"

³⁹Eight of the thirty patents issued in the period 1765-1774 were regrants because of the failure of the original patentee to pay the quitrents. This represents 26.67% of all the patents issued in Louisa County for this period.

⁴⁰Hening, *Statutes*, X, 64.

land patent activity in Louisa, patents were still an important source of land for many people. In all, 153 patents were issued in this period. Of these, 136 were for vacant land which had never before been patented. Seventeen patents were for regrants of lands previously patented. These lands were regranted for a number of reasons. Ten of the regrants were for the failure of the original patentee to pay the quitrents. Three were to patentees who were forced to resurvey their land and apply for the additional acres. Two were for lands forfeited without a reason being given. One was for the failure of the original patentee to return a survey in the required time and another was to confirm an heir in his title. These regrants totalled about 9,500 acres or slightly less than one-fourth of the nearly 40,000 acres patented in this period.⁴¹

From 1765 to 1812 there were approximately six periods which seem to correspond to some aspect of the land patent activity. The first period was, of course, the colonial period from 1765 to 1774. The second was from 1775 to 1779 when the Land Office was closed. The third period was only two years, 1780 and 1781, and corresponded to the time allowed by the Assembly for completing the patenting process for all patents started in the colonial period. The fourth period was the remainder of the 1780's, which corresponded to the last continuation of the patenting of lands in large (around four hundred acre) quantities. The fifth and sixth periods, 1790-1799 and 1800-1812 respectively signaled the ending of the land patenting activity in Louisa and the patenting of small isolated parcels. Surprisingly, however, the number of acres patented in each of these six periods (save that when the Land Office was closed) was approximately the same. However, the number of patents increased in each period. Thus the average number of acres per patent decreased consistently and sharply from a high of 388 acres per patent in the 1765-1774 period to a low of 143 acres per patent in the years from 1800 to 1812.⁴²

Part of the reason for the drop in the average number of acres per patent lies in the simple fact that most of the remaining land consisted of small parcels. Furthermore nearly one-fourth of all patents abutted land then held by the patentee.⁴³ Thus these patents merely represent landowners expanding out their tracts.

⁴¹Regrants totalled 9,486 acres during this period out of a total of 38,926 acres granted. This represents 24.36% of all acres granted in the period 1765-1812.

⁴²See Table III at the end of this article.

⁴³Thirty-seven out of 153 patents or 24.18% abutted lands held by the patentee. This figure may be somewhat low because it is based upon information in the metes and bounds which did not always name the owner of the abutting property. This is especially true if the boundary between the lands was a road, stream or creek. Based upon a reading of deeds also, it appears that probably somewhere around fifty-five or sixty patents actually abutted land already held by the patentee.

Another reason for the consistent drop in this average number of acres per patent can be found in the fact that many patents were scattered all over the county, in isolated places and often between roads and other landowners. Furthermore, the one remaining large vacant area where the majority of land patents in the years 1765 to 1812 were located, was the ridge separating the South Anna and the James River watersheds. This was the hilliest part of the county, being the headwaters for numerous creeks. This area also contained most of the poorest land in the county. As a result it tended to attract an economically poorer type of people who were willing to farm marginal land in smaller parcels.⁴⁴ Thus, by the close of the period, when even this land was almost fully patented, there simply was not the large parcel of land left to patent. Indeed, by 1812 there was very little land of any kind left to patent. The year of 1812, then, although not the absolute close of the land patenting activity in Louisa, certainly marks the virtual end.⁴⁵

As the land patent activity was drawing to a close in Louisa throughout this period, the process still retained its vigor and character if not most of its earlier problems. The workings of an orderly system of land patenting, especially in the period of time after the Revolution, can be clearly seen from the evidence that remains. This system, however, shows some surprises, especially when one considers much of the earlier chaos. For example, during this period surveys were made much sooner after the land was entered. Of the thirty-three persons for whom sufficient data exists, twenty-three waited less than a month to have their entries surveyed. Only five waited as long as four months.⁴⁶ These surveys were made after the surveyor received the land warrants which apparently were purchased well in advance of the time people needed them. In fact many warrants were purchased in the year 1781-1782 when paper money, depreciated to be sure, was accepted for the purchase price. Land warrants were one of the few items that could be purchased for paper money. Apparently a large number of warrants were sold and used, if not for investments, since they drew no interest, then at least as safe depositories for money. This is well documented by the fact that out of ninety-three warrants used for land patents, only seven were bought from the Land Office with the intent of using them for a specific piece of property. Actually only thirty-eight of the ninety-three purchasers used their own warrants. The rest purchased

⁴⁴See Table IV at the end of this article.

