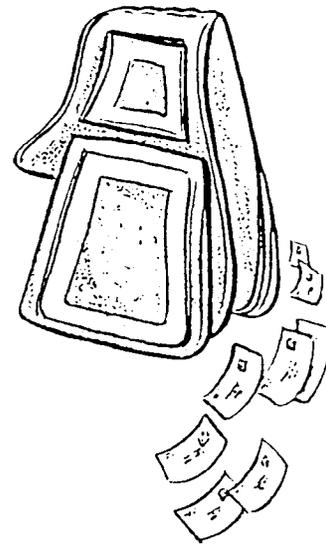


Saddlebag Notes

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THE KENTUCKY LAND GRANT SYSTEM

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Are you tired of wandering through a maze of county deeds and puzzling over county formation dates in order to research early land transactions, only to find out your ancestor received a Kentucky Land Grant? Are you certain your ancestor (who did not serve in the Revolutionary War) did not obtain a land patent? A few minutes with the proper publications could possibly end your research frustrations and save you hours—even years—of valuable research time.

The miraculous texts to which we refer are the listings of land grant recipients from the time Kentucky was a part of Virginia to the present. Of course, the prospects of a fruitful search are in direct proportion to the historian's knowledge of the land grant system.

Highlights in Land Grant History

Under the King's Proclamation of 1763, the British Government declared land would be awarded to veterans of the French & Indian War in lieu of cash. Land grants authorized by these military warrants can be found in the Virginia and Old Kentucky Land Grant Series. Names of soldiers receiving warrants for service in the French & Indian War are included in Philip Fall Taylor's publication entitled *A Calendar of the Warrants for Land in Kentucky Granted for Service in the French & Indian War*, published by the Genealogical Publishing Co., Baltimore, Md., copyright 1967, and available in the Kentucky Historical Society Library.

After the Revolutionary War, Virginia continued and expanded the land grant system through its Land Law of 1779. Kentucky, in turn, reaffirmed the system after separation from Virginia with the Kentucky Act of 1796. The land grant system is still in use today as a method of appropriating Kentucky land. Structurally, the process has changed very little since its inception.

Administrative duties have shifted, but since 1934 all original land records have been the responsibility of the Secretary of State's Office.

What is a Land Patent?

"Patenting" refers to the system of land appropriation used in Kentucky to transfer land from the Commonwealth to an individual or group of individuals. All deeds trace back to an original patent recorded in the Kentucky Land Office. Land patenting consists of four steps, all of which must be completed before title is granted.

Step #1: The Warrant (syn. Certificate, Order)

This document authorizes a survey to be made. It does not specify the exact location of the land, although Revolutionary War Warrants were supposed to be used in the Military District located South of Green River—there are some exceptions. Present-day County Court Orders (Warrants) are to be used within the county in which they are issued.

A count of Virginia & Old Kentucky Patents, labeled "Military" by Kentucky Historical Society researchers, reveals that only 11 percent of all patents in both series were awarded for military service. The remainder were authorized by such warrants as settlement certificates; preemption claims; treasury, importation or village rights warrants; and special Acts of the General Assembly, such as "for the relief of poor persons," "for surveying," and for seminary funding. It is imperative that the researcher study the type of warrant authorizing the patent in order to understand why the patent was issued.

It should also be added that warrants can be traded, sold, or reassigned, in whole or in part, anytime during the patenting process. We strongly advise

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researchers to examine both sides of warrants when studying the patenting process because assignments are recorded on the “back.”

Step #2: The Entry

This record is often considered a patent in itself when, in actuality, it is merely an intention to file for a patent. The surveyor records in his entry book the name of the person wishing to reserve for patenting a particular piece of land, the type of warrant authorizing the survey, and the date the intention is declared. Entries are not binding and may be altered or withdrawn if an individual so desires. Jilison's *Old Kentucky Entries and Deeds* lists entries in early Jefferson, Lincoln, and Fayette counties as well as the Military District. The originals of those records, with the exception of the Jefferson County Entry Books housed at the Jefferson County Archives in Louisville, are stored in the Land Office in Frankfort. Subsequent surveyor entry books are housed on the county level. The passage of time has resulted, at best, in a scattered availability of those records.

Step #3: The Survey (syn. Plat, Survey Certificate)

The next stage in land patenting is the preparation of the Survey depicting the tract and describing metes and bounds. In a statement prepared by the county surveyor, the name of the person having the survey made is given as well as the type of warrant authorizing the survey. Any assignments that have already occurred are also mentioned. The county is recorded as well as the name of the closest watercourse, in most instances. Points such as trees, “bear wallows,” and schoolhouses were accepted in the survey description; surveyors today use more modern methods of measuring distance and bearing. (The only area in Kentucky that meets federal surveying guidelines, that is, sections, townships, ranges, etc., is the Jackson Purchase mapped in 1820.) Surveys, like warrants, can also be traded, sold, or reassigned, so it is imperative the researcher study both sides of the document to determine if a transfer was made after the Survey and before the Grant was issued.

