
North Carolina Land Grants

North Carolina Land Grant Procedure 1777-1800
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In 1777 the legislature of the "new" state of North Carolina passed an act allowing the state to take over the title to all "vacant" land within its borders. This land had formerly been the property of the King or the Earl of Granville. In the same year, the legislature also passed an act creating a procedure for selling the land to almost anyone who had the money to pay the required fees. These "instruments" were called grants, but that does not imply the free gift of land.

The first step in the procedure was for the prospective landowner to find some vacant land. He may choose land on which he has been living, an adjoining tract, or a tract far removed from his current residence. The next step was to have the claim recorded in the land office in the county where the land was. There was a small fee to pay for recording the claim. This is sometimes called "making a land entry" or having the claim entered in the records. A land entry taker was appointed to each county land office. The land description at this point was purposely vague. The state was interested in getting the entry in the records and making sure the claimant could pay the required fees. It was understood that the land description would be clearer once a survey was made.

In 1778, all required fees were supposed to be paid when the entry was recorded (entry fees, surveying fees, & grant fees). But this soon changed, and only entry fees were required when the entry was recorded. Between 1778 and 1781, the person making an entry had to pledge allegiance to the state. This requirement was supposed to keep Tories from claiming land.

Next there was a waiting period. The purpose of the waiting period was to allow time for everyone else to know the tract had been claimed. Other people could then decide if the claim included land that was already owned by someone other than the claimant. If such problems arose, there could be a court trial to determine who was really entitled to claim (or own) the land before additional steps were taken. If there were no disputes, the entry taker would issue a land warrant. The warrant was form letter addressed to the county surveyor instructing the surveyor to survey the claim "without delay". The surveyor was paid based on the number of acres in the survey (which may be slightly different from the number of acres in the land entry).

When the survey was finished, the land warrant and two copies of the survey were sent to the North Carolina Secretary of State. Usually, surveys included the name

of the surveyor and names of chain carriers. Chain carriers may be neighbors or the person whose land is being surveyed; depending on who was present on that day. The Secretary was supposed to make sure the State Treasurer had received the state's share of the fees before he proceeded with a grant. The state charged 50 shillings per hundred acres between 1778 and 1781. Beginning in 1783, the state fee was raised to 10 pounds per hundred acres. Afterward, the fee varied; lower fees were charged if the land included a swamp or was mountainous. Still later, the state's fees were changed every few years.

Using the land description in the survey, the Secretary (or one of his clerks) filled out a land grant. The Governor signed the grant. The state seal was attached to the grant by the Governor's Secretary. One copy of the survey was attached to the grant. The land description was recorded in the land grant books kept by the Secretary of State. The Secretary kept the second copy of the survey and the land warrant. The Secretary of State and Governor's Secretary were paid small fees for each grant that was processed. Prior to the Governor signing a grant, a "last minute" protest could be made. Paperwork survives for petitions dated between 1778 and 1835; such disputes were settled by a jury trial in the county where the land was located. Many times, we find a petition to the Governor, but we have difficulty determining the outcome of the trial.

The grant was returned to the grantee. Sometimes this means the grant was returned to the county court house, and an advertisement was placed in the local newspaper announcing the arrival of grants from the Secretary. The grantee (new landowner) now had one year in which to have the grant recorded in books kept by the county Register of Deeds. There was a small fee to pay for this also. For as much as 50 years, no one actively made sure each grant was recorded in the county, so some grants weren't recorded in the county.

In 1781 entry offices were closed possibly because the state wanted to change the fee structure, but there was no agreement on how much to change. Warrants could still be issued, surveys could still be done, & grants could still be issued (for entries already on the books) provided the required fees were paid. In 1783, the county entry offices were reopened, and the grant fee to the state was four times the previous amount (10 pounds vs. 50 shillings per hundred acres).

The books on land entries contain abstracts of the books kept by county land entry takers. PLEASE REMEMBER, there are many entries which were never turned into grants. So we find many more entries than warrants or grants in every county. In 1796 clerks of county courts were required to make copies of all entries dated between 1778 and 1796. The clerk was supposed to keep the original entry books and send the copies to the Secretary of State. Since 1796, some original entry books have been lost due to court house fires; most of the old originals have now been sent to the state archives. The copies are also in the archives except in a few

cases: Hertford County and Edgecombe County (prior to 1783). Some entry books were destroyed during the Revolutionary War and weren't available to be copied in 1796. Examples of these are Guilford County and Randolph County. All surviving entry books dated between 1778 and 1796 have now been published.

The primary sources of land warrants are the Secretary of State's land grant files now in the North Carolina Archives. The archives has the original paperwork. The archives is busy trying to film all the original paperwork, so you will probably be directed to the microfilm if it is available. There are 2 indexes to the land grant files. The older index is a card index found only in the archives. This index isn't perfect, but it is available. The second index is on the MARS computer system. This index is being compiled by going through the counties in alphabetical order. The computer index includes only files which have been microfilmed; one day it will contain all the grant files. To use either index, you look in the index for a person's name and then for the "file number" (which some people call a shuck number). The grant shucks or files are arranged by county and then numerically by shuck number. Within each shuck (or brown envelope) will be the warrant and survey (if they survive) and, sometimes, other related material. If a shuck is empty, the land description can be learned by referring to the land grant book and page number mentioned on the cover of each shuck.

The Secretary of State's land grant books are also in the North Carolina archives. All the books are on microfilm. You will need to find the grant book and page number using the same card or computer index described above. On each card and in the computer, the grant book and page number are mentioned. The file (or shuck) numbers usually appear in the margins of pages in the grant book (beside each grant).

