

# An Analysis of 17<sup>th</sup> Century Headrights in Lower Norfolk County, Virginia

(September 2004)

Robert W. Baird  
Cary, NC 27513  
rwbaird@aol.com

## Introduction

Genealogists are often confronted with the problem of interpreting the meaning of an ancestor's appearance (or absence) among headrights for patents. Assumptions are often made from these headright lists, which may not be valid. For example, it is often assumed that the patentee was the importer, or that the importation took place at approximately the same time as the issuance of the patent. It is further assumed that the headright was imported into the same county in which the land was located. But are these reasonable assumptions?

In an effort to provide some analytical data that bears on these questions, the headrights mentioned in early Lower Norfolk County court records were compared to patents issued for land in the same county.

## Summary of the Patent Process

As the first step in the land patent process, a potential patentee obtained a land certificate by proving his importation of headrights to the local county court or the Council. This certificate was, in effect, a warrant to the surveyor. A copy of the survey and certificate were delivered to the Secretary's office, which prepared the patent, usually entering the names on the certificate into the patent document. This analysis compared the names on headright certificates to those appearing in the patents.

## Lower Norfolk Certificates

Between 1637 and 1651 the court records of Lower Norfolk County note the issuance of 117 headright certificates, containing a total of 551 names of imported persons. (Four certificates, which were either duplicates or omitted surnames, were ignored.) Although headright certificates could also be obtained from the Council as well as the local county court, this large number suggests that the majority were obtained in the local court. The number of tithables in the county ranged from 300 to less than 500 during this period.

These headrights were compared to patents by searching Nugent's patent abstracts for both the grantee of the certificate and for the individual names therein. When in doubt, microfilm copies of the patents were consulted. In nearly all cases, the names from the headright certificate

appear, as expected, in the same sequence in the patent as in the certificate. The spelling of the names, however, tended to vary – often quite significantly.

The author embarked on a similar analysis of Surry County headrights in order to determine the interval between issuance of a headright certificate and the patent in which those headrights were used. Since that analysis produced some unanticipated and enlightening results, this analysis of Lower Norfolk records was undertaken in order to provide additional data.

## Summary Data

A summary of the key results is presented below. Note that one result, the lag between certificate and patent, varied significantly by timeframe. The reason for this is not clear, but the results are presented in two parts in order to more clearly indicate this difference.

|                                    | <u>1637-1645</u> |     | <u>1647-1652</u>       |     | <u>Totals</u> |     |
|------------------------------------|------------------|-----|------------------------|-----|---------------|-----|
| Number of certificates issued      | 47 <sup>1</sup>  |     | 72 <sup>2</sup>        |     | 117           |     |
| Number of headrights               | 238              |     | 338                    |     | 551           |     |
| Certificates not used              | 28               | 60% | 39                     | 54% | 68            | 58% |
| Headrights not used                | 123              | 52% | 90                     | 27% | 196           | 36% |
| Certificates used (incl. partials) | 19 <sup>3</sup>  | 40% | 33                     | 46% | 49            | 42% |
| Headrights used                    | 115              |     | 248                    |     | 355           |     |
| By original certificate holder     | 65               | 57% | 151                    | 61% | 216           | 61% |
| By others                          | 50               | 43% | 97                     | 39% | 139           | 39% |
| Patents involved                   | 22               |     | 66                     |     | 87            |     |
| Issued to certificate holder       | 11               | 50% | 28                     | 42% | 37            | 43% |
| Issued to others                   | 11               | 50% | 38                     | 58% | 50            | 57% |
| Mean elapsed time between          | 5.4 years        |     | 1.8 years <sup>4</sup> |     | 2.7 years     |     |

<sup>1</sup> Two additional certificates were ignored. One, containing four names, was issued to Oliver Van Heck in 1641; the same four names were included in a certificate for six persons to Oliver Van Heck in 1643. The other certificate, issued to Thomas Myles in 1645, was for one unnamed person.

<sup>2</sup> Two additional certificates, each for slaves without surnames, were ignored.