The name of the county surveyor, or his deputy, is given at the end of the survey description, generally in the right column. The names of the surveying party are recorded in the left column; the list most generally includes chain carriers, markers, and housekeepers.

Step #4: The Grant (syn. Patent Deed, Patent)

The issuance of the Governor's Grant finalizes the

land patenting process. Easily recognized by the governor's name in the heading, this document states the name of the land recipient as well as the other assignees involved in the patent. Also included is the date of survey, the type of warrant used, the metes and bounds description, the date of grant issuance and the governor's signature. The original record (grant) is mailed to the land recipient and a copy is entered in the Land Office Grant Book. Sales of the property then become a county responsibility and are known as “deeds.” Deeds are not registered in Frankfort; therefore it is incumbent upon each county clerk, as well as county historical agencies, to ensure all records of land transactions within their area are secured and properly preserved.

There are two other terms associated with land-patenting that need to be included in our study of the patent system. Kentucky is known as a “state-land-state” meaning the Kentucky government has assumed the responsibility for land appropriation within our borders. Other state-land-states include the thirteen original colonies as well as Maine, Tennessee, Texas, Vermont, West Virginia, and Hawaii. The remaining states are in “public domain” meaning the federal government acts as the appropriating agency.

How Are Land Grants Filed?

Time periods and possible land locations play an important role in determining which group or groups of land grants need to be researched. For example, if the historian feels the grant was issued before June 1792, the first series to study would be the Virginia Land Grant Series. No, that does not require a trip to Richmond, Virginia; records of all Virginia-issued land grants are in Frankfort at the Land Office.

—Virginia Series

Generally includes Warrants, Surveys, and Grants completed before 1792. There are some instances where the researcher will have to obtain copies of the Warrant and Survey from the Virginia Series, then copy the Grant from the Old Kentucky Series. Approximately 10,000 patents are filed with this grouping, some of which were authorized by military warrants. Although the researcher can find the grant book reference in Jilison's *Index to Kentucky Land Grants*, the patent number of this series will have to be researched using the *Master Index to Virginia Surveys and Grants* prepared by the Kentucky Historical Society.

—Old Kentucky Series

There are over 7,600 patents filed in this series, some

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of which were classified as "military." In the Old Kentucky grouping, the Grant was issued after June 1792. The researcher can find the grant book reference in Jillson's *Index to Kentucky Land Grants*, then obtain the patent number, in most cases, by checking the left margin of the grant. If the number is not entered, study the *Index for Old Kentucky Surveys and Grants*, also published by the Kentucky Historical Society. (NOTE: Thorough researchers will check the latter publication even if the patent number is on the grant; the Historical Society books are indexed by Survey name with a cross-index for Grant name. This gives a second source of names to research and provides "insurance" in the event the name is listed incorrectly in Jillson's book.)

—South of Green River Series

This series was established by a 1795 Act of the General Assembly which opened the former Military District to settlers meeting certain requirements. The purchaser of the Warrant/Certificate had to be 21 years of age or older and a resident on the property in question for one year. An improvement, such as planting a crop or building a cabin was also required. There are over 16,600 patents filed in this series, many of which are located out of the South of Green River area and as far north as Pendleton County. Due to repeated time extensions by the General Assembly for the payment of required patent filing fees, many of these patents span several decades from the time of their inception to finalization. The South of Green River patents are often known as the "Headrights Claims."

—Warrants for Headrights

Research continues on this series of land grant records. To date, it has not been determined why this grouping of 55 patents was not filed under one of the major series.

—Tellico Series

This area of Kentucky was purchased from the Cherokee Indians in 1805. In 1810, the Kentucky General Assembly passed an act appropriating the land under the patent system. Confirmed residents of the area (minimum residence time of six months) were entitled to warrants of 100 to 200 acres of land at \$40.00 per 100 acres. Moneys generated from the sale of the warrants were to be used to procure arms for the state militia. In 1831, the cost was reduced to \$5.00 per 100 acres. There are 590 patents in this series; although the land is primarily located in southeastern Kentucky, there are a few exceptions.

—Kentucky Land Warrant Series

By 1815, the Kentucky Land Office was issuing land patents under three separate series, namely, Old Kentucky, South of Green River, and Tellico. This undoubtedly produced an abundance of confusion as there are numerous patents which appear to be filed under an inappropriate series—land location would warrant a different series than that which was actually used. By 1815, the Kentucky General Assembly addressed the Land Office dilemma by passing an act establishing the Kentucky Land Warrant system which combined all three series. Unappropriated areas of Kentucky, with the exception of the Jackson Purchase, were eligible for land patenting with the purchase of a warrant from the Kentucky Land Office. Under the warrant's authorization, the county surveyor would then complete the survey; the warrant and survey would then be sent to Frankfort where the grant would be issued. Under this series of 26,080 patents, we see various types of warrants used. Not only are there warrants that were simply purchased in Frankfort, but there are also warrants issued to poor widows under the Act of 1820 as well as warrants issued by the General Assembly to trustees and commissioners overseeing educational institutions, building roads, or constructing bridges. Again, read the warrant to determine why it was authorized.