HISTORICAL OVERLOOK

Prior to 1729, North Carolina land transactions were handled through the auspices of the eight Lords Proprietors and their heirs. The Proprietary form of government went out of existence in 1729 when the heirs of seven of the eight proprietors decided to sell their land rights back to the Crown. The exceptions were the heirs of George Carteret, Lord Granville. Only until 1744 was his proportionate one-eighth share decided. A line was to be drawn coinciding with parallel 35° 34". All land between this parallel and the North Carolina-Virginia line would be under the jurisdiction of Granville. This slice of the pie was more than generous as it included half of the province of North Carolina.

In 1744 the Granville line was surveyed from the ocean to a point near the town of Bath. In 1746 it was extended westward to Rocky River, near present day southeast corner of Iredell County. In 1768 it was probable that it was partially surveyed west of the Catawba in order to establish a northern boundary of the

newly created Tryon County; however, Tryon County did not become altogether functional until 1774 because of the indeterminate status of its southern boundary. In 1774, Granville's line was extended to the Blue Ridge.

For all practical purposes, there were no land acquisitions in Burke County prior to 1750, and certainly no settlement. A few Granville grants were issued just prior to the French and Indian War and few afterwards,--probably not more than a dozen or so.

On the death of Lord Granville, the Granville land office was closed in 1763. The heirs could not get their act together enough to reopen the office.

The advent of the American Revolution in 1775 sealed its fate altogether. The Granville District died a natural death in the courts in 1817.

Just a mention of Crown Grants -- even though Burke County should have been wholly within Granville's District, the western part of Granville's District was indeterminate. Because of this, it is possible that some of the Crown Grants may have extended into that portion of the state which now constitutes Burke County. Phifer, the Burke historian, felt that some Crown Grants extended into Burke County. The author, thus far, in a limited assay, is unable to corroborate this.

North Carolina, along with the rest of the colonies, declared its independence from Great Britain in 1776. Later that same year, the new State Constitution was drawn up. In April of 1777, Rowan County was divided and Burke County was therefore born. In the November session of the assembly of 1777, the North Carolina Land Offices were established, to begin operation in early 1778.

The newly established Land Offices recognized prior grants, i.e., Crown Grants, Proprietary Grants, and Granville Grants.

In addition, those persons who had settled on the land without due title were entitled to register their land through the grant system. In other words, squatters were allowed to register their land as much as someone who had obtained a previous grant.

Needless to say, many of those persons who had established their homesites in Burke County used this method to secure their lands. This was a relief from the previous confusion existing in the Granville land system.

In becoming acquainted with the land situation in early Rowan and Burke Counties, it is absolutely essential to understand the Land Grant Process. Land Grants were issued, insofar as Burke County is concerned, by three authorities -- The Crown (rarely, if at all), Granville's Office (a few), and by the State of North

Carolina, beginning in 1778 (numerous). It is estimated that between 1778 and 1959, approximately 6,000 land grants were issued in Burke County. Of these, nearly half were issued between 1778 and 1800.

Each authority would establish its Land Office, manned by appropriate agents. The agents would be the initiating authority, would supervise the paper work, and, of course, collect fees and rents. The main purpose of the land grant system was to promote settlement, cultivation, and industry -- its secondary purpose was to make money (this often ended up being the primary purpose).

What were the steps necessary for the prospective settler to take in order to secure a land grant? First of all, he would understand that only a certain amount of land could be granted to him (usually in the neighborhood of 640 acres -- a square mile). There were criteria by which some additional amount of land could be procured. It was also understood that he must either settle on the land and/or make improvements on the land. "Improvements" generally meant a building of some sort -- such as a house, barn, sawmill, etc.

After picking out a section of unclaimed, or vacant, land he would mark the section. This was usually done by marking prominent trees, boulders, etc., or driving stakes at certain corners. The future settler then went to the Entry Officer of Claims, or Entry Taker. The Entry Taker kept an Entry Book (as it was in the state records), logged numerically. The Entry Taker, in conjunction with the future settler, would enter a brief description of the land in the entry book, describe roughly the terrain, water courses, roads, etc. If the settler was already living on the land, it would be so stated. A rough estimate of the acreage would be given. After the Entry Taker had received the entry, numbered it and had collected his fees, he would then issue a Surveyor's Warrant.

The warrant constituted the authority for the Surveyor to go ahead with his survey of the land. The entry number determined the order of the surveys. The warrant, most of the time, repeated the entry description, but would occasionally contain small bits of additional information, of value to the historian.

The Surveyor would survey the land, draw up a plat, and give a Surveyor's description of the land. This description would be more detailed and more technical than either the entry or warrant descriptions. The Surveyor was allotted chain carriers, appointed by the settler. These were, as a rule, relatives or neighbors. This is of value to genealogists, since these persons were listed on the Surveyor's description. [Generally, sixty-six feet in length, the chain may have weighed 12-13 pounds. While not heavy, chain bearers can generally be thought of as younger male relatives of the settler. -DSH]

Following the survey, appropriate copies were then forwarded to the issuing authorities. After receipt of the surveys, and if there were no reasons to contest the situation, a land grant was drawn up and issued. The land grant description generally was a repeat of the Surveyor's description. The land grant gave authority to the settler to live on the land and to use the land. He could dispose of the land, in whole or in part, by the Deed method. (it must be remembered that a land grant is a primary deed)

Land grants and deeds had to be registered in county court records. The process of obtaining a land grant followed the order in Granville's Office, The Office of the Crown, and the State Land Grant Offices - namely; entry-warrant-survey-grant.