⁴⁵After 1812 a total of 8,527 acres was patented. The last patent issued for Louisa land was in 1924, exactly fifty years ago.

⁴⁶Compilation is based upon the 153 patents issued for Louisa land in the period 1765-1812 and Louisa County, *Plat Book 3*.

them from other people. Normally the warrants were only bought and sold once or twice. One warrant, however, was not used until the seventh owner turned it in for land.⁴⁷ The buying and selling of warrants was so common and so frequent that their price seldom rose above their face value. Indeed, on a few occasions they were used as currency, with the value being the price of the number of acres specified plus the fee for issuing the warrant.⁴⁸

Once the survey was performed and the prospective patentee had received his plat, he was required to return it to the Land Office. Frequently he delayed sending it in, often for several years. In fact the average time between the completion of a survey and the issuance of a patent was seven years three months for patents issued in the years from 1765 to 1797. After 1797 the length of time between completion of the survey and issuance of the patent dropped to one year eleven months. This was a direct result of the law passed by the Assembly in 1795 which took effect in 1797. This law required that all plats must be returned within twelve months of the survey date (obviously not all of them were), and, more important, that no patent could issue except in the name of the person for whom the survey was done. This meant that surveys could not be transferred from one person to another as they were previously and further that a survey was in no way a legal title to land. Thus people now hastened to get their patents issued.⁴⁹

With the issuance of a patent and the requirements of seating and cultivating met, the process was completed and the patentee held a fee simple estate in the land and its appurtenances. He could use the land, hold it unused, will it, sell it, rent it, lease it or mortgage it, as he so chose. It was entirely his.

The land patents and the land patenting process served Louisa people well. It provided for these people a legal title to virtually all the land in the county, easily, inexpensively and in a period of time no longer than a century. It was a good and useful manner for settling the county.

⁴⁷Compilation is based upon Commonwealth of Virginia, Land Office, *Warrants Issued and Louisa County, Plat Book 3*.

⁴⁸Samuel Overton Jr. debited Capt. William Smith with a "Land Warrant 64 acres \$1.91 or £ 0-11-5" in 1802. This was exactly the price of 64 acres of land (\$1.28) plus the fee for issuing the warrant (\$.63). Samuel Overton Jr., "Account with Capt. William Smith".

⁴⁹Compilation based upon the 153 patents themselves. _____, *A Collection of All Such Acts*, p. 344. Chapter CLXXXVII passed December 28, 1795.

Land Patents and Louisa County

TABLE III
Land Patents and Acres In Louisa County, 1765-1812

Years	Number of Re-grants	Number of New Grants	Total Grants	Acres In Re-grants	New Acres	Total Acres	Mean Acres Per Patent
1765-1774	10	20	30	6,280	5,362	11,642	388
1775-1778	-	-	-	-	-	-	-
1779-1780	3	17	20	1,912	5,414	7,326	366
1781-1789	3	18	21	894	4,853	5,747	273
1790-1799	1	38	39	400	7,647	8,047	206
1800-1812	0	43	43	0	6,164	6,164	143
Total	17	136	153	9,486	29,440	38,926	254

TABLE IV

Location of Patents

Year	Along South Anna Ridge	Remainder of The County	Total
1765-1774	12	15	27
1775-1778	-	-	-
1779-1780	14	6	20
1781-1789	13	7	20
1790-1799	21	18	38
1800-1812	22	21	43
Total	82	67	149

NOTES:

The South Anna Ridge includes the locations of Upper South Anna River, Hudson's Creek, Camp Creek, Beaverdam Creek, Three Chopt Road, Roundabout Creek, Reedy Creek and Fork Creek. Together they include 85,000 acres or 25.70% of the county.

Four patents could not be located in the county.

If the regrants are subtracted from the totals, the following results appear:

Along South Anna Ridge	77
Remainder of the County	56

One regrant could not be located in the county.