—West of Tennessee River Military Claims

In 1818, land west of the Tennessee River, now known as the Jackson Purchase, was ceded to the United States by the Chickasaw Indians. There were, at that time, numerous Revolutionary War veterans who had settled in the area, undoubtedly to assist George Rogers Clark at Fort Jefferson in the protection of the northwest frontier. In 1820, the Kentucky General Assembly passed legislation directly affecting the newly acquired territory. Veterans were advised to apply for patents on their lands as soon as possible, and 4,000 acres of land were donated by the Commonwealth for the establishment of a town near the Iron Banks for "the benefit of the soldiers." Soldiers' patents in the Jackson Purchase may be researched by studying the "West of Tennessee River Military Claims," a group of 242 patents. If you have been unable to locate your soldier in the Virginia or Old Kentucky Series, we suggest you study this grouping before deciding he did not use his warrant.

—West of Tennessee River Series (Non-Military)

Also in 1820, the Kentucky General Assembly passed legislation mandating the mapping of the Jackson Purchase into townships and sections following federal

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surveying guidelines. An act authorizing the printing and publishing of William Henderson's map was also passed by the Legislature. In 1821, lands which were not patented by the veterans were ordered sold at public auction if a minimum state price was met. Sales were to be held in Princeton and later in Waidborough. Documents available for researching this series of 9,308 patents include the receipt showing amount paid and the grant finalizing the patent. It is also possible to plat the exact location of the patent using the 1885 Loughridge map of the Jackson Purchase.

—*South of Walker's Line Series*

Due to surveying error, the Kentucky Land Office became responsible for patenting lands in a small northern area of Tennessee north of the parallel 36 degrees and 30 minutes. The series includes 4,327 patents issued by Kentucky for lands in Tennessee.

—*County Court Order Series*

All series of land patents were combined into one by the 1835 Act of the General Assembly establishing the county Court Order system. Under this series, counties sold warrants for unappropriated land within their boundaries at the rate of \$5.00 per 100 acres. Later legislation set the maximum acreage at 200 acres per warrant. Under the authorization of the warrant (or order), the county surveyor completes the survey description and plat drawing. The warrant and survey, along with affidavits declaring the land to be unappropriated to the "best knowledge of the surveyor and applicant," are then sent to Frankfort where the grant is issued. This series of over 70,000 land patents is the last to be researched, laminated, and microfilmed by the Kentucky Historical Society under a contract with the Land Office. The index for this grouping is also being computerized; this will provide access not only to survey and grant name, but also watercourse, time period, and county. A separate Warrants Index will list how the county warrants were used; this is particularly helpful when warrants are divided and used in several patents.

Key Points to Remember in Land Patenting

—The only Military Warrants recognized in the Kentucky Land Grant system were for service in the French & Indian War and the Revolutionary War (by Virginia soldiers). No Military Warrants were used in Kentucky land patents for service in the War of 1812 or later wars.

—Follow the patent through step-by-step. Study the Warrant first, Entry if available, Survey Description & Plat, and then the Grant. This will help place the order of the transaction, particularly when numerous assignments have been made.

—Microfilm of the original documents is available on a limited basis. Some libraries restrict their holdings to copies of the Land Office Survey & Grant books; although these are extremely helpful in platting country patents, for example, warrants and miscellaneous papers, such as caveats and wills, are not included in those books. The Kentucky Historical Society and the Secretary of State's Land Office are the only Frankfort agencies housing complete documentation for the Kentucky Land Grant records.

—There is no "master patent map" available. Due to a shortage of Land Office staff, as well as the lack of a state surveying team, no patent map was made as patents were issued. There are, however, several historians on the county level who have accepted the challenge of mapping early land patents within their county or particular area. IT CAN BE DONE! (What is the status of your county? Have early patents been researched and platted?)

—Remember, Warrants & Surveys could be traded, sold, or reassigned anytime during the patenting process. Study both sides of each document to trace the order of assignments.

—Last, but definitely not least, all original records of Kentucky Land Grants are housed with the Office of Secretary of State in Frankfort. You are invited to inspect the documents anytime during regular working hours, Monday through Friday, from 8:00 a.m. to 4:30 p.m. Due to the direct involvement of each Secretary of State since the 1960s, we are happy to report the documents are being preserved in bound volumes and microfilmed according to archival standards by the staff of the Kentucky Historical Society Micrographics Division. The Land Office will also be happy to work with researchers by phone if they have questions regarding the patenting system or need to order copies. Familiarize yourself with the Kentucky Land Grants—they may be just what you are needing to answer those land acquisition questions. We are ready to assist you in any way we can.

For further information, contact the Land Office, Secretary of State, Capitol Building, Frankfort, KY 40601-3493; (502) 564-3490.