

An Analysis of 17th Century Headrights in Surry County, Virginia

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Introduction

Genealogists are often confronted with the problem of extracting 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 to bear on these questions, the headright certificates mentioned in early Surry County court records were compared to the resulting patents.

Summary of the Patent Process

As the first step in the land patent process, a potential patentee obtained a 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 then prepared the patent, usually entering the names on the certificate into the patent document.

Surry County Headright Certificates

Between 1673 and 1692, the Surry County court records note the issuance of 52 headright certificates containing a total of 399 names of imported persons. The names of 61 slaves, and three certificates containing only slaves, were eliminated from the analysis because the lack of surnames makes an accurate comparison to patents nearly impossible. That left 49 headright certificates containing the names of 338 headrights. The names in these certificates were compared to patents by searching Nugent's patent abstracts for both the grantee of the certificate and for the individual headright names therein. When in doubt, microfilm copies of the patents were consulted. In most cases, the names from the headright certificate appear in the same sequence in the patent itself. The spelling of the names, however, tended to vary – often quite significantly. The 49 certificates were either matched to one or more patents or were determined to have been unused. A complete description of the methodology employed can be found at the end of this paper.

The author embarked on this analysis in order to determine the interval between issuance of a headright certificate and the patent in which those headrights were used. Although this objective was accomplished, the analysis resulted in some additional results of interest to genealogists attempting to draw conclusions from the appearance of headrights in the patent records.

Conclusions

- The average interval between the issuance of the headright certificate and the issuance of the patent for which it was used was roughly five years. Only two headright certificates were used within a year of being issued, and only three others within two years. Five certificates were used more than ten years after being issued, one of them more than twenty years later.
- Only 22 of the 49 certificates (45%) could be matched, in whole or in part, to patents. Of the 338 headrights named in these certificates, only 179 (53%) appear as headrights in the patent books. A number of Surry patents, mainly those issued in the years 1684-5, include the number of headrights but not their names. Thus it is not possible to determine how many of the remaining 27 certificates were abandoned, or how many of the headrights might have been among those unnamed rights. However, only six such patents were issued to persons whose certificates were otherwise unused. This suggests that a significant proportion of headright certificates were not used to claim land, and therefore that a significant proportion of persons imported do not appear in the lists of headrights. Clearly, a genealogist can draw no conclusion from the absence of a person from the headright lists.
- An unanticipated finding was that the majority of patents were based on another person's certificate. 22 certificates were matched to a total of 31 patents. Of these 31 patents, only 10 (32%) were issued to the same person who obtained the headright certificate. In people terms, only 65 of the 179 headrights (36%) who appear in the patent books were claimed by the same person who obtained the certificate for them. Genealogists tend to assume that the patentee was also the importer. This analysis suggests that may have been the exception, not the rule.
- Five certificates, in whole or in part, were used for patents outside Surry County. A total of 29 headrights, or 16% of those used, were named in these patents.

Some Additional Observations

- Although the names of 61 Africans were eliminated from the analysis, it seems likely that roughly the same proportion were used as headrights. While the lack of surnames makes identification difficult, the group sizes permitted a reasonably accurate comparison to patents.

- Of the 399 names appearing in the court-issued certificates, 33 (8%) were for the certificate holder or members of his immediate family and 61 (15%) were for Africans. The only trend observed during the timeframe was a significant increase in the proportion of Africans from the beginning to end of the period.
- Of the persons claiming themselves or their families as headrights, at least half can be shown to have been in the colony for several years, if not several decades, prior to the certificate date. It is therefore possible that some the other headrights claimed had also arrived significantly earlier than the date of the certificate in which they were claimed as imported persons.
- The 52 certificates examined are clearly not all the certificates granted to Surry residents during the twenty-year period studied. A few certificates noted in the court records without headright names were ignored. Others were apparently not recorded in the court minutes. Several patents after 1673 refer to specific certificates granted by the Surry court which are not recorded in the Surry order books. Others may have been issued in other counties or by the Secretary's office, which was located only a few miles away across the James River.

Summary Data

	<u>1673-1692</u>	
Number of certificates issued	49 ¹	
Number of headrights	338 ²	
Certificates not matched to patents ³	27	55%
Headrights not matched to patents	159	47%
Certificates matched to patents (incl. partials)	22	45%
Headrights matched to patents	179	45%
By original certificate holder	65	[36%]
By others	104	[64%]
Patents involved	31	
Issued to certificate holder	10	32%

¹ Three certificates listing only the first names of slaves were ignored.

² A total of 61 headrights for slaves were ignored, as the listing of first names only makes it nearly impossible to match them to patents.

³ No names from these certificates appear among the headrights for patents. Note, however, that a number of patents were issued for land in Surry County which do not list the names of the rights. Most of these were issued in the years 1684-5. Thus it is not possible to determine how many of the 27 certificates were abandoned, or how many of the headrights might have been among those unnamed rights. However, only six such patents were issued to persons whose certificates were otherwise unused.

Issued to others 21 68%

Mean elapsed time between certificate and patent: 5.4 years

Median elapsed time between certificate and patent: 3.8 years

Methodology

Two lists were constructed: a list of the Surry County land certificates issued in the twenty-year period 1673-1692 and a list of all Surry patents after 1672, each with its 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 but one case, 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 two or more names matched, the certificate and those named rights were categorized as “used”. In only two cases did a match occur for a single name; both were judged legitimate (one because the right was also the certificate holder and patentee, the other because the name was used only two years after the certificate.)

If no match was found with Surry patents, the unused certificates and remaining unused names were checked against the index 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 Surry patents and to all such patents by the certificate holder. In six cases, the certificate holder obtained a later patent using unnamed headrights. Although this implies a use of the certificate, these cases were not considered in calculating the lag time between certificate and patent.