<sup>3</sup> This number includes two certificates, for five headrights whose names do not appear in the patent books. In each case, the certificate holder was issued a patent for the same number of rights as in the certificate, but the names were not recorded in the resulting patents. Both were counted as “used” for the purpose of this study.

<sup>4</sup> Four patents were actually dated a few days prior to the certificate date. It was assumed that the certificates, though recorded within the minutes of a court date, had actually been issued between court dates. The elapsed time for these patents was counted as zero, thus reducing both the mean and the median. One other was dated only two days after the certificate, probably another case of a certificate issued between court dates. The mean and median

|   |           |           |           |
|---|-----------|-----------|-----------|
| certificate and patent:<br>Median elapsed time between<br>certificate and patent: | 4.8 years | 1.3 years | 2.0 years |
|---|-----------|-----------|-----------|

## Conclusions

Some of these results are consistent with the similar study of headrights a generation later in Surry County.

- Both studies showed that the majority of headright certificates were apparently never used to obtain patents. 58% of the headright certificates could not be matched, in whole or in part, to patents. [The Surry County figure was 45%.] 36% of the headrights named in certificates do not appear in the patent books. [The Surry figure was 47%.]
- As rule, it appears that the greater the number of headrights in the certificate, the more likely the certificate was to have been used. Of the 61 certificates issued with five or more names, 56 (90%) were used in whole or in part to obtain patents.
- Both studies showed that relatively few certificates were used to patent land in a different county. In the case of Lower Norfolk, it appears that parts of three certificates, totaling only six headrights, were used for patents in other counties. All were patents by a person other than the original certificate holder. The Surry study showed a somewhat higher percentage used for land in other counties, about 16%, perhaps reflective of the later timeframe.

One result was notably inconsistent with the Surry study, though whether due to the timeframe, location, or other factors is uncertain.

- The Lower Norfolk certificates issued between 1637 and 1645 resulted in 21 patents issued about 5½ years later. This is consistent with the data from Surry County, which showed a lag time of nearly five years for certificates issued between 1673 and 1692. However, the lag time for the 66 patents resulting from certificates issued between 1647 and 1652 was much less, averaging less than two years. The reason for this is unclear.

## Some Additional Observations

- Only seven slaves were named as rights among the certificates. (All were ignored in this analysis, and were not counted among the 551 headrights.) Note that a generation later, more than 15% of the rights in Surry County were slaves.

---

are calculated from only 63 of the 66 patents. One patent carried no date, and two others were dated several years before the certificate.

- Of the 551 names appearing in the court-issued certificates, 64 (12%) were for the certificate holder or members of his immediate family. 39 of these appear as headrights in the patent books. It appears that these rights were transferred to others in about the same proportion as other rights, for 16 of the 39 (41%) were used in patents by others. These figures are consistent with the Surry study.
- 16 headrights appearing in 8 different certificates were used more than once. This was the only evidence found of misuse or corruption of the system.

## Methodology

Two lists were constructed: a list of the Lower Norfolk County headright certificates noted in the court minutes of the twenty-year period 1637-1652 and a list of all Lower Norfolk patents, each with the associated headrights. Each headright certificate was compared to the list of patents to determine if one or more names appeared in both documents. In all cases, names were entered into the patent in the same sequence as in the certificate, making the identification quite straightforward. Considerable variation was permitted in spelling to account for transcription variances, and a copy of the patent compared to a copy of the certificate to resolve uncertainties. If one or more names matched, the certificate and those named rights were categorized as “used”. (In only ten cases did a match occur for a single name, and all were for patents issued to the certificate holder.)

If no match was found with the patents, the unused certificates and remaining unused names were checked against the index of first two volumes of *Cavaliers and Pioneers* to determine if the rights were used for patents in another county. A match was declared if two or more names appeared in the same sequence in the patent. (In no case, however, were as few as two names found.)

A few patents list only the number of rights, not their names. The remaining certificates were therefore compared both to all such Lower Norfolk patents and to all patents by the certificate holder, regardless of location. In a few cases, the certificate holder obtained a later patent using unnamed headrights in a quantity equal to or less than the certificate. These were counted as “used”.